

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
August 17, 2017

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

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

CHIEF FINANCIAL OFFICER - Michael Pitts

TOWNSHIP CLERK - Donna Kukla

2. Mayor Trzaska 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 Trzaska led the Salute to the Flag.
4. **GOVERNMENT ENERGY AGGREGATION PROGRAM**

Bob Chilton, Gabel Associates, updated the Governing Body on the Township's Energy Aggregation Program process. He reported on the pricing received on August 17, 2017. This was in answer to the Requests for Proposals for Round 3 of the Montgomery Government Energy Aggregation program that was issued in mid July. This was a two stage process. The first stage was accepting and reviewing the qualifications of each of the interested suppliers. The second stage was the submission of electronic prices. Three suppliers submitted prices and the pricing that came in confirmed that starting the program in March is more favorable than starting in December. The low bid on the contract starting in March versus the current tariff of PSE&G is a good number, but Gabel is looking at the numbers further out and trying to forecast what the price difference will be. The low price supplier had a somewhat lower ranking on the qualifications than the other suppliers. It is Gabel's recommendation that Montgomery Township not award a contract at this time and wait for the March starting date. The recommendation is to keep the RFP open up to 120 days, which is something that was anticipated in the specifications so the Township can ask for refreshed pricing.

5. **RESOLUTION #17-8-188 - RESOLUTION REJECTING PRICE PROPOSALS RECEIVED AUGUST 17, 2017 FROM THIRD PARTY POWER SUPPLIERS 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 ("Township") 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, On February 8, 2016 the Township publicly noticed and issued a Request for Proposals for electric generation service and government energy aggregation services under the MCEA, and on March 3, 2016 awarded a contract to a third-party supplier for a 18-month contract running from June 2016 to December 2017 which has resulted in significant energy cost savings for Township residents participating in Round 2 of the MCEA; and

WHEREAS, By Ordinance No. 17-1547 adopted on June 1, 2017, the Township of Montgomery authorized the further renewal and continuation of the MCEA; and

WHEREAS, By virtue of Ordinance Nos. 13-1434, 15-1500 and 17-1547 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 July 20, 2017, 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 Round 3 of the MCEA ("MCEA-Round 3") by New Jersey Board of Public Utilities (NJBPU)-licensed and qualified electric power suppliers in New Jersey; and

(Item #5 Cont.)

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 price proposals; and

WHEREAS, The RFP provides for the submission of separate pricing for electric generation service for one pricing group, Participating Residential Accounts, for several potential start dates and contract durations (terms), and for two different contract language options: Option A) using the form of Master Performance Agreement attached to the RFP; and Option B) using the form of MPA attached to the RFP except that subsection 3.2 (a) (iii) (C) is removed, and a new subsection 2.1.5 as set forth above is added to the MPA; and the RFP provides for the award of a contract, including start date, contract duration and contract language option, at the discretion of the Township of Montgomery 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 four (4) NJBPU-licensed electric power suppliers; and

WHEREAS, A number of supplier questions and comments were received and, as a result, on August 8, 2017 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 Propose and/or requested a copy of the RFP; and

WHEREAS, Stage 2 price proposals and accompanying Transmittal Letters were submitted by three (3) NJBPU-licensed electric power suppliers by the 2:00 p.m. August 17, 2017 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 price proposals, 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, the 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 price proposals submitted on August 17, 2017, the Montgomery Township Committee has determined that no contract award shall be made at this time.

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

1. The Montgomery Township Committee shall make no contract award as a result of the price proposals submitted on August 17, 2017; said price proposals are hereby rejected on the basis that the award of a contract based thereon is not in the Township's best interests.
2. The RFP shall be held open for a period of up to 120 days, and the Township may accept refreshed prices in accordance with the RFP, at any time during that 120-day period, consistent with applicable law.

5-1. Deputy Mayor Smith moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Conforti and carried on the following:

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

6. **FREEHOLDER DIRECTOR PETER PALMER**

Peter Palmer, Somerset County Freeholder Director, was in attendance. He confirmed that this is his last year as a Freeholder and explained that he planned to appear at each of the 21 municipality's Governing Body meetings. He stated he enjoyed working with all of the Township Committees of Montgomery Township throughout the years. He was very pleased that the County was able to work on the completion of Skillman Village Park. He looks forward to working with the Township in the financing of the proposed new Municipal Building.

Mayor Trzaska thanked Freeholder Director Palmer for attending the meeting and for his service to Somerset County.

Committeewoman Graham thanked Freeholder Director Palmer for all of the help he gave her when she was first getting involved in politics. She has always been impressed not only by his services, but by the breadth of his knowledge.

7. **POLICE REPORT**

Police Captain Wain reported on the following activities of the Police Department for the month of July, 2017:

- 40 motor vehicle accidents;
- 16 arrests;
- 10 thefts;
- 3 motor vehicle thefts;
- 1 burglary;
- 4 criminal mischief;
- 6 domestic violence.

Captain Wain reported that there has not been a lot of activity at 129 Kildee Road. Mayor Trzaska explained that there have been a couple of small scale activities at the property, but nothing like what had been happening prior to the ordinance. Summonses have been issued to the homeowner for the couple of short term rentals that did occur after the ordinance was adopted.

Deputy Mayor Smith asked what the Police can do to stop and shut down any situations that may happen, before they start. He heard rumors that they are getting ready for another large event. Captain Wain stated that he established a relationship with the rental agent and has been in constant contact with him and has been assured that no large scale events would be occurring. He explained that if anything does happen, the Police have the discretion of issuing summonses to both the leasing agent and the homeowner. Deputy Mayor Smith stated his opinion that the summons would not stop the events, because they make more money from the event than the cost of the summons.

Attorney Hadinger remarked that there have been several discussions with staff about what happened at one weekend late in July and how to address that type of situation. She stated that they looked into it from a Code enforcement standpoint, a Health Department standpoint, and an alcohol related standpoint.

8. **PUBLIC COMMENT**

- 8-1. Ken Kneiser, Oak Ridge Drive, reported that he was driving on River Road one morning recently and noticed a cow on the side of the northbound side of the road. A little further south there was a car with its flashers on sitting on the side of the road. When he got home he was going to call the Police Department and he stated he couldn't find the phone number. He didn't want to dial 911 and the two phone books he received at his home had no number for the Township listed. There should be a phone number listed somewhere.

Mayor Trzaska suggested that the next time tax bills are mailed or the Directory is distributed, a sticker or some such thing should be included so people have the municipal telephone numbers they need.

- 8-2. Vitali Brookman, Cherry Valley Coop Farm Board Member, just wanted to introduce himself and thanked the Township for all of the support the coop has received.

9. **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 #17-8-189 - REFUND OVERPAID 2017 TAXES**

BE IT RESOLVED That a refund in the amount of \$3,794.38 be given to Virtual Endeavors, LLC, 16 Madison Avenue-Building 1, Suite 1C, Toms River, NJ 08753 for the overpayment of 2017 taxes on Block 17001, Lot 6.17.

B. **RESOLUTION #17-8-190 - REDEMPTION OF TAX SALE CERTIFICATES #2017-19, #2017-20, #2017-29 AND #2017-31**

BE IT RESOLVED That a refund in the amount of \$1,744.62 be given TFS Cust Fig Cap Inv NJ13 LLC, P.O. Box 54472 for the redemption of Tax Sale Certificate #2017-19 on Block 31006, Lot 5; and

BE IT FURTHER RESOLVED That a refund in the amount of \$3,520.49 be given to Natu Patel, 505 Hoagland Court, Hillsborough, NJ 08844 for the redemption of Tax Sale Certificate #2017-20 on Block 31007, Lot 13; and

BE IT FURTHER RESOLVED That a refund in the amount of \$2,691.01 be given TFS Cust Fig Cap Inv NJ13 LLC, P.O. Box 54472, New Orleans, LA 70154 for the redemption of Tax Sale Certificate #2017-29 on Block 37004, Lot 1.33.

BE IT RESOLVED That a refund in the amount of \$3,992.08 be given to Natu Patel, 505 Hoagland Court, Hillsborough, NJ 08844 for the redemption of Tax Sale Certificate #2017-31 on Block 37003, Lot 6.13.

C. **RESOLUTION #17-8-191 - TEMPORARY ROAD CLOSING - Block Party - Aspen Court**

BE IT RESOLVED By the Montgomery Township Committee that authorization is hereby given for the temporary closing of a portion of Aspen Court to accommodate a neighborhood block party scheduled for September 17, 2017 from approximately 4:00 p.m. - 6:00 p.m. (raindate - Saturday September 24, 2017). The Montgomery Township Police have no objection to the road closing provided that:

(CONSENT AGENDA Cont.)

The roadway must be made accessible to emergency vehicles.

The roadway must be made accessible to traffic originating and terminating on the closed section.

Block party organizers should provide advance courtesy notification to those residents that will be affected by the closure.

D. RESOLUTION #17-8-192 - AUTHORIZING RIGHT-OF-ENTRY AGREEMENT - Country Club Meadows

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Right-of-Entry Agreement with Country Club Meadows, LLC to construct an extension to Covert Drive, sidewalk, play area, walking path, and a footbridge over Cruser Brook on the property pursuant to sections 7-b.iv, 7.b.v and 7.b.vi of the consent order and stipulation of settlement dated July 10, 2014 between Montgomery Township and Country Club Meadows, LLC concerning properties owned by the developer in the Belle Mead portion of Montgomery Township.

E. RESOLUTION #17-8-193 - EXTENSION OF TIME FOR THE COMPLETION OF THE PUBLIC IMPROVEMENTS - Various Projects

WHEREAS, Gail Smith, Township Engineer, has certified on August 9, 2017 that adequate funds remain in the posted guarantees to cover the remaining public improvements in the following developments and therefore recommends time extensions to complete said improvements:

Development	New Completion Date
JER/Herring-Office Building Lot	June 9, 2018
JER/Herring-Sidewalk along Route 206	June 9, 2018
JER/Herring-Residential Parcel & Landscaping	October 1, 2018
Princeton Airport-Hanger #4, Phase 1	August 4, 2018
Montgomery Promenade-Temporary Parking	November 14, 2018
Public Service Electric & Gas Substation Plan	September 4, 2018
Montgomery Substation CV Connector Road	September 4, 2018
Country Classics at Fox Brook	October 1, 2018
SAVE Animal Shelter	November 14, 2018
Village Shopper Bank Site-Lessee Responsibilities	November 1, 2018
Staats Farm Road Development	September 14, 2018
Major Subdivision-DeRochi	May 2, 2018
3M Storm Water Management System	March 17, 2018
Blawenburg Village-Yardville National Bank	June 20, 2018
Handler Estates	April 10, 2018
Bloomberg Business Park-Attended 101 Parking Area	May 10, 2018
Cummings	April 16, 2018
Stonebridge at Montgomery-Health Care Center and Club House Expansion	March 4, 2018
Tapestry at Montgomery-Phase 1B-1 site w/o Force Main & Pump Station	June 30, 2018
Tapestry at Montgomery-Phase 1B-2 site w/o Force Main & Pump Station	June 13, 2018
Tapestry at Montgomery-Phase 1B-3 site w/o Force Main & Pump Station	May 20, 2018
Waldorf School of Princeton-Phases 1 & 2 Building & pathway	May 13, 2018

F. RESOLUTION #17-8-194 - RELEASE OF PERFORMANCE GUARANTEE - Sunoco, Inc.

WHEREAS, On April 11, 2014 Sunoco, Inc. posted a performance bond and escrow for the Sunoco Convenience Store; and

WHEREAS, In a letter dated July 26, 2017, Laurie Pettengill of Sunoco LP requested that the Township cancel Sunoco Inc.'s approvals and permits with respect to Case Nos. BA-03-12 and BA-09-13; and

WHEREAS, Since Sunoco will not proceed with the project, the bonded improvements will not be constructed and bonds can be released; and

WHEREAS, Gail Smith, Township Engineer has recommended that the Township Committee consider the release of the Performance Guarantee.

NOW, THEREFORE, BE IT RESOLVED That a Performance Bond in the amount of \$75,512.66 (Bond #019045581 in the amount of \$67,961.40 and \$7,551.27 cash) be released to Sunoco, Inc., 1028 Stelton Road, Piscataway, NJ 08854.

BE IT FURTHER RESOLVED That no maintenance bond is required and all escrow accounts can be closed and the funds returned upon payment of any current charges. No improvements will be accepted by the Township.

9-1. Committeewoman Graham moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeewoman Madrid and carried on the following:

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

10. **RESOLUTION #17-8-195 - AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT - Green Avenue Improvement Project - Engineering Services - NV5 (formerly RBA Group)**

WHEREAS, By Resolution No. 16-7-173 adopted on July 7, 2016, the Township Committee awarded an agreement for professional services to the firm of RBA Group, ("NV5" or "RBA Group") to provide survey, engineering design, permitting, and preparation of contract documents for the Green Avenue Improvement project ("Project"), for the sum of \$51,400.00 ("Agreement for Professional Services" or "Agreement"); and

WHEREAS, Since executing the Agreement, RBA Group became known as NV5; and

WHEREAS, The Township Engineering Department has requested that the Township Committee authorize NV5 to complete additional engineering services in connection with this Project, and in particular, to extend the scope of NV5's services to include ADA ramp designs with the addition of a crosswalk across Green Avenue at Belle Mead-Griggstown Road, and to include printing of bid documents, all of which were not included in the original scope of services for said Project; and

WHEREAS, NV5 submitted a written proposal dated August 2, 2017 to complete these additional services for the sum of \$1,600.00 ("Proposal"), which Proposal shall be incorporated herein by reference; and

WHEREAS, The work set forth in the Proposal extends beyond the original scope of services with NV5, and therefore, the parties seek to memorialize the Proposal's scope of work and estimated cost by amending the existing Agreement; and

WHEREAS, The existing Agreement with NV5 was awarded without competitive bidding as a professional services agreement pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and as a such, the Township Committee may amend same by resolution adopted under N.J.A.C. 5:30-11.6(e); and

WHEREAS, There exists account number 04-215-55-901-1494B which will fund this agreement amendment; and

WHEREAS, The Chief Financial Officer has certified that sufficient funds are available for this purpose.

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

1. The existing Agreement for Professional Services entered into between the Township and NV5, is hereby amended, to extend the scope of NV5's services to include ADA ramp designs and the addition of a crosswalk across Green Avenue at Belle Mead-Griggstown Road, and to include printing of bid documents, all of which were not included in the original scope of services for this Project, as detailed in NV5's August 2, 2017 Proposal, incorporated herein by reference, resulting in an increase in the contract amount by \$1,600.00, bringing the contract total, as amended, to \$53,000.00.
2. The Mayor and Clerk are hereby authorized and directed to execute an Amendment to the Professional Services Agreement which shall be executed by the parties to confirm the additional scope of services and anticipated cost; the form of the Amendment to Agreement for Professional Services shall be subject to the approval of the Township Attorney.
3. A copy of this Resolution and Amendment to Agreement for Professional Services shall be placed on file in the Office of the Township Clerk, and shall be available for public inspection.

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, Graham, Smith, Trzaska
Nays - None

11. **RESOLUTION #17-8-196 - A RESOLUTION DETERMINING THAT THE REAL PROPERTY LOCATED AT 980, 966, AND 958 ROUTE 206 (STATE ROAD), SOMETIMES BEING REFERRED TO AS THE MONTGOMERY FIVE TRACT, AND ALSO BEING KNOWN AS BLOCK 34001, LOTS 60, 61 & 62 ON THE MONTGOMERY TOWNSHIP TAX ASSESSMENT MAPS, SHALL BE A NON-CONDEMNATION REDEVELOPMENT AREA**

WHEREAS, By Resolution # 17-17-161 adopted July 5, 2017, the Township Committee of the Township of Montgomery directed the Montgomery Township Planning Board to conduct an investigation into whether the real property located at 980, 966, and 958 Route 206 (State Road), sometimes being referred to as the Montgomery Five Tract, and also being known as Block 34001, Lots 60, 61 & 62 on the Montgomery Township Tax Assessment Maps (hereinafter the "Property") constitutes and shall be established as a non-condemnation redevelopment area under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (hereinafter the "Statute");

WHEREAS, The Planning Board completed its investigation of the Property, received and reviewed the report of its experts Michael F. Sullivan, ASLA, AICP and Emily Goldman, PP, AICP titled "Preliminary Investigation of an Area in Need of Redevelopment (Non- Condemnation): Montgomery Five Tract" (hereinafter the "Report"), and, following a public hearing on August 7, 2017, acted to recommend that the Property be declared a non-condemnation redevelopment area pursuant to the Statute, said action being memorialized by resolution of August 7, 2017;

(Item #11 Cont.)

WHEREAS, The Township Committee has also reviewed the Report and the Planning Board's resolution and concurs with the Planning Board's findings; and

WHEREAS, The Township Committee further finds that due to its immediate proximity to other commercial development and Route 206, its location in Planning Area 2 under the New Jersey State Plan, as well as its access to public water and sewer, the Property is situated in an area in which redevelopment is to be encouraged.

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

1. The preamble to this Resolution is incorporated and made a part hereof as if set forth at length herein.
2. Pursuant to the Statute, and consistent with the recommendation of the Planning Board and the Report, the Property is hereby determined to be a non-condemnation redevelopment area.
3. The Clerk shall forthwith transmit a copy of this Resolution and the Report to Charles A. Richman, Commissioner, Department of Community Affairs, State of New Jersey by certified mail, return receipt requested.
4. The Planning Board is directed to prepare a redevelopment plan for the Property, and the Clerk shall forward a copy of this Resolution to the Planning Board.

11-1. Township Planner Michael Sullivan explained that at the direction of the Governing Body, the Planning Board undertook a preliminary investigation of the lots. The investigation determined whether or not it had the criteria for a redevelopment area as pursuant to the New Jersey Local Redevelopment and Housing Law. His office conducted some data retrieval, they examined the data and the on-site conditions and they found a persistent and continuing series of conditions that would suggest that criteria indeed was met. Subsequently, on August 7 the Planning Board considered the report and held a public hearing on it at which time they found it was consistent with the law.

Attorney Hadinger explained that if the Governing Body approves the resolution, it finds the property to be an area in need of redevelopment and it sends this back to the Planning Board to prepare a Redevelopment Plan. The Redevelopment Plan would be brought back to the Governing Body for approval. If the Governing Body found the Redevelopment Plan acceptable, they would introduce it by way of ordinance and adopt it on second reading.

11-2. 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, Graham, Smith, Trzaska
Nays - None

12. **RESOLUTION #17-8-197 - RESOLUTION OF THE TOWNSHIP OF MONTGOMERY PROVIDING FOR AN ISSUE OF GENERAL IMPROVEMENT BONDS AND AN ISSUE OF SEWER UTILITY BONDS, AUTHORIZING THE SALE OF \$9,115,000 PRINCIPAL AMOUNT OF GENERAL IMPROVEMENT BONDS, SERIES 2017A AND \$1,414,000 PRINCIPAL AMOUNT OF SEWER UTILITY BONDS, SERIES 2017B, AUTHORIZING ADVERTISEMENT OF A NOTICE OF SALE; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO SELL AND AWARD THE BONDS; DETERMINING THE FORMS AND OTHER DETAILS OF THE BONDS; AND AUTHORIZING OTHER MATTERS RELATING THERETO.**

WHEREAS, The Township of Montgomery, in the County of Somerset, New Jersey (the "Township") has adopted the bond ordinances listed on the attached Appendix A-1 and Appendix A-2 (collectively, the "Bond Ordinances") authorizing the issuance of obligations of the Township for the purpose of financing the general improvements and the Sewer Utility described in the Bond Ordinances; and

WHEREAS, The Township Committee has determined to finance permanently a portion of the costs of the general improvement projects and the sewer utility projects undertaken pursuant to the Bond Ordinances by the issuance of \$9,115,000 principal amount of general improvement bonds and \$1,414,000 principal amount of sewer utility bonds, unless adjusted pursuant to Section 10 hereof, of the Township, and

WHEREAS, The Township Committee has determined to proceed with the public sale of said bonds for the purposes authorized in the Bond Ordinances.

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

Section 1. General Improvement Bonds, Series 2017A, Authorization of Sale. The principal amount of general improvement bonds authorized to be issued pursuant to the Bond Ordinances described in Appendix A-1 hereto shall be issued as "General Improvement Bonds, Series 2017A", in the aggregate principal amount of \$9,115,000 unless adjusted pursuant to Section 10 hereof (the "Series A Bonds"), and are authorized to be sold in accordance with the terms of this Resolution.

The average period of usefulness for the general improvements financed by the Series A Bonds is 14.18 years.

(Item #12 Cont.)

Section 2. Sewer Utility Bonds, Series 2017B, Authorization of Sale. The principal amount of sewer utility bonds authorized to be issued pursuant to the Bond Ordinances described in Appendix A-2 hereto shall be issued as "Sewer Utility Bonds, Series 2017B", in the aggregate principal amount of \$1,414,000 unless adjusted pursuant to Section 10 hereof (the "Series B Bonds"), and are authorized to be sold in accordance with the terms of this Resolution.

The average period of usefulness for the sewer utility improvements financed by the Series B Bonds is 34.04 years.

Section 3. Public Sale of Bonds. The Series A Bonds and the Series B Bonds (collectively, the "Bonds") shall be issued and sold on a combined basis at a public sale upon electronic bids, in accordance with Section 8 hereof and the provisions of the Local Bond Law, constituting Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented.

GENERAL IMPROVEMENT BONDS, SERIES 2017A

<u>Year</u>	<u>Principal Amount</u>
2018	\$585,000
2019	580,000
2020	590,000
2021	600,000
2022	610,000
2023	625,000
2024	630,000
2025	640,000
2026	660,000
2027	675,000
2028	700,000
2029	720,000
2030	735,000
2031	765,000

SEWER UTILITY BONDS, SERIES 2017B

<u>Year</u>	<u>Principal Amount</u>
2018	\$59,000
2019	60,000
2020	60,000
2021	60,000
2022	60,000
2023	65,000
2024	60,000
2025	65,000
2026	65,000
2027	70,000
2028	70,000
2029	75,000
2030	75,000
2031	75,000
2032	75,000
2033	80,000
2034	80,000
2035	85,000
2036	85,000
2037	90,000

The Bonds shall contain such other terms and conditions as are specified in the Notice of Sale, approved in Section 5 hereof (the "Notice of Sale"), and in the form of the Bonds, approved in Section 13 hereof.

Section 4. Redemption.

(A) The Bonds of each series maturing prior to September 1, 2028 are not subject to redemption prior to their stated maturity. The Bonds maturing on or after September 1, 2028 are subject to redemption, at the option of the Township, prior to their stated maturity and upon notice as hereinafter provided, at any time on or after September 1, 2027, in whole or part from such maturities as the Township shall determine and by lot within a single maturity, at the redemption price of 100% of the principal amount to be redeemed together with unpaid interest accrued to the redemption date.

(B) In the event the winning bidder elects to aggregate consecutive principal maturities of any series of Bonds into one or more term bonds of such series, then each such term bond shall be subject to mandatory sinking fund redemption prior to maturity, in part, on the dates and in the amounts specified in the Notice of Sale for such aggregated consecutive principal maturities (other than the final such maturity), at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest thereon to the date fixed for redemption.

(Item #12 Cont.)

(C) Any Bond subject to redemption as aforesaid may be called in part, provided that the portion not called for redemption shall be in the principal amount of \$1,000 or any integral multiple thereof. If less than all of the Bonds of a particular series and maturity are to be redeemed, Bonds of that series and maturity shall be selected by the Chief Financial Officer (or, if appointed pursuant to Section 15 hereof, the Paying Agent) by lot.

When any Bonds are to be redeemed, the Chief Financial Officer (or, if appointed by Section 15 hereof, the Paying Agent) shall give notice of the redemption of the Bonds by mailing the notice of redemption by first class mail in a sealed envelope postage prepaid, to the registered owners of any Bonds or portions thereof which are to be redeemed, at their respective addresses as they last appear on the registration books of the Township. Such mailing shall not be a condition precedent to such redemption, and failure to so mail or to receive any such notice to any of such registered owners shall not affect the validity of the proceedings for the redemption of the Bonds. Notice of redemption having been given as aforesaid, the Bonds, or portions thereof so to be redeemed, shall, on the date fixed for redemption, become due and payable at the redemption price specified therein plus accrued interest to the redemption date and, upon presentation and surrender thereof at the place specified in such notice, such Bonds, or portions thereof, shall be paid at the redemption price, plus accrued interest to the redemption date. On and after the redemption date (unless the Township shall default in the payment of the redemption price and accrued interest), such Bonds shall no longer be considered as outstanding.

During any period in which The Depository Trust Company (or any successor thereto) shall act as securities depository for the Bonds of any series, the notices referred to above shall be given only to such depository and not to the beneficial owners of the Bonds of such series. Any failure of such depository to advise any of its participants or any failure of any participant to notify any beneficial owner of any notice of redemption shall not affect the validity of the redemption proceedings.

Section 5. Approval of Notice of Sale. The Notice of Sale containing other terms and provisions of the Bonds and setting forth the conditions of the sale thereof, all of which are hereby approved, shall be substantially in the form attached to this Resolution as Appendix B and made a part hereof.

Section 6. Approval of Summary Notice of Sale. The Summary Notice of Sale containing other terms and provisions of the Bonds and setting forth the conditions of the sale thereof, all of which are hereby approved, shall be substantially in the form attached to this Resolution as Appendix C made a part hereof.

Section 7. Publication of Notice of Sale and Summary Notice of Sale. The Notice of Sale substantially in the form attached to this Resolution shall be published at least once in the Courier News, a newspaper circulating in the Township, and the Summary Notice of Sale substantially in the form attached to this Resolution shall be published at least once in The Bond Buyer, and/or such other nationally recognized local government bond marketing publication or electronic information service carrying municipal bond notices and devoted primarily to the subject of state and municipal bonds. The advertisement of said Notice of Sale and Summary Notice of Sale in each such medium shall be published not less than seven (7) days prior to the sale date for the Bonds. The Township Clerk, the Chief Financial Officer and such other appropriate officials are hereby authorized and directed to publish the Notice of Sale and Summary Notice of Sale as aforesaid.

Section 8. Designation of Chief Financial Officer to Award Bonds. Electronic proposals for the purchase of the Bonds shall be received by the Chief Financial Officer on such date as shall be determined by the Chief Financial Officer and set forth in the Notice of Sale and the Summary Notice of Sale, or such later date as may be established by the Chief Financial Officer in accordance with Section 9 hereof. Electronic proposals will be received via the PFMauktion website ("PFMauktion"), a nationally recognized electronic securities bidding service approved by the Director of the Division of Local Government Services (the "Director") in the Department of Community Affairs, in an open auction in accordance with the terms and conditions set forth in the Notice of Sale authorized herein. Such proposals shall be received and announced in accordance with the Notice of Sale authorized herein. The Township Committee hereby designates the Chief Financial Officer to sell and award the Bonds in accordance with this Resolution and the Notice of Sale. The Chief Financial Officer is hereby directed to report, in writing, to the Township at its first meeting after the sale of the Bonds as to the principal amount, interest rate and maturities of the Bonds sold, the price obtained and the name of the purchaser.

Section 9. Postponement of Sale. The Chief Financial Officer is hereby delegated the authority (if the Chief Financial Officer deems it to be in the best interests of the Township) (i) to postpone from time to time the sale of the Bonds from the date specified in the Notice of Sale (or, in the case of a rescheduled sale, from such rescheduled date), in each case upon not less than 24 hours' notice (to the extent practicable), and (ii) to reschedule such sale upon not less than 48 hours' notice. Notice of any such postponement and rescheduling shall be given in the manner specified in the Notice of Sale. In the event of any such postponement and rescheduling, the Chief Financial Officer may (and shall, if required by the Local Bond Law) cause a revised Notice of Sale and a revised Summary Notice of Sale to be prepared and published.

(Item #12 Cont.)

Section 10. Adjustment to Maturity Schedule. The Township may and expects to, after the receipt and opening of bids, adjust the maturity schedule of each series of the Bonds to adjust the amount of bonds to the amount needed by the Township, provided however, that (i) no maturity schedule adjustment shall exceed 10% upward or downward of the principal for any maturity as specified herein, and (ii) the aggregate adjustment to the maturity schedule shall not exceed 10% upward or downward of the aggregate principal amount of bonds as specified herein and as adjusted will not exceed the amount authorized by the respective Ordinances. The dollar amount bid by the successful bidder shall be adjusted to reflect any adjustments in the aggregate principal amount of bonds to be issued. The adjusted bid price will reflect changes in the dollar amount of the underwriter's discount and the original issue premium or discount, but will not change the per bond underwriter's discount as calculated from the bid and the Initial Public Offering Prices required to be delivered to the Township as stated herein. The Township shall notify the successful bidder of the final maturity schedule and the resulting adjusted purchase price no later than 5:00 p.m., New Jersey time, on the day of the sale and award of the Bonds. The interest rate or rates specified by the successful bidder for each maturity will not be altered.

Section 11. Authorization for Official Statement. The distribution by the Township, and its financial advisor, of the Preliminary Official Statement relating to the Bonds (a draft of which is attached hereto as Exhibit A and shall be filed with the records of the Township) is hereby approved in substantially such form, with such insertions, deletions and changes therein and any supplements thereto as bond counsel may advise and the Township officer executing the same may approve, such approval to be evidenced by such Township officer's execution thereof. The Chief Financial Officer is hereby authorized to deem the Preliminary Official Statement "final" within the meaning of Rule 15c2-12 of the Rules of the Securities and Exchange Commission and to execute and deliver a certificate to that effect. The Chief Financial Officer is hereby authorized to approve the contents and terms of the final Official Statement in respect of the Bonds in substantially the form of the Preliminary Official Statement. The Chief Financial Officer is hereby authorized to sign such Official Statement on behalf of the Township, in substantially such form, with such insertions, deletions and changes therein and any supplements thereto as bond counsel may advise and the Township officer executing the same may approve, such approval to be evidenced by such Township officer's execution thereof.

Section 12. Term Bond Option. As provided in the Notice of Sale, bidders may aggregate consecutive principal maturities of the Bonds for which such bidder bid the same interest rate into one or more term bonds. The Chief Financial Officer is hereby delegated the authority (if the Chief Financial Officer deems it to be in the best interests of the Township) to include such option in any revised Notice of Sale prepared pursuant to Section 9 hereof. In the event the winning bidder elects such option, the provisions of Section 5 (B) hereof shall be applicable thereto, and the Paying Agent appointed under Section 15 hereof shall, from time to time and, without further direction by the Township, give all notices of mandatory sinking fund redemption as may be required under Section 5 hereof in connection therewith.

Section 13. Approval of Form of Bonds. The form of the Bonds, substantially as set forth in Appendix D attached hereto and made a part hereof, is hereby approved. The Bonds shall be executed in the name of the Township by the manual or facsimile signature of the Mayor and the Chief Financial Officer and the seal of the Township, or a facsimile impression thereof, shall be affixed to the Bonds and attested by the manual signature of the Township Clerk.

Section 14. Appointment of Securities Depository. The Depository Trust Company ("DTC"), shall act as securities depository for the Bonds. The ownership of one fully registered bond for each maturity of Bonds, each in the aggregate principal amount of such maturity, will be registered in the name of Cede & Co., as nominee for DTC.

Pursuant to the book-entry only system, any person for whom a DTC Participant acquires an interest in the Bonds (the "Beneficial Owner") will not receive certificated Bonds and will not be the registered owner thereof. Ownership interests in the Bonds may be purchased by or through DTC Participants. Each DTC Participant will receive a credit balance in the records of DTC in the amount of such DTC Participant's interest in the Bonds, which will be confirmed in accordance with DTC's standard procedures. Receipt by the Beneficial Owners (through any DTC Participant) of timely payment of principal, premium, if any, and interest on the Bonds, is subject to DTC making such payment to DTC Participants and such DTC Participants making payment to Beneficial Owners. Neither the Township nor the Paying Agent will have any direct responsibility or obligation to such DTC Participants or the persons for whom they act as nominees for any failure of DTC to act or make any payment with respect to the Bonds.

The appropriate officers of the Township are hereby authorized to execute a Letter of Representation to DTC and such other documents as may be necessary or desirable in connection with DTC's services as securities depository.

DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the Township and discharging its responsibilities with respect thereto under applicable law. Under such circumstances, the Township shall designate a successor securities depository or deliver certificates to the beneficial owners of the Bonds.

Section 15. Appointment of Paying Agent and Bond Registrar. The Chief Financial Officer is hereby delegated the authority to appoint any bank, trust company or national banking association having the power to accept and administer trusts to serve as Paying Agent and Bond Registrar for the Bonds. The Paying Agent and Bond Registrar shall signify its acceptance of the duties imposed upon it by this Resolution by a written certificate delivered to the Township prior to the delivery of the Bonds.

(Item #12 Cont.)

Section 16. Tax Covenant. The Township hereby covenants with the holders from time to time of the Bonds that it will make no investment or other use of the proceeds of such Bonds or take any further action (or refrain from taking such action) which would cause such Bonds to be "arbitrage bonds" within the meaning of the Internal Revenue Code of 1986, as amended, or under any similar statutory provision or any rule or regulation promulgated thereunder (the "Code"), or would cause interest on such Bonds not to be excludable from gross income for federal income tax purposes, and that it will comply with the requirements of the Code and said regulations throughout the term of such Bonds.

Section 17. Pledge of Township. The full faith and credit of the Township is hereby pledged for the payment of the principal, redemption premium, if any, and interest on the Bonds. The Bonds shall be direct obligations of the Township, and the Township shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Township for the payment of the principal of and interest on the Bonds without limitation as to rate or amount.

Section 18. Continuing Disclosure. The form of the Continuing Disclosure Certificate for the Bonds in substantially the form attached hereto as Appendix E (the "Continuing Disclosure Certificate"), is hereby approved, and the execution of the Continuing Disclosure Certificate by the Chief Financial Officer of the Township is hereby authorized. The Township hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificates executed by the Township and dated the date of issuance and delivery of the Bonds, as originally executed and as they may be amended from time to time in accordance with the terms thereof. Notwithstanding any other provision of this Resolution, failure of the Township to comply with the Continuing Disclosure Certificates shall not be considered a default on the Bonds; however, any Bondholder may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Township to comply with its obligations under this Section.

Section 19. Further Action. The proper officers of the Township are hereby authorized and directed to take all such action as may be necessary to affect the issuance and delivery of the Bonds.

Section 20. Effective Date. This Resolution shall take effect immediately.

12-1. Chief Financial Officer Pitts explained these bonds will be issued in September and are related to some notes that are coming due in September. Instead of rolling them over again, he figured they would best for the Township's financial global picture to lock in the rate.

12-1. Committeeman Conforti moved the adoption of the foregoing resolution. The motion was seconded by Deputy Mayor Smith and carried on the following:

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

13. **APPROVAL OF MINUTES**

The Regular Session minutes of August 3, 2017 were approved as printed.

14. **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.

14-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Madrid and carried on the following:

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

15. **DEDICATING MONTGOMERY AS A PURPLE HEART COMMUNITY**

Mayor Trzaska reminded the Governing Body that the dedicating of Montgomery as a Purple Heart Community will occur on Tuesday, September 19 at 6:00 p.m. in the Court Room of the Municipal Building. He asked that a E-Bulletin be sent out for this and possibly a notice in the Newsletter.

16. COMMITTEE AND SUB-COMMITTEE REPORTS

16-1. PLANNING BOARD

Committeeman Conforti reported that the Planning Board met to discuss the Redevelopment Area.

17. 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:
 - Advice of counsel with respect to pending affordable housing litigation;
 - Advice of counsel with respect to Mid-American Salt, LLC v. Morris County Cooperative Pricing Council and pending litigation relative thereto.
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.

17-1. Committeeman Conforti moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Graham and carried unanimously.

18. Meeting reconvened in Open Session and ADJOURNMENT was at 7:54 p.m. on a motion by Committeeman Conforti. The motion was seconded by Committeewoman Madrid and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk