

MINUTES FOR  
MONTGOMERY TOWNSHIP COMMITTEE  
May 7, 2009

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: Deputy Mayor Birge, Committeemembers Caliguire, Fay and Dyer  
Mayor Wilson was absent

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

TEMPORARY CHIEF FINANCIAL OFFICER - Walter Sheppard

TOWNSHIP CLERK - Donna Kukla

2. Deputy Mayor Birge 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. Deputy Mayor Birge led the Salute to the Flag.

4. **PROCLAMATION - CURBING HUNGER MONTH - JUNE 2009**

WHEREAS, The United States enjoys the highest standard of living and the finest quality of life in the world, yet millions of Americans don't have enough to eat; and

WHEREAS, Food banks and pantries support over 400,000 New Jersey residents; and

WHEREAS, A study by the Food Research and Action Center estimates that 292,000 children go to bed hungry every night in New Jersey; and

WHEREAS, Although annual food drives during the winter holidays help to replenish the shelves of many food banks, supplies are critically short or completely depleted by summer; and

WHEREAS, Somerset County food pantries continue to face growing food shortages similar to other areas of the United States; and

WHEREAS, Due to the economic downturn, the Food Bank Network of Somerset County has seen an increase of more than 10 percent in the number of clients it serves; and

WHEREAS, Because hunger never takes a vacation, Curbing Hunger Inc. was formed in Somerset County in 1995 to help meet the need to restock the shelves of food banks and pantries during the summer and fall; and

WHEREAS, Since its inception and through partnering with the Somerset County Board of Chosen Freeholders, Somerset County Public Works Department and Somerset County Recycling Division, Curbing Hunger Inc. has collected more than half a million pounds of food in Somerset County; and

WHEREAS, Since its inception, Curbing Hunger Inc. has collected and distributed 1.85 million pounds of food statewide, valued at over \$2.5 million dollars; and

NOW, THEREFORE, The Montgomery Township Committee does hereby proclaim June 2009 as CURBING HUNGER MONTH IN MONTGOMERY TOWNSHIP and urge all residents to support this worthwhile effort by filling the colorful plastic bags distributed by the Somerset County Recycling Division with contributions of canned goods to restock supplies in the food bank and local food pantries. Bags should be left at the curb on residents' regular recycling pickup days from June 1 through June 26, 2009.

- 4-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Dyer and carried unanimously.

5. **HEALTH OFFICER'S UPDATE ON FLU**

Health Officer Stephanie Carey updated the Committee on the Township's activities for the Swine Flu preparedness and response. The Health Department has been working on an enhanced surveillance mode since April 24, 2009; has been monitoring and participating in surveillance, community education and preparedness work to help prevent the transmission of the H1N1 Virus; has been following CDC guidelines and New Jersey Department of Health and Human Services guidelines. The Health Department met with the Emergency Management Team for situation updates and review of preparedness; the school district has been involved, including contingency plans in case a closure became necessary; updated and reviewed the Township's Respiratory Protection Programs with the EMS and First Responders in Police and is scheduling additional training. The Health Department has increased the stock pile of Infection Control supplies; has provided E-bulletins through both the schools and the municipal web-sites; and provided infection control education to Department Heads, Receptionist and to the Senior Citizens. They are working in concert with Somerset County Health Department and the Office of Emergency Management to make sure that they are ready to respond and are working with the Pandemic Preparedness Coordinating Committee, which has been working for the last several years to prepare for an event such as this. She reported that there have not been any probable or confirmed cases in Montgomery.

6. **RESOLUTION #09-5-169 - AUTHORIZING TEMPORARY EMERGENCY APPROPRIATIONS**

WHEREAS, The 2009 Municipal Budget has not been adopted and there is a need to increase the Temporary Budget prior to the 2009 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 Temporary Chief Finance Officer is authorized to adjust the temporary emergency appropriations as follows:

Unemployment Insurance - Other Expense	\$40,000.00
Workers Compensation Insurance - Other Expense	500.00
Other Insurance Premiums - Other Expense	(40,000.00)

6-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Caliguire and carried on the following:

**ROLL CALL** - Ayes - Dyer, Caliguire, Fay, Birge  
Nays - None  
Absent - Wilson

7. **EMPLOYEE EFFICIENCY ORDINANCE DISCUSSION**

Deputy Mayor Birge spoke about the Employee Efficiency Incentive Program. She stated that she had the following concerns: 1. the award to the manager was on the high end; 2. the Cap on the employee award was too high.

Committeeman Fay explained that the Committee had granted a number of awards recently under the program and that he thought it was a successful program and a great concept but he had the same concerns as Deputy Mayor Birge. He stated that he felt the awards should be lowered from 25% to 20% to the employee and from 20% to 10% for the manager plus lower the Cap from \$20,000.00 to \$10,000.00 for the employee.

Committeewoman Dyer stated that she thought it was an excellent program and she would like to have a little more time to think about Committeeman Fay's suggestions.

Committeeman Caliguire stated that he would agree with Committeeman Fay's suggestions.

There will be an amended Ordinance drafted and presented for Committee approval at a future date.

8. **NATIONAL REGISTRY DESIGNATION - Smalley Hall**

Administrator Nieman explained that the Township was making application with the County for grant money to stabilize Smalley Hall. One of the requirements was that the Township make application to the National Historic Register. He stated that it was Planning Board Director Lori Savron's recommendation that the Township initiate the process, that if after we receive the grant money it is determined that by getting the designation it presents problems should we choose to demolish Smalley Hall, we could always turn it down.

Committee asked that Planning Director Savron attend the next meeting to explain in more detail.

9. **SIDEWALK ORDINANCE**

Administrator Nieman stated that this had been a work in progress for several years and it comes with a recommendation from the Township's insurance agent. Most municipalities in the State of New Jersey have ordinances that place the obligation for the maintenance of sidewalks with the property owner. Montgomery has never dealt with the issue and it remains moot and problematic.

Township Engineer Gail Smith explained that she collected a number of ordinances from other municipalities and drafted an ordinance based on those ordinances.

Committeeman Caliguire inquired about the responsibility of maintenance of sidewalks. Attorney Hadinger explained that responsibility of sidewalks abutting commercial properties is that of the commercial property owner. It is not that way with residential property owners.

Committeeman Fay asked if the snow removal issue could be removed from the maintenance issue of the ordinance and be made two separate items.

Committee decided that they would like to continue discussion on this topic.

10. **VILLAGE SHOPPER/TIGER'S TALE LOOP ROAD TREATMENT WORKS PERMIT**

Township Engineer Gail Smith stated that the businesses on the west side of Route 206 in the area of Tiger's Tale would like to connect to the sanitary sewer system and they have been working to do that for a number of years.

Attorney Hadinger explained that the Township Committee was being asked to authorize a Treatment Works Approval Permit application, with certain conditions, for each of the sites. There needs to be capacity agreements with two or three of the property owners regarding the acquisition of sewer capacity, and there are technical requirements that need to be addressed.

11. **RESOLUTION #09-5-140 - AUTHORIZATION TO EXECUTE TREATMENT WORKS APPROVAL PERMIT APPLICATION (TWA-1) - Sanitary Force Main - Thul Auto Stores**

BE IT RESOLVED By the Montgomery Township Committee that Donato Nieman, Township Administrator, is hereby authorized to execute a Treatment Works Approval Permit application, subject to conditions, to the New Jersey Department of Environmental Protection related to the Sanitary Force Main for Thul Auto Stores.

11-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Caliguire and carried on the following:

**ROLL CALL** - Ayes - Dyer, Caliguire, Fay, Birge  
Nays - None  
Absent - Wilson

12. **RESOLUTION #09-5-141 - AUTHORIZATION TO EXECUTE TREATMENT WORKS APPROVAL PERMIT APPLICATION (TWA-1) - Sanitary Force Main - Village Shopper I**

BE IT RESOLVED By the Montgomery Township Committee that Donato Nieman, Township Administrator, is hereby authorized to execute a Treatment Works Approval Permit application, subject to conditions, to the New Jersey Department of Environmental Protection related to the Sanitary Force Main for Village Shopper I.

12-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Caliguire and carried on the following:

**ROLL CALL** - Ayes - Dyer, Caliguire, Fay, Birge  
Nays - None  
Absent - Wilson

13. **RESOLUTION #09-5-142 - AUTHORIZATION TO EXECUTE TREATMENT WORKS APPROVAL PERMIT APPLICATION (TWA-1) - Sanitary Force Main - Village Shopper II**

BE IT RESOLVED By the Montgomery Township Committee that Donato Nieman, Township Administrator, is hereby authorized to execute a Treatment Works Approval Permit application, subject to conditions, to the New Jersey Department of Environmental Protection related to the Sanitary Force Main for Village Shopper II.

13-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Caliguire and carried on the following:

**ROLL CALL** - Ayes - Dyer, Caliguire, Fay, Birge  
Nays - None  
Absent - Wilson

14. **RESOLUTION #09-5-143 - AUTHORIZATION TO EXECUTE TREATMENT WORKS APPROVAL PERMIT APPLICATION (TWA-1) - Sanitary Force Main - Village Shopper III**

BE IT RESOLVED By the Montgomery Township Committee that Donato Nieman, Township Administrator, is hereby authorized to execute a Treatment Works Approval Permit application, subject to conditions, to the New Jersey Department of Environmental Protection related to the Sanitary Force Main for Village Shopper III.

14-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Caliguire and carried on the following:

**ROLL CALL** - Ayes - Dyer, Caliguire, Fay, Birge  
Nays - None  
Absent - Wilson

15. **SOURLAND PLANNING COUNCIL SMART GROWTH UPDATE**

Frank Bannish, Sourland Planning Council Management Plan Team Captain, explained the work being done to protect the Sourlands. He introduced Andrea Bonnette, Judy Jengo of the Sourland Planning Council; Michael Catania of Conservation Resources; Jennifer Coffu of Stony Brook-Millstone Watershed Association; Angela Clerico from Bennetts Associates. The Council asked for the Township Committee's support of the following resolution:

16. **RESOLUTION #09-5-144 - RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTGOMERY, IN THE COUNTY OF SOMERSET, NEW JERSEY, AUTHORIZING PARTICIPATION IN THE PROPOSED SOURLAND MOUNTAIN MUNICIPAL ALLIANCE.**

WHEREAS, East Amwell Township, Hillsborough Township, Hopewell Borough, Hopewell Township, Lambertville City, Montgomery Township, and West Amwell Township each have certain acreage of their municipalities located with the Sourland Mountain region, and each municipality has previously demonstrated its support for the preservation and enhancement of this area by supporting its proposed designation as a Special Resource Area in the New Jersey State Development and Redevelopment Plan; and

WHEREAS, Representatives of the Sourland Planning Council, with the assistance of a Smart Growth grant from the Office of Smart Growth in the New Jersey Department of Community Affairs, and in collaboration with the elected and appointed officials and local residents, have prepared a draft comprehensive management plan for the Sourland Mountain region, which plan recommends a "bottoms-up" inter-municipal cooperative approach to preservation and enhancement of the natural and cultural resources of the Sourland Mountain region, modeled after the "Ten Towns" approach currently in use in the Great Swamp watershed; and

(Item #16 Cont.)

WHEREAS, This draft plan identifies and recommends a variety of tools which these municipalities can use for this purpose, including the establishment of a "Sourland Mountain Municipal Alliance"; modeled after the successful intermunicipal cooperative agreements utilized by the "Ten Towns Great Swamp Watershed Committee", and the "Raritan Highlands Compact", and

WHEREAS, Montgomery Township wishes to indicate its willingness to participate in the proposed Sourland Mountain Municipal Alliance in order to provide a regional framework for cooperative local planning controlled by the local governments of East Amwell Township, Hillsborough Township, Hopewell Borough, Hopewell Township, Lambertville City, Montgomery Township, and West Amwell Township.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Montgomery, in the County of Somerset, New Jersey, that the proposed Sourland Mountain Municipal Alliance as recommended for the Sourland Mountain region is hereby endorsed as a conceptual tool for inter-municipal cooperation and collaboration, and the participation of duly appointed representatives of Montgomery Township to the proposed Sourland Mountain Municipal Alliance is hereby authorized.

- 16-1. Committeeman Caliguire moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Fay and carried on the following:

**ROLL CALL** - Ayes - Dyer, Caliguire, Fay, Birge  
Nays - None  
Absent - Wilson

17. **PUBLIC COMMENT**

- 17-1. Mohammed Kilany, Spring Hill Road, stated his opposition to the approval of additional funds for a Professional Services Agreement with Carr, Daley, Sullivan & Weir, PC, Certified Public Accountants for the preparation and implementation of a General Ledger System.
- 17-2. Attorney Hadinger stepped down from the dais.
- 17-3. Mr. Kilany spoke about Case #2009-004742 by the Montgomery Township Police Department. He asked the Township why it declined to answer two (2) very specific questions that he raised: 1. Were the people whose names are listed on the Police report interviewed by the Police Officers in question?; 2. Where are the phone numbers of the names mentioned under contact? He stated that the answers he got from the Township were unacceptable to him and he considered the Township involved in a cover-up of misconduct.

Administrator Nieman responded that the email from the Township Clerk, responding to his request, stated that the opinion given was developed by Attorney Thomas Cafferty, Conflict Counsel for the Township. He stated that Police reports are not subject to the Open Public Records Act requirement, specifically unless the individual requesting such report is charged, in which case their attorney or they themselves may have a copy of that report.

- 17-4. Attorney Hadinger returned to the dais.
- 17-5. Michael Stachowicz, Robin Drive, asked why the windows of the Bus Stops on Route 206 were not washed.

Mr. Stachowicz asked about the ownership of the Fire Company's buildings, lands and trucks. Attorney Hadinger stated that the Fire Company owned the buildings and the lands, but was not sure who owned the trucks. He stated that the Volunteer Firemen of Fire Company #2 made a complaint to the Township about the firehouse being used as a Motel 6, as a couple of people were pretty much living in the firehouse. Administrator Nieman stated that the Fire Company was issued a notice of violation. Mr. Stachowicz stated that as a tax payer he would like to know what the income was from the Fire Company for renting rooms to these people. Administrator Nieman stated that he would look into this.

- 17-6. Alan Wirsul, Ridgeview Drive, spoke about his concerns with the H1N1 flu and whether the Township would be ready should there be an outbreak here.

Mr. Wirsul spoke about the sidewalk ordinance and his experience in his neighborhood with shoveling of the sidewalks. He stated that he is about the only person in his neighborhood who actually does shovel.

- 17-7. Committeeman Caliguire left the meeting.

18. **POLICE REPORT**

Police Director Palmer reported on the following activities of the Police Department for the month of March, 2009:

- 1704 calls for service;
- 63 motor vehicle accidents;
- 31 arrests;
- 4 thefts;
- 6 domestic violence;
- 6 criminal mischief.

Police Director Palmer reported on the following activities of the Police Department for the month of April, 2009:

- 1167 calls for service;
- 50 motor vehicle accidents;
- 22 arrests;
- 10 thefts;
- 4 domestic violence;
- 11 criminal mischief.

19. **CONSENT AGENDA** - All matters listed hereunder are considered to be routine in nature and will be enacted in one motion. Any person may request that an item be removed for separate consideration.

A. **RESOLUTION #09-5-145 - REFUND OVERPAID 2007 AND 2008 TAXES**

BE IT RESOLVED That refunds be given to the following for the overpayment of 2007 and 2008 taxes:

Block	Lot	Name	Amount	Year
29004	1.31	Religious Science Church of Princeton	\$1,036.61	2007
37003	6.19	Convenient Closing Services	\$ 270.46	2008

B. **RESOLUTION #09-5-146 - REFUND OVERPAID 2009 SEWER CHARGES**

BE IT RESOLVED That a check in the amount of \$666.40 be given to Honda of Princeton, 987 State Road, Princeton, NJ 08540, Attn: Michelle for the overpayment of 2009 sewer charges on the following Block and Lots:

Block	Lot	Amount
35002	4	\$606.35
35002	6	\$ 60.05

C. **RESOLUTION #09-5-147 - ADJUSTMENT OF BILLING OF SEWER UTILITY CHARGES**

WHEREAS, The following properties have filed an appeal for their sewer charges, and

WHEREAS, The Township Engineer has reviewed the appeal and investigated the appeal for each of the listed properties, and

THEREFORE, BE IT RESOLVED, By the Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey that the Tax Collector is hereby authorized to adjust the billing on the following properties as indicated:

Block	Lot	Address	Decrease
3002	13	14 Innisbrook Road	\$ 2,215.36
7029	14	72 Franklin Drive	\$ 4,650.88
7032	12	39 Red Oak Way	\$ 1,080.16
7032	36	127 Grayson Drive	\$ 1,293.44
7035	2	134 Grayson Drive	\$ 5,469.60
31002	4.01	49 Rolling Hill Road	\$ 894.40
31002	5	12 Colfax Road	\$11,634.08
31007	42	6 Old Warson Court	\$ 240.80
37003	1.08	7-F Brookline Court	\$ 415.92

D. **RESOLUTION #09-5-148 - REFUND WATER METER PERMIT FEES**

BE IT RESOLVED That refunds be given to the following homeowners for monies owed by the Township for water meter permit fees:

Martha F Stockton	Mary Ellen Dupree-Leonard
192 Princeton Avenue	15 Willow Run Lane
Princeton, NJ 08540	Belle Mead, NJ 08502
\$76.00	\$76.00

E. **RESOLUTION #09-5-149 - REDEMPTION OF TAX SALE CERTIFICATE**

WHEREAS, The Township has received payment of Tax Sale Certificate #2008-11 in the amount of \$26,974.96.

NOW, THEREFORE, BE IT RESOLVED That a refund in the amount of \$26,974.96 be given to Crusade Lien Services, 179 Washington Lane, Jenkintown, PA 19046 for the redemption of Tax Sale Certificate #2008-11 on Block 18001, Lot 18.01.

(CONSENT AGENDA Cont.)

F. **RESOLUTION #09-5-150 - RAFFLE LICENSE #677 - Princeton Elks, Lodge #2129**

BE IT RESOLVED By the Montgomery Township Committee that approval is hereby given for Princeton Elks, Lodge #2129 to conduct a Raffle under License #677 on September 26, 2009 at Princeton Elks Lodge, County Route 518, Blawenburg, NJ. The time for this Raffle will be approximately from 11:00 a.m. to 7:00 p.m.

G. **RESOLUTION #09-5-151 - RAFFLE LICENSE #678 - Hadassah Southern NJ Region**

BE IT RESOLVED By the Montgomery Township Committee that approval is hereby given for Hadassah Southern NJ Region to conduct a Raffle under License #678 on June 1, 2009 at Cherry Valley Country Club, 125 Country Club Drive, Skillman, NJ. The time for this Raffle will be approximately from 10:00 a.m. to 8:00 p.m.

H. **RESOLUTION #09-5-152 - CANCELLATION OF CAPITAL ORDINANCE #02-1026**

WHEREAS, Certain General Capital Improvement appropriation balances remain dedicated to projects now completed; and

WHEREAS, It is necessary to formally cancel said balances so that the unexpended balances may be returned to each respective Capital Improvement Fund or credited to Surplus, and unused debt authorizations may be canceled.

NOW, THEREFORE, BE IT RESOLVED, By the Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey that the following unexpended and dedicated balances of the General Capital Appropriations be cancelled:

ORD NO.	DATE AUTH.	PROJECT DESCRIPTION	AMOUNT CANCELLED	
			FUNDED	UNFUNDED
02-1062	06/06/02	Acq. Of Certain Equipment	\$86,069.50	\$0.00

I. **RESOLUTION #09-5-153 - ACCEPTANCE OF DONATIONS - Earth Day Fair 2009 - Hilton Management LLC. and ConvaTec/Bristol-Myers Squibb Company**

BE IT RESOLVED That the Montgomery Township Committee hereby accepts the following donations for the Earth Day Fair 2009.

Name	Amount	Check #
Hilton Management LLC	\$300.00	3547
ConvaTec/Bristol-Myers Squibb Company	\$400.00	2378722
Religious Science Church of Princeton	\$361.25	6400

J. **RESOLUTION #09-5-154 - AWARD OF BID - Road and Paving Materials**

WHEREAS, The following bids for Road and Paving Materials were received and publicly opened on April 21, 2009:

BIDDER		AMOUNT
Trap Rock Industries, Inc.	Year 1	\$91,700.00
	Year 2	\$96,100.00

WHEREAS, It is the recommendation of the Purchasing Agent and the Superintendent of Public Works that Trap Rock Industries, Inc., be awarded the bid; they being the lowest responsible bidder; and

WHEREAS, There exists an account 01-201-26-290-2-028 which will fund these goods; 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.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the contract for Road and Paving Materials is hereby awarded to Trap Rock Industries, Inc., P.O. Box 419, Kingston, NJ 08528.

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

K. **RESOLUTION #09-5-155 - AUTHORIZING THE SUSTAINABLE JERSEY GRANT**

WHEREAS, A sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic and social objectives are balanced and mutually supportive; and

WHEREAS, Montgomery Township strives to save tax dollars, assure clean land, air and water, improve working and living environments; and

WHEREAS, Montgomery Township is participating in the Sustainable Jersey Program; and

WHEREAS, One of the purposes of the Sustainable Jersey Program is to provide resources to municipalities to make progress on sustainability issues, and they have created a grant program called the Sustainable Jersey Small Grants funded by Wal-Mart; and

WHEREAS, The Township Committee of Montgomery Township has determined that the Township should apply for the aforementioned Grant.

NOW, THEREFORE, BE IT RESOLVED, That the Township Committee of the Montgomery Township, State of New Jersey, authorize the submission of the aforementioned Sustainable Jersey Grant funded by Wal-Mart.

(CONSENT AGENDA Cont.)

L. **RESOLUTION #09-5-156 - PRESERVATION OF HISTORIC FARMHOUSE (Block 13001, Lot 14)**

WHEREAS, Montgomery Township has a proud agricultural heritage; and

WHEREAS, The Township of Montgomery encourages the preservation and reuse of historic buildings, especially those located on existing or former farms; and

WHEREAS, The Township has successfully preserved historic farm properties and auctioned the land and historic home with deed restrictions; and

WHEREAS, A similar approach to preserving historic farmhouses and barns owned by the County would be wise and beneficial to the region.

NOW, THEREFORE, BE IT RESOLVED That the Township Committee encourages Somerset County to take steps to preserve the historic home on the farm property located at 654 County Route 601 and identified as Block 13001, Lot 14 on the Township Tax Maps, in order to see the farmhouse reused and the agricultural fabric of the area preserved together with the home; and

BE IT FURTHER RESOLVED That the Township encourages the County to consider the disposition of historic homes that may be acquired with future open space and farmland acquisitions such that these historic resources may be preserved.

M. **RESOLUTION #09-5-157 - AUTHORIZING THE EXECUTION OF GRANT APPLICATION - 2009 County/Municipal Open Space Partnership Grant**

BE IT RESOLVED That the Montgomery Township Committee hereby authorizes the execution of a grant application to Somerset County Board of Chosen Freeholders for the 2009 County/Municipal Open Space Partnership Grant.

N. **RESOLUTION #09-5-158 - AUTHORIZATION TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE ROUTE 601 HIGH SCHOOL - Blawenburg Connector Project (2010 Bikeway Grant)**

WHEREAS, the New Jersey Department of Transportation has solicited applications from local governments for funding under the 2010 Bikeways Grant; and

WHEREAS, the Township of Montgomery has prepared an application for construction of a bikeway on County Route 601 from Montgomery Township High School to the intersection with County Route 518.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Montgomery, formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Township Administrator and Clerk are hereby authorized to submit an electronic grant application identified as "BIKE-2010-Montgomery Township-00038" to the New Jersey Department of Transportation on behalf of the Township of Montgomery.

BE IT FURTHER RESOLVED that the Township Administrator and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Montgomery and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

O. **RESOLUTION #09-5-159 - AUTHORIZATION TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE ROUTE 601 HIGH SCHOOL - Blawenburg Connector Project (2010 Transportation Enhancement Grant)**

WHEREAS, The New Jersey Department of Transportation has solicited applications from local governments for funding under the 2010 Transportation Enhancement grant; and

WHEREAS, The Township of Montgomery has prepared an application for construction of a bikeway on County Route 601 from Montgomery Township High School to the intersection with County Route 518.

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery, formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED That the Township Administrator and Clerk are hereby authorized to submit an electronic grant application to the New Jersey Department of Transportation on behalf of the Township of Montgomery.

BE IT FURTHER RESOLVED That the Township Administrator and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Montgomery and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

(CONSENT AGENDA Cont.)

P. **RESOLUTION #09-5-160 - APPROVAL TO SUBMIT APPLICATION FOR FEDERAL SURFACE TRANSPORTATION AUTHORIZATION FUNDS FOR THE CHERRY VALLEY ROAD IMPROVEMENT PROJECT**

WHEREAS, The Township of Montgomery has become aware that the United States House Committee on Transportation and Infrastructure is preparing new surface transportation authorization funding legislation; and

WHEREAS, The Township of Montgomery has prepared an application in coordination with Princeton Township to improve Cherry Valley Road and Hillside Avenue within the Townships of Montgomery and Princeton; and

WHEREAS, The Township of Montgomery wishes to endorse and support this much needed safety improvement project and the application for these funds.

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery formally supports and approves the funding application for the above stated project.

BE IT FURTHER RESOLVED That the Mayor and Clerk are hereby authorized to submit an electronic funding application identified as Surface Transportation Authorization High Priority Project Request Form on behalf of the Township of Montgomery.

BE IT FURTHER RESOLVED That a copy of this Resolution be forwarded to Congressman Leonard Lance and the Mayor and Committee of the Township of Princeton.

Q. **RESOLUTION #09-5-161 - AMENDMENT TO BINDING ARBITRATION STATUTE**

WHEREAS, The binding arbitration process was intended to support local government aims by arriving at award decisions that are equitable to all involved parties, including municipalities, Police Department personnel, and taxpayers; and

WHEREAS, The binding arbitration process is mandated by state law; and

WHEREAS, Municipalities are bound by strict fiscal controls embodied in the expenditure limit and tax levy cap laws; and

WHEREAS, It is the norm rather than the exception for state approved arbitrators to award raises for police salaries at rates that exceed the annual caps; and

WHEREAS, Binding arbitration awards in excess of the caps force municipalities to cut other important municipal services, in order to fund salary increases, compounded by pension increases, to police personnel, and costs for police services continue to rise at an unsustainable rate; and

WHEREAS, The state approved binding arbitration process is inconsistent with the State cap laws and is unfair to municipalities attempting to control property taxes through fiscal responsibility;

NOW, THEREFORE, BE IT RESOLVED, That the Montgomery Township Committee urges the New Jersey State Legislature to pass legislation containing substantial reforms to the binding arbitration process; and

BE IT FURTHER RESOLVED That copies of this resolution be forwarded to our State Senator, our Representatives in the General Assembly, to the Governor and to the New Jersey League of Municipalities.

R. **RESOLUTION #09-5-162 - AUTHORIZING SHARED SERVICES AGREEMENT WITH THE COUNTY OF SOMERSET FOR TRANSPORTATION SERVICES**

WHEREAS, The Township of Montgomery in Somerset County has the need to provide transportation services to certain residents; and

WHEREAS, The County of Somerset, Division of Transportation, has the proper equipment and qualified drivers and can provide transportation services to the Township.

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

1. The transportation services contract between the County of Somerset and Township of Montgomery authorizing the County to provide transportation services on weekdays between the hours of 8:30 a.m. and 2:00 p.m. to Township residents, as determined by the Township, as well as transportation services for weekend trips is hereby approved and the Mayor and Clerk are authorized to execute the same on behalf of the Township. Said services shall be provided by the County at a rate of \$20.58 per hour worked for weekday services, \$30.87 per hour for weekend trips, together with an hourly fringe benefit cost of \$8.11 per hour and a \$45.00 per day operating cost for administrative costs incurred by the County.
2. The terms of the agreement shall be from June 1, 2009 through December 31, 2009.
3. The Clerk shall file a copy of this agreement for informational purposes with the Division of Local Government Services, Department of Community Affairs, in accordance with N.J.S.A. 40A:65-4.

(CONSENT AGENDA Cont.)

S. **RESOLUTION #09-5-163 - ADOPTING AN IDENTITY THEFT POLICY**

WHEREAS, The Fair and Accurate Credit Transactions Act of 2003, an amendment to the Fair Credit Reporting Act, required federal rules regarding identity theft protection to be promulgated; and

WHEREAS, Those rules became effective May 1, 2009, and require municipal utilities to implement an identity theft program and policy, and

WHEREAS, The Township Committee of the Township of Montgomery has determined that the adoption of an identity theft policy for the Sewer Utility is in the best interest of the Township and its citizens.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery in the County of Somerset that the Identity Theft Policy annexed hereto is hereby approved and adopted.

T. **RESOLUTION #09-5-164 - EXECUTION OF CROSS EASEMENT AGREEMENT - Privacy Fences - Pike Run, Phase 7 - (Tse) - 12 Goldenrod Drive (Block 5014, Lot 7)**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Cross Easement Agreement between the Township of Montgomery and Kai-Chuk Tse and Melissa Wu-Tse with regard to some privacy fencing in Phase 7 of Pike Run, that traverses drainage easements.

U. **RESOLUTION #09-5-165 - EXECUTION OF CROSS EASEMENT AGREEMENT - Privacy Fences - Pike Run, Phase 7 - (Chang) - 9 Waters Lane (Block 5014, Lot 22)**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Cross Easement Agreement between the Township of Montgomery and Richard Chang, Karen Chang and Kuei Chan Chang with regard to some privacy fencing in Phase 7 of Pike Run, that traverses drainage easements.

V. **RESOLUTION #09-5-166 - RELEASE OF MAINTENANCE GUARANTEE- Pike Run, Phase V, Tract 5**

WHEREAS, Gail Smith, Township Engineer, has certified on April 21, 2009 that all public improvements in a project known as Pike Run, Phase V, Tract 5 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 Maintenance Bond #S03142-M in the amount of \$118,707.51 be released to Pike Run, LLC., 40 Pike Run Road, Belle Mead, NJ 08502.

BE IT FURTHER RESOLVED That the release of the Maintenance Bonds shall be conditioned upon the posting of adequate escrow funds.

W. **RESOLUTION #09-5-167 - RELEASE OF MAINTENANCE GUARANTEE - Cherry Valley Country Club, Stage J**

WHEREAS, Gail Smith, Township Engineer, has certified on May 5, 2009 that all public improvements in a project known as Cherry Valley Country Club, Stage J 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 Maintenance Bond #012-012-197 in the amount of \$138,511.50 be released to DKM Residential Properties Corp., 1544 The Great Road, Skillman, NJ 08558.

BE IT FURTHER RESOLVED That the release of the Maintenance Bond shall be conditioned upon the posting of adequate escrow funds.

X. **RESOLUTION #09-5-168 - APPROVING ADDITIONAL FUNDS FOR A PROFESSIONAL SERVICES AGREEMENT APPROVED DECEMBER 4, 2008 IN RESOLUTION #08-12-340**

WHEREAS, On December 4, 2008, the Township Committee adopted Resolution #08-12-340 authorizing a professional services agreement with Carr, Daley, Sullivan & Weir, PC, Certified Public Accountants for the Preparation and Implementation of a General Ledger System; and

WHEREAS, These services were authorized without a "fair and open process" as defined by P.L. 2004, c.19, the "Local Unit Pay-to-Play Law"; and

WHEREAS, The firm of Carr, Daley, Sullivan & Weir, PC submitted a proposal dated November 13, 2008 to provide the services to the Township for the lump sum cost of \$25,000; and

WHEREAS, In connection with the December 4, 2008 contract award, Carr, Daley, Sullivan & Weir, PC completed and filed with the Township a Campaign Contributions Affidavit as required by N.J.S.A. 19:44A-20.2 et seq. certifying that Carr, Daley, Sullivan & Weir, PC, has not made any prohibited contributions to a candidate committee or municipal committee representing the elected officials of the Township, along with a Certification Regarding Political Contributions as required by N.J.S.A. 19:44A-20.26 and an Affidavit Prerequisite to Execution of Agreement Exempt from Public Bidding and in Excess of \$5,000.00 as required by Subsection 2-22.2 of the Code of the Township of Montgomery (1984) (collectively "Pay-to-Play Forms"); and

(CONSENT AGENDA Item X Cont.)

WHEREAS, The Temporary Chief Financial Officer has determined that, by reason of the extensive amount of time and work that was and will be required, additional funding in the amount of \$25,000.00 is necessary to properly complete the Preparation and Implementation of the General Ledger System, as set forth in a proposal from Carr, Daley, Sullivan & Weir, PC dated May 5, 2009, resulting in a total project cost not to exceed \$50,000.00; and

WHEREAS, The Township Administrator has determined and certified in writing that the value of the additional funding over the course of the contract is anticipated to exceed \$17,500.00; and

WHEREAS, The Temporary Chief Financial Officer has certified that sufficient funds are currently available for this purpose; and

WHEREAS, The New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., authorizes the award of this contract as a Professional Service without the requirement for competitive bidding;

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

1. The above preamble is incorporated herein as if fully restated.
2. The Township Committee hereby approves the additional funding for this project in an amount not to exceed an additional \$25,000.00, resulting in a total contract price not to exceed \$50,000.00.
3. This Resolution, when duly countersigned by Carr, Daley, Sullivan & Weir, PC, shall serve as a formal amendment and/or change order to the original Professional Services contract for the Preparation and Implementation of a General Ledger System, amending the contract to provide that the contract price shall not exceed \$50,000.00.
4. In all other respects, the remaining provisions of the aforesaid Resolution #08-12-340 and the original professional services contract are hereby ratified and confirmed.
5. The Clerk is directed to retain a certified copy of this Resolution on file with the original contract.
6. A copy of this Resolution, the Certification of Contract Value, the proposal dated May 5, 2009, the Pay-to Play Forms, and the original professional services contract shall remain on file in the Office of the Township Clerk, and shall be available for public inspection.

A notice of this action shall be published in the official newspaper as required by law.

- 19-1. Committeeman Fay moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeewoman Dyer and carried on the following:

**ROLL CALL** - Ayes - Dyer, Fay, Birge  
Nays - None  
Absent - Caliguire, Wilson

20. **ORDINANCE #09-1315 - \$80,000.00 REAPPROPRIATION - Introduction**

- A. Deputy Mayor Birge read the title of the ordinance as follows:

ORDINANCE REAPPROPRIATING \$80,000 NOT NEEDED FOR THE ORIGINAL PURPOSE IN ORDER TO PROVIDE \$49,500 FOR A COPPER TRANSLATOR AND WER STUDY FOR THE CHERRY VALLEY TREATMENT PLANT AND TO DIRECT THE RETURN OF THE BALANCE TO THE SEWER CAPITAL IMPROVEMENT FUND FOR AND BY THE TOWNSHIP OF MONTGOMERY, IN THE COUNTY OF SOMERSET, NEW JERSEY.

- B. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby passed on first reading and that the same be published in an official newspaper as required by law together with a Notice of Pending Ordinance fixing May 21, 2009 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

- 20-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Dyer and carried on the following:

**ROLL CALL** - Ayes - Dyer, Fay, Birge  
Nays - None  
Absent - Caliguire, Wilson

21. **ORDINANCE #09-1316 - CAPITAL ORDINANCE** - Installation of Vehicle and Equipment Washing Facilities - Introduction

A. Deputy Mayor Birge read the title of the ordinance as follows:

ORDINANCE OF THE TOWNSHIP OF MONTGOMERY, IN THE COUNTY OF SOMERSET, NEW JERSEY APPROPRIATING \$72,000 FROM THE CAPITAL IMPROVEMENT FUND FOR THE INSTALLATION OF VEHICLE AND EQUIPMENT WASHING FACILITIES AT THE DEPARTMENT OF PUBLIC WORKS BUILDING AS REQUIRED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

B. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby passed on first reading and that the same be published in an official newspaper as required by law together with a Notice of Pending Ordinance fixing May 21, 2009 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

21-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Dyer and carried on the following:

**ROLL CALL** - Ayes - Dyer, Fay, Birge  
Nays - None  
Absent - Caliguire, Wilson

22. **ORDINANCE #09-1317 - PEDDLING AND SOLICITING** - Introduction

A. Deputy Mayor Birge read the title of the ordinance as follows:

AN ORDINANCE AMENDING IN ITS ENTIRETY CHAPTER IV GENERAL LICENSING," SECTION 4-1 "PEDDLING, SOLICITING AND RELATED ACTIVITIES" AND AMENDING AND SUPPLEMENTING CHAPTER XVI "LAND DEVELOPMENT, SUBSECTION 16-5.13 "SIGNS" OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984)

B. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby passed on first reading and that the same be published in an official newspaper as required by law together with a Notice of Pending Ordinance fixing May 21, 2009 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

22-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Dyer and carried on the following:

**ROLL CALL** - Ayes - Dyer, Fay, Birge  
Nays - None  
Absent - Caliguire, Wilson

23. **APPROVAL OF MINUTES**

23-1. Committeeman Fay moved the adoption of the Regular Session minutes of February 19, 2009. The motion was seconded by Committeewoman Dyer and carried on the following:

**ROLL CALL** - Ayes - Dyer, Fay  
Nays - None  
Absent - Caliguire, Wilson  
Abstain - Birge

23-2. Committeeman Fay moved the adoption of the Regular Session minutes of March 5, 2009. The motion was seconded by Committeewoman Dyer and carried unanimously.

24. **PAYMENT OF BILLS**

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

WHEREAS, The Temporary 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.

24-1. Committeewoman Dyer moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Fay and carried on the following:

**ROLL CALL** - Ayes - Dyer, Fay, Birge  
Nays - None  
Absent - Caliguire, Wilson

25. ANTONACCI CEMETERY

Administrator Nieman explained that Luke Antonacci was prepared to establish a Cemetery Board to create a family cemetery on his property. Attorney Hadinger pointed out that there was already a cemetery on the property. Administrator Nieman stated that Mr. Antonacci is prepared to post the necessary funding in excess of \$75,000.00 and go before the State Cemetery Licensing Board.

- 25-1. Committeeman Fay moved the approval of Mr. Antonacci going ahead with his plan for the family cemetery. The motion was seconded by Committeewoman Dyer and carried on the following:

ROLL CALL - Ayes - Dyer, Fay, Birge  
Nays - None  
Absent - Caliguire, Wilson

26. USE OF DEPARTMENT OF PUBLIC WORKS TRUCK

Administrator Nieman stated that the Department of Public Works had been approached by Costco, who is hosting a charity event for the Bristol Myers Squibb Children's Hospital, to use one of the trucks in a "Touch the Truck" event.

- 26-1. Committeeman Fay moved the approval for the use of the Department of Public Works truck for a charity event run by Costco. The motion was seconded by Committeewoman Dyer and carried on the following:

ROLL CALL - Ayes - Dyer, Fay, Birge  
Nays - None  
Absent - Caliguire, Wilson

27. 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 is as follows:
  - Advice of counsel with respect to rescinding of bucket truck bid;
  - Advice of counsel with respect to anticipated COAH litigation;
  - Advice of counsel with respect to SUBMAR, Inc. Mechanic's Lien/anticipated litigation;
  - Potential Acquisition of lands (Potter) with public funds and discussion of potential terms and conditions thereof.
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 that litigation. It is possible that, at the conclusion of the Closed Session, the Township Committee will reconvene in Open Session for the purpose of taking action.

- 27-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Dyer and carried unanimously.

28. RESOLUTION #09-5-170 - RESCINDING RESOLUTION NO 09-2-51, AWARDING A BID TO W.E. TIMMERMAN CO., INC., FOR A USED BUCKET TRUCK, AND DIRECTING THE TOWNSHIP'S PURCHASING AGENT TO REBID THE PROJECT, N.J.S.A. 40A:11-1 ET SEQ.

WHEREAS, The Township of Montgomery ("Township") solicited public bids with regard to the Township's purchase of a used bucket truck for use by the Department of Public Works; and

WHEREAS, Sealed bids were received and opened by the Township's Purchasing Agent; and

WHEREAS, By Resolution No. 09-2-51, adopted on February 5, 2009, the Township Committee awarded a contract to W.E. Timmerman Co., Inc., the low bidder, in the amount of \$30,400.00 for the subject used bucket truck; and

WHEREAS, It was subsequently learned by the Township that the successful bidder received certain information concerning the amount budgeted by the Township for that acquisition of the used vehicle prior to the bids being submitted, information which, though available, was not received by other potential bidders; and

WHEREAS, As of the date of this Resolution the successful bidder has not provided the Township with the vehicle in question, nor has the Township tendered the contract price to the bidder; and

WHEREAS, The goal of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., is to ensure that free, open and competitive bidding is encouraged, so that the municipality can contract with the lowest responsible bidder; and

(Item #28 Cont.)

WHEREAS, Due to the disclosure of the figure budgeted by the municipality for the vehicle to a prospective bidder, the Township Committee has determined that it is in the best interests of the citizens of the Township to set aside the contract and re-bid the proposed acquisition of the used bucket truck.

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

1. Resolution No. 09-2-51, adopted on February 5, 2009, be and hereby is rescinded and is of no further effect. The contract described in said Resolution is set aside and also is of no further effect.
2. The Township's Purchasing Agent is directed to review and re-draft as necessary the bid specifications for the acquisition of the bucket truck.
3. The Township's Purchasing Agent is thereafter directed to rebid this project pursuant to the terms and requirements of the Local Public Contracts Law.

28-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Dyer and carried on the following:

**ROLL CALL** - Ayes - Dyer, Fay, Birge  
Nays - None  
Absent - Caliguire, Wilson

**ADJOURNMENT** was at 9:40 p.m. on a motion by Committeeman Fay. The motion was seconded by Committeewoman Dyer and carried unanimously.

Date of Approval:

\_\_\_\_\_  
Donna Kukla, Township Clerk