

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE
January 15, 2009

1. Montgomery Township Committee met at the Municipal Building, 2261 Van Horne Road, Belle Mead, NJ at 6:00 p.m. on the above date. Those present were:

TOWNSHIP COMMITTEE: Mayor Wilson, Deputy Mayor Birge, Committeemembers Caliguire, Fay and Dyer

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

TEMPORARY CHIEF FINANCIAL OFFICER - Walter Sheppard

TOWNSHIP CLERK - Donna Kukla

2. Mayor Wilson 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. **BUDGET**

Administrator Nieman and Temporary Chief Financial Officer Sheppard presented a Power Point presentation of an overview of the preparation of the budget.

Temporary Chief Financial Officer Sheppard went over the budget process goals:

- Minimize current year tax increases without compromising public health, safety and welfare;
- Maintain the financial integrity of programs and services desired by and offered to the community;
- Evaluate all capital requests to assure need is justified;
- Meet New Jersey's guidelines on spending cap and levy cap;
- Assure that financial decisions address both short and longer term financial needs of the community;
- Where service reductions are necessary, prioritize reductions to minimize impact.

Mr. Sheppard also went over the State Mandates:

- 3.5% Cap on appropriations;
- 4.0% Cap on increase of Municipal property taxes;
- Reductions in 2008 State Aid with the anticipation of additional State Aid reductions in 2009.

He presented the budget opportunities for 2009:

- Explore shared services and consolidation opportunities;
- Realignment of staff;
- Continued reduction in allocated other expenses;
- Pension fund postponement.

He explained the budget challenges for 2009:

- Project energy costs - volatility;
- Losses in revenue from all sources;
- Greater demands for service;
- More work with less staff;
- Pursuit of all possible grants, aid and stimulus packages.

He spoke about the adjustments already implemented:

- Elimination of cost of living and merit increase for non-union employees;
- Reduction of overtime in support of non state mandated committees and commission;
- Determine self liquidation status of all Township programs.

4. **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:
 - Tactics involving protection to Township/Public Safety;
 - Advice of Labor Counsel with respect to personnel issues.
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public. Approval of any agreements shall only be authorized by the Township Committee in a public session. It is possible that at the conclusion of this closed session, the Township Committee will reconvene in open session for the purpose of taking action.

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

5. The meeting reconvened in Open Session and Mayor Wilson led the Salute to the Flag.

6. **PUBLIC COMMENT**

6-1. Eric Weitze, Viburnum Drive, spoke about a Board of Health proposed ordinance regarding apartment inspections. The issue, to him, was the proposed charge of \$75.00 to inspect the apartments.

Mayor Wilson pointed out that the inspections would happen only when the apartment changed hands. She also explained that the ordinance had died.

6-2. Eric Weitze, Viburnum Drive, spoke about the poor condition of Dutchtown-Zion Road.

7. **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 #09-1-24 - REFUND OVERPAID 2008 TAXES**

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

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Amount</u>	<u>Year</u>
3006	8	Higgins, Roy K. & Carol L.	\$1,656.80	2008
3006	21	Dunwiddie, James R. & Theresa A.	\$1,901.90	2008
3007	9	La Voie, Michael & Susan L.	\$ 276.78	2008
3007	15.01	Butler, Thomas & Lisa	\$ 14.04	2008
4002	14	Di Domizio, John F.	\$ 176.83	2008
4003	10	Ariola, Frances & Donald	\$ 74.57	2008
4003	13	Hillmont Company, c/o A. Dix Skillman	\$ 188.18	2008
4003	15	Hillmont Company, c/o A. Dix Skillman	\$ 164.94	2008
4003	30	Erbone, Emanuel, c/o A. Dix Skillman	\$ 41.49	2008
4004	13	Pace, Biagio, c/o Mrs. H. Strong	\$ 148.05	2008
4005	25	Erbone, Emanuel, c/o A. Dix Skillman	\$ 24.25	2008
4006	4	Di Domizio, John F.	\$ 74.38	2008
4008	14	Di Domizio, John F.	\$ 45.97	2008
12001	4	Weidl, Ernest	\$ 25.64	2008
12001	11.01	Seeley, John & Stephen	\$ 191.74	2008
15001	5	Thompson Realty Co.	\$8,312.16	2008
27001	37	Castaneda, Richard	\$ 51.55	2008
27001	44	Castaneda, Richard	\$ 41.21	2008
29002	47	Merritt Brothers, Inc.	\$1,229.93	2008
30003	26.01	Crivello, Frank & Cassandra	\$2,248.05	2008
34001	63	PSE&G Services Corp.	\$3,243.22	2008
37001	4.33	Strehl, Laurie L.	\$2,078.82	2008

B. **RESOLUTION #09-1-25 - CANCEL 2008 TAXES**

WHEREAS, There are several properties in the Township of Montgomery that have had favorable tax appeals from the Somerset County Tax Board for their 2008 added assessment bills, and

WHEREAS, The following properties and amounts have been reduced due to the Tax Appeal:

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Year</u>	<u>Qtr</u>	<u>Amount</u>
4065	017	Shiffner	2008	4	\$378.24
18020	003	Gardner	2008	4	\$859.67
5008	033	Aralihalli	2008	4	\$300.70

NOW, THEREFORE, BE IT RESOLVED, That the Township Committee of the Township of Montgomery hereby authorizes the Tax Collector to cancel the taxes as stated above and refund if appropriate.

C. **RESOLUTION #09-1-26 - RAFFLE LICENSE #666 - SERV Foundation, Inc.**

BE IT RESOLVED By the Montgomery Township Committee that approval is hereby given for the SERV Foundation, Inc. to conduct a Raffle under License #662 on June 19, 2009 at the Cherry Valley Country Club, 125 Country Club Drive, Skillman, NJ. The time for this Raffle will be from approximately 6:00 p.m. to 11:00 p.m.

D. **RESOLUTION #09-1-27 - RAFFLE LICENSE #667 - Montgomery High School Band Parents' Association Inc.**

BE IT RESOLVED By the Montgomery Township Committee that approval is hereby given for the Montgomery High School Band Parents' Association Inc. to conduct a Raffle under License #663 on April 1, 2009 at the Montgomery Performing Arts Center, 1016 Route 601, Skillman, NJ. The time for this Raffle will be at approximately 7:00 p.m.

E. **RESOLUTION #09-1-28 - AUTHORIZATION TO ACCEPT NEW JERSEY STATE DEPARTMENT OF LAW AND PUBLIC SAFETY, NJ DIVISION OF HIGHWAY SAFETY 2008 DRUNK DRIVING ENFORCEMENT GRANT**

BE IT RESOLVED That the Montgomery Township Committee hereby authorizes the Montgomery Township Department of Police Services to accept the New Jersey State Department of Law and Public Safety, NJ Division of Highway Safety 2008 Drunk Driving Enforcement Grant in the amount of \$5,484.19.

(CONSENT AGENDA Cont.)

F. **RESOLUTION #09-1-29 - APPROVAL OF 2009 RECYCLING AGREEMENT WITH SOMERSET COUNTY BOARD OF CHOSEN FREEHOLDERS**

WHEREAS, Pursuant to its duly approved Solid Waste Management Plan and amendments thereto, the County of Somerset has established a mandatory countywide recycling program; and

WHEREAS, The duly approved Solid Waste Management Plan and amendments thereto call for the execution of agreements by and between Somerset County and municipalities located within the County; and

WHEREAS, The Township of Montgomery desires to participate in the recycling program; and

WHEREAS, The execution of a contract with Somerset County for the provision of recycling services pursuant to N.J.S.A.13:1E-99.14 is, pursuant to N.J.S.A. 40A:11-5(2), an exception to the public bidding requirements established by the Local Public Contracts Law; and

WHEREAS, The Temporary Chief Financial Officer has certified the extent to which funds for this contract are available pursuant to the Temporary Budget (Somerset County Mandatory Recycling Program).

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery in Somerset County that the Mayor and Clerk are hereby authorized to execute an agreement with Somerset County for the provision of recycling services for a one-year term beginning January 1, 2009 through and including December 31, 2009.

G. **RESOLUTION #09-1-30 - AFFIRMING MONTGOMERY TOWNSHIP'S PARTICIPATION IN SOMERSET COUNTY ENERGY AUDIT PROGRAM**

WHEREAS, In January 2008, the Somerset County Board of Chosen Freeholders established the Somerset County Energy Council to advise the Board of Chosen Freeholders on energy issues and opportunities, advocate for energy efficiency and conservation, and promote public understanding of energy-saving and alternative energy opportunities and choices; and

WHEREAS, In support of the Energy Council's mission and recommendations, the Board of Chosen Freeholders created a new County Energy Audit Program (hereinafter referred to as the "Program"); and

WHEREAS, The Township of Montgomery has accepted the Somerset County Board of Chosen Freeholders and County Energy Council's invitation to voluntarily participate in and assist in implementing the new County Energy Audit Program, and endorsed submission of the completed attached Energy Audit Program Application; and

WHEREAS, In order to facilitate completion of the energy audits and Energy Star Portfolio Manager Tool in accordance with the Program, the County requires establishing a Municipal Energy Team whose primary role will be to provide data, information and access to buildings/facilities to the Energy Audit Firm and assist with implementing improvement measures and other follow-up activities as specified in the attached Energy Audit Program Guidelines; and

WHEREAS, The Energy Audit Program guidelines specify additional responsibilities of the Energy Team, which include facilitating proposal generation efforts from Energy Audit Firms assigned by the County Energy Council, reviewing EA Firm proposals, and recommending the desired EA Firm to perform the work for the municipality, in accordance with the established Program timeline.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery that the Mayor is hereby authorized to establish an Energy Team and designates its Representative in accordance with the Somerset County Energy Audit Program FY 2009 and its section labeled "General Responsibilities of the Municipal/School District Energy Team," to fulfill the role and responsibilities specified in same, and in addition to authorizing submission of an application to participate in the Program.

BE IT FURTHER RESOLVED That the Township Clerk is hereby authorized to forward a copy of this Resolution and the name, address, phone and e-mail information for each member of the Energy Team to the Somerset County Planning Board and Somerset County Energy Council.

H. **RESOLUTION #09-1-31 - RELEASE OF PERFORMANCE GUARANTEE - Pike Run, LLC. - Phase VIII (Tract 3)**

WHEREAS, Gail Smith, Township Engineer, has certified on January 5, 2009 that all public improvements in a project known as Pike Run VIII (Tract 3) have been completed in accordance with the approved plans and the code of the Township of Montgomery and therefore recommends that the Performance Guarantee be released.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a performance guarantee in the amount of \$560,210.33 (Bond #S03197 in the amount of \$504,189.30 and \$56,021.03 cash) be released to Pike Run, LLC and a maintenance guarantee be posted as follows:

(CONSENT AGENDA Item H Cont.)

Construction Cost Estimate	\$1,867,367.76
15% Maintenance Guarantee	\$ 280,105.16

BE IT FURTHER RESOLVED That upon the posting of a maintenance guarantee in the form and amount called for by this resolution and Section 16-9 of the Montgomery Township Code (1984) the following improvements shall be deemed accepted and the performance guarantee may be released.

Cook Drive - from Pike Run Road along the frontage of Block 5021, Lot 1 and Block 5022, Lot 1, to approximately 187 feet west of the intersection of Cook Drive and Delmarvia Drive.

BE IT FURTHER RESOLVED That the effective date of acceptance of the improvements shall be the date the Township Attorney confirms in writing that the maintenance guarantee is in the proper amount and acceptable legal format.

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

There are no detention basins in Phase VIII.

I. **RESOLUTION #09-1-32 - RELEASE OF PERFORMANCE GUARANTEE - Pike Run, LLC. - Phase X-A (Tract 3)**

WHEREAS, Gail Smith, Township Engineer, has certified on January 5, 2009 that all public improvements in a project known as Pike Run X-A (Tract 3) have been completed in accordance with the approved plans and the code of the Township of Montgomery and therefore recommends that the Performance Guarantee be released.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a performance guarantee in the amount of \$169,252.51 (Bond #S03198 in the amount of \$153,865.92 and \$15,386.59 cash) be released to Pike Run, LLC and a maintenance guarantee be posted as follows:

Construction Cost Estimate	\$272,492.52
15% Maintenance Guarantee	\$ 40,873.88

BE IT FURTHER RESOLVED That upon the posting of a maintenance guarantee in the form and amount called for by this resolution and Section 16-9 of the Montgomery Township Code (1984) the following improvements shall be deemed accepted and the performance guarantee may be released.

Delmarvia Drive - from Pike Run Road to a point approximately 600 feet along the centerline.

BE IT FURTHER RESOLVED That the effective date of acceptance of the improvements shall be the date the Township Attorney confirms in writing that the maintenance guarantee is in the proper amount and acceptable legal format.

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

The Township will not need to accept the detention basin improvements as the detention basins are owned and maintained by the Homeowners Association.

J. **RESOLUTION #09-1-33 - RELEASE OF PERFORMANCE GUARANTEE - Pike Run, LLC. - Phase X-B (Tract 3)**

WHEREAS, Gail Smith, Township Engineer, has certified on January 5, 2009 that all public improvements in a project known as Pike Run X-B (Tract 3) have been completed in accordance with the approved plans and the code of the Township of Montgomery and therefore recommends that the Performance Guarantee be released.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a performance guarantee in the amount of \$236,311.02 (Bond #S03199 in the amount of \$214,828.20 and \$21,482.82 cash) be released to Pike Run, LLC and a maintenance guarantee be posted as follows:

Construction Cost Estimate	\$614,834.40
15% Maintenance Guarantee	\$ 92,225.16

BE IT FURTHER RESOLVED That upon the posting of a maintenance guarantee in the form and amount called for by this resolution and Section 16-9 of the Montgomery Township Code (1984) the following improvements shall be deemed accepted and the performance guarantee may be released.

Cook Drive - from a point approximately 187 feet west of the intersection of Cook Drive and Delmarvia Drive, along the frontage of Block 5022, Lot 3 and Block 5021, Lot 2 to the intersection of Cook Drive and Delmarvia Drive.

Delmarvia Drive - from a point approximately 600 feet south of the intersection of Pike Run Road and Delmarvia Drive to the southerly property line of Block 5022, Lot 1, excluding the cul-de-sac.

(CONSENT AGENDA Item J Cont.)

BE IT FURTHER RESOLVED That the effective date of acceptance of the improvements shall be the date the Township Attorney confirms in writing that the maintenance guarantee is in the proper amount and acceptable legal format.

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

There are no detention basins in Phase X-B.

K. **RESOLUTION #09-1-34 - RELEASE OF PERFORMANCE GUARANTEE - Pike Run, LLC. - Phase X-C (Tract 3)**

WHEREAS, Gail Smith, Township Engineer, has certified on January 5, 2009 that all public improvements in a project known as Pike Run X-C (Tract 3) have been completed in accordance with the approved plans and the code of the Township of Montgomery and therefore recommends that the Performance Guarantee be released.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a performance guarantee in the amount of \$298,479.59 (Bond #S03196 in the amount of \$271,345.08 and \$27,134.51 cash) be released to Pike Run, LLC and a maintenance guarantee be posted as follows:

Construction Cost Estimate	\$463,996.08
15% Maintenance Guarantee	\$ 69,599.41

BE IT FURTHER RESOLVED That upon the posting of a maintenance guarantee in the form and amount called for by this resolution and Section 16-9 of the Montgomery Township Code (1984) the performance guarantee may be released.

There are no roads to be accepted by the Township in Phase X-C.

BE IT FURTHER RESOLVED That the effective date of acceptance of the improvements shall be the date the Township Attorney confirms in writing that the maintenance guarantee is in the proper amount and acceptable legal format.

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

There are no detention basins in Phase X-C.

L. **RESOLUTION #09-1-35 - RELEASE OF MAINTENANCE GUARANTEE - Brookside at Harlingen On-Site**

WHEREAS, Gail Smith, Township Engineer, has certified on December 26, 2008 that all public improvements in a project known as Brookside at Harlingen On-Site 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 #5977536-1 in the amount of \$76,067.19 be released to Centex Homes, LLC, 500 Craig Road, Manalapan, NJ 07726-8790.

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

M. **RESOLUTION #09-1-36- AUTHORIZATION TO ENTER INTO A "FENCE ESCROW AGREEMENT" WITH PIKE RUN, LLC.**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a "Fence Escrow Agreement" between Montgomery Township and Pike Run with respect to Phase 7 Privacy Fencing.

N. **RESOLUTION #09-1-37 - AUTHORIZATION TO EXECUTE A CORRECTIVE DEED OF EASEMENT AND ASSIGNMENT OF DEED OF EASEMENT AND CORRECTIVE DEED OF EASEMENT - Drake Farm (Block 34001, Lot 43.05)**

BE IT RESOLVED that the Mayor and Clerk are hereby authorized to execute (1) a Corrective Deed of Easement, and (2) Assignment of Deed of Easement and Corrective Deed of Easement with respect to the Drake Farm agricultural easement for Block 34001, Lot 43.05 (County Route 518) authorizing the assignment of the agricultural easement acquired by the Township in conjunction with and to Somerset County for the sum of \$2,620,017.90 in furtherance of the State of New Jersey Agriculture Retention and Development Program.

(CONSENT AGENDA Cont.)

O. **RESOLUTION #09-1-38 - PROFESSIONAL SERVICES RESOLUTION - Tax Map Official**

WHEREAS, There exists a need to acquire the following service without a "fair and open process" as defined by P.L. 2004, c.19, the "Local Unit Pay-to-Play Law"

(1) Tax Map Official

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

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

- (1) The Mayor and Clerk are hereby authorized and directed to execute a proper agreement with Saladin & Associates as Tax Map Official.
- (2) This contract is awarded without competitive bidding as "Professional Services" under the provisions of the Local Public Contracts Law NJSA 40A:11-5(1)(a) as contracts for services to be performed by persons authorized by law to practice recognized professions that are regulated by law and because the services to be performed are not susceptible of quantifying in bid specifications.
- (3) This contractor must complete and file with Montgomery Township a Campaign Contributions Affidavit as required by N.J.S.A. 19:44A-20.2 et seq. certifying they have not made any prohibited contributions to a candidate committee or municipal committee representing the elected officials of the Township.
- (4) A copy of this Resolution, the Certification of Contract Value, the Campaign Contributions Affidavit, and the executed Agreement shall be placed on file in the office of the Township Clerk.
- (5) A notice of this action shall be published once in the official newspaper as required by law.
- (5) Performance of services under the terms of this contract, and payment for the services, is subject to the certification of availability of funds by the Temporary Chief Financial Officer.

P. **TOWNSHIP COMMITTEE APPOINTMENT - Airport Advisory Committee**

BE IT RESOLVED That Michael Gebhardt is hereby appointed to the Airport Advisory Committee, 5-mile Radius, 3 year term expiring December 31, 2010.

7-1. Committeeman Caliguire moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeeman Fay and carried on the following:

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

8. **MAYORAL APPOINTMENTS - Economic Development Commission, Environmental Commission, Planning Board, Zoning Board of Adjustment, Municipal Energy Team**

BE IT RESOLVED That William Delaney is hereby appointed Economic Development Commission Advisor, 1 year term expiring December 31, 2009.

BE IT FURTHER RESOLVED That Nancy Geiger is hereby appointed Environmental Commission Advisor, 1 year term expiring December 31, 2009.

BE IT FURTHER RESOLVED That Yasmin Reyes is hereby appointed Environmental Commission Chair, 3 year term expiring December 31, 2011.

BE IT FURTHER RESOLVED That Sarah Roberts is hereby appointed Planning Board Class IV Member, replacing Steven Some, 4 year term expiring December 31, 2011.

BE IT FURTHER RESOLVED That Jane Greisinger is hereby appointed Planning Board Class II Member, replacing Sarah Roberts, 1 year term expiring December 31, 2009.

BE IT FURTHER RESOLVED That Ann Piehl is hereby appointed Planning Board Alternate I, replacing Jane Greisinger, 2 year term expiring December 31, 2010.

BE IT FURTHER RESOLVED That Steven Some is hereby appointed Zoning Board of Adjustment Regular Member, replacing Allan Potechin, 4 year term expiring December 31, 2011.

BE IT FURTHER RESOLVED That Cecilia Birge is hereby appointed to the Municipal Energy Team.

9. **PERMISSION TO PARTICIPATE IN OPPOSITION TO NJ AMERICAN WATER COMPANY'S PETITION FOR RATE INCREASE**

Administrator Nieman stated that he would recommend the Township participate in opposition to NJ American Water Company's petition for a rate increase. He explained that Paul Adezio, from Mason, Griffin & Pierson, called his attention to the latest rate increase that was substantive and he felt it was worth voicing opposition to this.

It was the consensus of the Township Committee to voice such opposition.

10. **FIRE COMPANY #2**

Attorney Hadinger reminded the Township Committee that Fire Company #2 had built an addition to its facility and under A-500, (legislation that was enacted by the Legislature regarding COAH last year) there was a 2½% development fee imposed on non-residential development. There was a series of exemptions established in the legislation, however whether or not Fire Companies fell into one of those exemptions was extremely ambiguous. COAH has come out and said that the exemption does not apply to the Fire Company, but there has been no official letter stating this. She asked the Fire Company and was asking the Township Committee to adopt a resolution stating that the Township will not collect the fee. If at any point in time someone comes back and chases the Township down for this fee, the Fire Company will indemnify the Township and pay the fee.

11. **RESOLUTION #09-1-38A - NON-RESIDENTIAL DEVELOPMENT FEE FOR COAH - Fire Company #2**

WHEREAS, P.L. 2008, c.46, inter alia, established a requirement on all construction resulting in non-residential development for payment of a fee in the amount of 2.5 percent of the equalized assessed value of the land and improvements for affordable housing purposes; and

WHEREAS, Said P.L. 2008, c.46 established certain exemptions from said development fee including "non-residential development which is an amenity to be made available to the public, "however, ambiguity exists with respect to the applicability of the exemptions; and

WHEREAS, The Montgomery Township Volunteer Fire Company No. 2 has made improvements to its facilities located on County Route 518 (Block 33001, Lots 14 and 15); and

WHEREAS, The Counsel on Affordable Housing ("COAH") has provided verbal advice that volunteer fire stations are considered exempt from the development fee, but said advice is not a formal opinion of the Office of the Attorney General, nor has any court interpreted the provisions of P.L. 2008, c.46 in this fashion; and

WHEREAS, The Township is legally obligated to collect development fees from non-exempt development; and

WHEREAS, The Township is relying on the advice of COAH, the administrative agency tasked by P.L. 2008, c.46 with administering the collection and expenditures of development fees.

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

1. The Montgomery Township Volunteer Fire Company No. 2 shall not be required to pay the 2.5 percent development fee provided for by P.L. 2008, c.46 at this time;
2. Should, at any time, the State of New Jersey, its agencies or departments, determine, in the future, that the Township should have collected the said development fee from Montgomery Township Volunteer Fire Company No. 2, Montgomery Township Volunteer Fire Company No. 2 shall indemnify and hold harmless the Township for payment of said fee, and shall promptly pay said fee and any interest deemed to be owed and due thereon within fifteen (15) days of notification by the Township of said determination.
3. This resolution shall not take effect until it has been duly countersigned by a fully authorized representative of Montgomery Township Volunteer Fire Company No. 2 and said signature by a duly authorized representative of Montgomery Township Volunteer Fire Company No. 2 shall indicate that the individual signing this resolution is authorized to do so and to bind the Montgomery Township Volunteer Fire Company No. 2 to the obligations contained herein.

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

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

12. **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:

4. 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.
5. The general nature of the subjects to be discussed in this session is as follows:
 - Terms and conditions of negotiations with Somerset County with regard to Skillman Village.
6. It is unknown precisely when the matters discussed in this session will be disclosed to the public. Approval of any agreements and acquisition of land shall only be authorized by the Township Committee in a public session.

12-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Deputy Mayor Birge and carried unanimously.

13. **BUDGET DISCUSSION**

A. Sewers

Eric Reichert, Chief Sewer Operator presented the budget for the Sewer Department. He explained the breakdown for the separate plants. He stated that his 2009 grand total operating budget was \$1.642 million, down from 2008's total of \$1.852 million, a difference of 12.7%. The new sewer fee ordinance was discussed, as was the idea of solar panels for electricity.

Eric Reichert spoke about the Sewer Department Capital portion of his budget. One of the items was the replacement of a 1999 Crane Truck. He explained the need for this and stated that the existing truck would either be used as a trade in or put up for auction. He stated that the Township had three (3) pump stations that need to be upgraded: the Montgomery Woods Pump Station, the Grayson Pump Station and the Oxbridge Treatment Plant Pump Station.

B. Public Works

Arthur Villano, Superintendent of Public Works, spoke about the budget for the Public Works Department, which did not include Roads, Parks or Sewers. He explained that the line items that increased were: uniforms and dues, conferences and seminars. It was pointed out that there would be no out of State conferences.

ADJOURNMENT was at 9:45 p.m. on a motion by Committeeman Fay, seconded by Committeeman Caliguire and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk