

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
April 2, 2015

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 Madrid, Committeemembers Graham, Smith and Sugden
Deputy Mayor Trzaska was absent

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

CHIEF FINANCIAL OFFICER - Walter Sheppard

TOWNSHIP CLERK - Donna Kukla

2. Mayor Madrid 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 Madrid led the Salute to the Flag.

4. **MARY JACOBS LIBRARY PRESENTATION**

Brenda Fallon, President of the Mary Jacobs Library Foundation, thanked the Governing Body for their 2014 donation towards the operating expenses of the library buildings and grounds. She stated that 88% of the people who use the Mary Jacobs Library are Montgomery Township residents, although only 15% of their budget is covered by the contribution by Montgomery Township. She spoke about fund raising efforts by the library and asked that the Township Committee consider a donation in the 2015 budget and possibly to work with her in finding long-term solutions to funding the library. She reported on the work that is being done at the library and the improvements that are needed.

5. **PUBLIC COMMENT**

- 5-1. Ingrid Yurchenco, South Wiggins Lane, spoke about the library and asked that the Township Committee fully fund Montgomery's fair share. She stated Rocky Hill is giving a bigger percentage than Montgomery, even though they make up a smaller percentage of the usage.

Clem Fiori, Route 518, stated that he lived in Rocky Hill for approximately 12 years, and when his older son was young they spent a lot of time at the library. Now his grandchildren and he go to the Mary Jacobs Library whenever they visit. The children's reading room is on par with any of the libraries he has visited in Brooklyn and Boston, where his grandchildren live.

David McAlpin, Opossum Road, stated he has been a Township resident for 45 years. He sees the Mary Jacobs Library as the basic community institution supporting the reading and the arts in the Township. He is sad that the Township has cut its funding in the past few years at a time when the demand for library services has been growing and the services provided have been growing. He asked the Governing Body to increase their contribution.

Wendy Rayner, Melrose Road, stated she has lived in the Township since 1980. She is presently President of the Friends of Mary Jacobs Library and a trustee of the Library. She reiterated what Ms. Fallon stated earlier and asked the Township Committee to consider increasing the Township's contribution to the library.

Sarah Roberts, Harlingen Road, stated she was a long time user of the Mary Jacobs Library. She also asked the Township Committee to consider increasing the Township's contribution to the library.

6. **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 #15-4-82 - REFUND OVERPAID 2013 AND 2014 TAXES**

BE IT RESOLVED That refunds be given to the following for the overpayment of 2013 and 2014 taxes:

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Amount</u>	<u>Year</u>
5026	9.02	CONDO Golden Title Agency, LLC	\$2,271.69	2014
10001	6	Law Offices of Jerome D. Petti	\$3,047.25	2013
18018	4	Acres Land Title Agency, Inc.	\$4,001.87	2014
28003	159	Premier Abstract & Title Agency, Inc.	\$2,146.50	2014
30001	16.30	National Title Agency	\$4,666.08	2014

B. **RESOLUTION #15-4-83 - ACCEPTANCE OF DONATION - Earth Day Fair - Margaret Wu/Montgomery Women's Club.**

BE IT RESOLVED That the Montgomery Township Committee hereby accepts the following donation for the Earth Day Fair:

<u>Name</u>	<u>Amount</u>	<u>Check #</u>
Margaret Wu for Montgomery Women's Club	\$50.00	1046

(CONSENT AGENDA Cont.)

C. **RESOLUTION #15-4-84 - APPROVAL OF OUTDOOR ASSEMBLY PERMIT - Montgomery Rodeo**

BE IT RESOLVED By the Montgomery Township Committee as follows:

1. The Montgomery Business Association has requested approval of the Township Committee to conduct an Outdoor Assembly/Championship Rodeo on the property of Frank and Noel Drift, Sunset Road, Block 16001, Lot 6Q on June 6 and 7, 2015.
2. The Township Committee has considered the application and hereby grants the same subject to the following conditions:
 - (a) This approval is for the period specified and is not to be considered approval to conduct similar events without Committee approval.
 - (b) This event shall be held subject to the provisions of the Montgomery Township Code, Outdoor Assembly, Chapter 4-2.1.
3. The organizers will obtain the required approval from the Police Department regarding parking facilities, traffic plan and safety considerations and shall employ one (1) Private Duty Police Officer at each event.
4. The organizers will obtain the required health certificates from the Township Health Department.
5. The organizers will obtain the required construction permits and Fire Prevention inspections from the Township Code/Construction and Fire Prevention Departments.

D. **RESOLUTION #15-4-85 - AMENDING RESOLUTION #15-2-36 - APPROVAL OF OUTDOOR ASSEMBLY Recreational Bicycle Ride (change of date)**

WHEREAS, On February 5, 2015 the Montgomery Township Committee approved Resolution #15-2-36, Approval of Outdoor Assembly for an 82 mile recreational bicycle ride beginning and ending at the Princeton Elks Lodge; and

WHEREAS, The date stated in the resolution was March 21, 2013. The organizers have requested that a raindate of April 4, 2015 be put in place because there was inclement weather on the original date.

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery hereby approves the 82 mile recreational bicycle ride for April 4, 2015, subject to the same conditions as stated in Resolution #15-2-36.

E. **RESOLUTION #15-4-86 - PROFESSIONAL SERVICES RESOLUTION - Conflict Counsel - Tom Cafferty (Gibbons, PC)**

WHEREAS, There exists a need to acquire the following professional services for 2015 without a "fair and open process" as defined by P.L. 2004, c.19, the "Local Unit Pay-to-Play Law":

- (1) Conflict Counsel services.

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

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

WHEREAS, The Chief Financial Officer has certified that sufficient funds are available for the aforesaid services in accordance with the amounts set forth in the 2015 Temporary Budget, with performance of said services after March 31, 2015 being subject to the Township's amendment of the 2015 Temporary Budget, and/or adoption of the final 2015 Budget.

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

- (1) The Mayor and Clerk are hereby authorized and directed to execute proper agreements with Tom Cafferty of Gibbons, PC as Conflict Counsel.
- (2) This contract awarded for a period of one year, for the amounts set forth in the contract, and without competitive bidding as a "Professional Service" under the provisions of the Local Public Contracts Law N.J.S.A. 40A:11-5(1)(a) as contracts for services to be performed by persons authorized by law to practice recognized professions that are regulated by law and because the services to be performed are not susceptible of quantifying in bid specifications.

(CONSENT AGENDA Item E Cont.)

- (3) This professional has completed and filed with Montgomery Township a Campaign Contributions Affidavit as required by N.J.S.A. 19:44A-20.2 et seq. certifying he has not made any prohibited contributions to a candidate committee or municipal committee representing the elected officials of the Township.
- (4) A copy of this Resolution, the Certifications of Contract Value, the Campaign Contributions Affidavit, and the executed 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.

6-1. Committeeman Sugden moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeeman Smith and carried on the following:

ROLL CALL - Ayes - Sugden, Smith, Graham, Madrid
Nays - None
Absent - Trzaska

7. RESOLUTION #15-4-87 - CHANGE ORDER #1 - Fairview Road Reconstruction

WHEREAS, Resolution #14-10-239 adopted on October 16, 2014, authorized the award of a contract for the Fairview Road Reconstruction to Top Line Construction in the amount of \$770,063.96; and

WHEREAS, The Project includes reconstruction of a portion of Fairview Road and the overlay of Hillside Drive; and

WHEREAS, The Township Engineer has requested the Committee's approval of a Change Order to include estimated quantities to complete milling and paving of approximately 2,500 square yards of Cherry Valley Road from Jefferson's Curve to mid-way between Mountain View Road and Cherry Hill Road. The specific work included in this change order is necessary due to the accelerating deterioration of Cherry Valley Road.

WHEREAS, Change Order #1 would allow for an increase in the specified quantities; and

WHEREAS, The work comprising Change Order #1 will result in a net increase in the original contract amount by \$133,786.33 or 17.4%; and

WHEREAS, The Township Administrator has recommended approval of the Change Order; and

WHEREAS, A copy of the proposed Change Order is available in the Office of the Township Engineer.

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

- 1. Change Order #1 is hereby approved.
- 2. This Resolution, when counter-signed by Top Line Construction, shall serve as a contract amendment to the original contract for the purpose of increasing the total contract price by \$133,786.33 for a total contract amount of \$903,850.29.

7-1. Committeeman Smith moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Sugden and carried on the following:

ROLL CALL - Ayes - Sugden, Smith, Graham, Madrid
Nays - None
Absent - Trzaska

8. RESOLUTION #15-4-88 - AUTHORIZING TEMPORARY EMERGENCY APPROPRIATIONS

WHEREAS, The 2015 Municipal Budget has not been adopted and there is a need to increase the Temporary Budget prior to the 2015 Budget being adopted, in order to maintain operations until such time as the Township Budget is in place; and

WHEREAS, N.J.S.A. 40A:4-20 provides for approval of emergency temporary appropriations prior to the Municipal Budget being adopted, by a confirming vote of two-thirds of the full governing body;

NOW, THEREFORE, BE IT RESOLVED, By confirmation of two-thirds of the full governing body, that the Chief Finance Officer is authorized to increase the temporary emergency appropriations as follows:

Current Fund

PFRS	
Other Expenses	\$646,670.00
PERS	
Other Expenses	\$618,387.00
General Administration	
Salaries & Wages	\$12,000.00
Township Clerk	
Salaries & Wages	\$10,000.00
Finance	
Salaries & Wages	\$35,000.00
Engineering	
Salaries & Wages	\$15,000.00
Planning	
Salaries & Wages	\$10,000.00

(Item #8 Cont.)

Zoning	
Salaries & Wages	\$10,000.00
Fire	
Salaries & Wages	\$10,000.00
Police	
Salaries & Wages	\$100,000.00
Public Works	
Salaries & Wages	\$5,000.00
Health	
Salaries & Wages	\$25,000.00
Summer Camp	
Salaries & Wages	\$5,000.00
Streets and Roads	
Other Expenses	\$125,000.00
Parks	
Salaries & Wages	\$10,000.00
Recycle	
Other Expenses	\$10,000.00
Code	
Salaries & Wages	\$30,000.00
Social Security	
Other Expenses	\$50,000.00
Pre School	
Salaries & Wages	\$100,000.00

Sewer Utility Fund

PERS	
Other Expenses	\$93,030.00
Social Security	
Other Expenses	\$20,000.00

8-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Smith and carried on the following:

ROLL CALL - Ayes - Sugden, Smith, Graham, Madrid
 Nays - None
 Absent - Trzaska

9. **RESOLUTION #15-4-89 - AUTHORIZING TEMPORARY EMERGENCY APPROPRIATIONS**

WHEREAS, The 2015 Municipal Budget has not been adopted and there is a need to increase the Temporary Budget prior to the 2015 Budget being adopted, in order to maintain operations until such time as the Township Budget is in place; and

WHEREAS, N.J.S.A. 40A:4-20 provides for approval of emergency temporary appropriations prior to the Municipal Budget being adopted, by a confirming vote of two-thirds of the full governing body;

NOW, THEREFORE, BE IT RESOLVED, By confirmation of two-thirds of the full governing body, that the Chief Finance Officer is authorized to increase the temporary emergency appropriations as follows:

Current Fund

Buildings and Grounds	
Salaries & Wages	\$15,000.00
Other Expenses	\$25,000.00
Streets and Roads	
Other Expenses	\$50,000.00
Recreation	
Salary & Wages	\$10,000.00
Parks	
Salary & Wages	\$25,000.00
Court	
Other Expenses	\$25,000.00
Code	
Salary & Wages	\$20,000.00
Telephone	
Other Expenses	\$10,000.00

Sewer Utility Fund

Sewer B - Stage II	
Other Expenses	\$50,000.00
Sewer C - All Plants	
Salary & Wages	\$25,000.00
Sewer D - Riverside	
Other Expenses	\$10,000.00

9-1. Committeeman Smith moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Sugden and carried on the following:

ROLL CALL - Ayes - Sugden, Smith, Graham, Madrid
 Nays - None
 Absent - Trzaska

10. ORDINANCE #15-1485 - Acquisition of Property (Styles Property) - Public Hearing

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

AN ORDINANCE PROVIDING FOR THE ACQUISITION
OF LOTS 1, 1.01, 2, 3 & 4 IN BLOCK 10001,
ON HOLLOW ROAD AND DUTCHTOWN-ZION ROAD
("STYLES PROPERTY")

B. Mayor Madrid opened the hearing to the public. There being no comment, Committeewoman Graham moved to close the public hearing. The motion was seconded by Committeeman Smith and carried unanimously.

C. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 2nd day of April, 2015 and that notice thereof be published in an official newspaper as required by law.

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

ROLL CALL - Ayes - Sugden, Smith, Graham, Madrid
Nays - None
Absent - Trzaska

11. ORDINANCE #15-1486 - Providing for 3.5% CAP - Public Hearing

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

AN ORDINANCE TO EXCEED THE MUNICIPAL BUDGET
APPROPRIATION LIMITS PROVIDING FOR A 3.5% "CAP" FOR THE
2015 BUDGET AND TO ESTABLISH A CAP BANK PURSUANT TO
N.J.S. 40A:4-45.14.

B. Mayor Madrid opened the hearing to the public. There being no comment, Committeeman Smith moved to close the public hearing. The motion was seconded by Committeewoman Graham and carried unanimously.

C. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 2nd day of April, 2015 and that notice thereof be published in an official newspaper as required by law.

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

ROLL CALL - Ayes - Sugden, Smith, Graham, Madrid
Nays - None
Absent - Trzaska

12. APPROVAL OF MINUTES - March 19, 2015

The minutes of March 19, 2015 were approved as printed.

13. PAYMENT OF BILLS

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

WHEREAS, The Chief 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.

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

ROLL CALL - Ayes - Sugden, Smith, Graham, Madrid
Nays - None
Absent - Trzaska

14. **COMMERCIAL TAX STRUCTURE**

Committeeman Smith stated that all of the auto dealerships have plans coming in for construction and renovations. Out of curiosity, he asked what these dealerships pay in taxes and was surprised to hear that commercial properties do not pay their taxes based on revenue. He was shocked the numbers he saw for some of the dealerships where significantly less than the taxes on some homes in the Township. There are two ways that commercial properties pay taxes. If they are a leased facility, the assessment is based on the income revenue of the facility. If the facility is owned and operated by the business, then the assessment is on the value of the real property. He asked about a reassessment for the commercial properties such as the Township would like to do for the residential properties. Administrator Nieman explained the process that needs to happen for a reassessment, which would include all properties in the Township. There is a two year process for a total reassessment, including getting approval, funding it and hiring a firm to do the inspections. Then the Township is required to have a public hearing for all property owners. It is a laborious process. The last time the Township went through a reassessment was in 1998, and the assessments were put on the books two years later. The Township is currently at approximately 80% of market. The Governing Body asked that the Township's Tax Assessor attend an upcoming meeting for his input and further explanation. He warned that a reassessment would be a very expensive undertaking.

15. **RECREATION COMMITTEE**

Committeeman Sugden reported on the recent Recreation Committee discussions regarding the tennis courts, and a public/private option that was put forth by Nassau Racquet Club. Also the Park Improvement Plan is underway and the Recreation Department is looking at updating its Master Plan.

16. **ECONOMIC DEVELOPMENT COMMISSION**

Committeeman Smith reported that the Economic Development Commission has completed the sales for the new Montgomery Business Directory. They received approximately the same amount of advertisements as in 2014. These directories will be printed within the next four to six weeks and distributed shortly thereafter.

17. **OPEN SPACE COMMITTEE**

Committeewoman Graham reported that the Open Space Committee is working on their annual presentation of priorities.

18. **RESOLUTION TO CLOSE MEETING TO THE PUBLIC**

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

1. The Township Committee will now convene in a closed session that will be limited only to consideration of items with respect to which the public may be excluded pursuant to Section 7B of the Open Public Meetings Act.
2. The general nature of the subjects to be discussed in this session are as follows:
 - Advice of Counsel with respect to affordable housing matters and anticipated litigation.
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.

18-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Smith and carried unanimously.

19. Meeting reconvened in Open Session and **ADJOURNMENT** was at 7:55 p.m. on a motion by Committeeman Smith. The motion was seconded by Committeeman Sugden and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk