

MINUTES FOR  
MONTGOMERY TOWNSHIP COMMITTEE MEETING  
February 18, 2016

1. Montgomery Township Committee met at the Municipal Building, 2261 Van Horne Road, Belle Mead, NJ at 7:00 p.m. on the above date. Those present were:

TOWNSHIP COMMITTEE: Mayor Graham, Deputy Mayor Trzaska, Committeemembers Smith, Madrid and Conforti

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

CHIEF FINANCIAL OFFICER - Walter Sheppard

TOWNSHIP CLERK - Donna Kukla

2. Mayor Graham stated the following: "Under the provisions of the Open Public Meetings Act, notice of the time and place of this meeting has been posted and sent to the officially designated newspapers."

3. Mayor Graham led the Salute to the Flag.

4. **POLICE REPORT**

Police Director Palmer reported on the following activities of the Police Department for the month of January, 2016:

- 65 motor vehicle accidents;
- 22 arrests;
- 4 thefts;
- 2 criminal mischief;
- 6 domestic violence.

5. **PUBLIC COMMENT**

- 5-1. Eric Weitze, Viburnum Drive, commented on a matter involving two people in Bound Brook who were stopped by the Police from soliciting to shovel snow. He suggested that Montgomery look at any law on the books prohibiting this kind of solicitation and change it so that it is allowed. Attorney Hadinger stated that there was a recent law passed by the legislature whereby a municipality cannot stop people from soliciting for snow shoveling services. This same situation occurred in a municipality during the winter of 2014-2015.

- 5-2. Rick Castaneda, 100 Colfax Road, appeared with his Attorney Jeff Hall. He is having issue with the fact that he's been told to remove cars from his property at 1026 Route 518, which is behind Wawa. There are numerous other places in town where cars are being parked and have been parked for numerous years. The car dealerships have overflow and he feels that the properties in Research Park and Airpark Road, as well as his own, would bring in more cash flow for some businesses. His problem is that he believes his is the only property where the ordinance is being enforced, and he is being forced to move his cars out. He asked that zoning be changed to allow Highway Commercial properties to allow for overflow parking.

Mayor Graham suggested that Mr. Castaneda go before the Zoning Board of Adjustment because this appears to be a zoning issue. Attorney Hadinger explained that Mr. Castaneda did speak with Planning Director Savron. She also stated that Mr. Castaneda has said that he intends to sue the Township, so she wanted to make the Governing Body aware of this. Attorney Hadinger stated that, to the best of her knowledge, there had been other enforcement actions against other property owners with respect to this situation. Mr. Castaneda stated that he never said he intended to sue the Township, just that the Township was opening itself up to a lawsuit when he is the only one being asked to move cars and no one else is. Attorney Hadinger stated that since Mr. Castaneda has brought these other sites to the Township's attention, they can be looked at. He asked that car dealerships be allowed to have vehicle overflow, when available, in places only in the Highway Commercial Zone. Ms. Hadinger stated that if Mr. Castaneda was unhappy with the comments and advice given by the Zoning Officer and Planning Department, he has a right to appeal the decision to the Zoning Board of Adjustment.

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 #16-2-52 - REFUND OVERPAID 2014 AND 2015 TAXES**

BE IT RESOLVED that a refund in the amount of \$17,094.13 be given to Joyce M. Hansen, 18 Bedford Drive, Skillman, NJ 08558. Tax overbilling for 2014 and 2015 is a result of Tax Court of New Jersey Docket #000347-2016.

2014 Tax Overbill - \$8,495.28  
2015 Tax Overbill - \$8,598.85

- B. **RESOLUTION #16-2-53 - REFUND OVERPAID 2016 TAXES**

BE IT RESOLVED That a refund in the amount of \$3,511.66 be given to Core Logic, Attn: Chase Refund Dept., P.O. Box 961227, Ft. Worth, TX 76161-0227, for the overpayment of 2016 taxes on Block 17007 Lot 16.

(CONSENT AGENDA Cont.)

C. **RESOLUTION #16-2-54 - APPROVAL OF USE OF TENT - Run with Rotary 2016**

BE IT RESOLVED That the Montgomery Township Committee hereby approves the use of the Township tent for the Run with Rotary 2016 road race as the Township Recreation Department will be one of the sponsors of the event and advertising will be provided to the Township. The event will be held on Sunday, April 24, 2016.

D. **RESOLUTION #16-2-55 - APPROVAL OF OUTDOOR ASSEMBLY PERMITS - Princeton Show Jumping**

BE IT RESOLVED By the Montgomery Township Committee as follows:

1. Princeton Show Jumping has requested approval of the Township Committee to conduct Outdoor Assemblies for Equestrian Events at 246 Burnt Hill Road, Skillman, NJ 08558 on April 20-24, April 27-May 1, June 28-July 3, July 5-10, August 23-28, September 21-25, September 28-October 2, October 5-9, and October 12-16 from 8:00 a.m. to 5:00 p.m. daily.
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 as they are limited to nine (9) show events per year.
  - (b) These events shall be held subject to the provisions of the Montgomery Township Code, Outdoor Assembly, Chapter 4-2.1.
  - (c) Approval of these events is pending clearance by the Police Department, Health Department, Construction Department and Fire Prevention Department as stated below:
    - (1) The organizers will obtain the required approval from the Police Department regarding parking facilities, traffic plan and safety considerations.
    - (2) The organizers will obtain the required health certificates from the Township Health Department, if applicable.
    - (3) The organizers will obtain the required open flame and tent permits from the Township Fire Prevention Department.

E. **RESOLUTION #16-2-56 - AMENDING RESOLUTION #16-2-48 AUTHORIZING THE EXTENSION OF THE CONTRACT FOR FLEET MAINTENANCE SERVICES - FIRST VEHICLE SERVICES**

BE IT RESOLVED By the Montgomery Township Committee that Resolution #16-2-48 adopted on February 4, 2016 authorizing the second of four (4) one-year contract extensions for fleet maintenance services to First Vehicle Services be amended to correct a typographical error with regard to the extended year's contract amount from \$629,693.18 to a not to exceed amount of \$665,754.36.

F. **RESOLUTION #16-2-57 - APPROVAL OF FIREWORKS - Bedens Brook Club**

BE IT RESOLVED That authorization is granted for the Bedens Brook Club to conduct a fireworks display on June 17, 2016 (rain date - June 18, 2016) at the Bedens Brook Club Golf Course. Approvals have been granted by the Police Department and Fire Protection Inspector Roy Mondì.

G. **RESOLUTION #16-2-58 - AWARDED CONTRACTED SERVICES FOR RECREATION MULTI-SPORT CAMPS**

WHEREAS, The Township of Montgomery requested proposals for Recreation Multi-Sport Camps; and

WHEREAS, On February 8, 2016, the Township of Montgomery, consistent with the Local Public Contracts Law (N.J.S.A 40A:11-1 et.seq.), advertised a request for proposals (hereinafter referred to as the "RFP") for said program; and

WHEREAS, In response to the RFP the Township received proposals for the program.

NOW, THEREFORE, BE IT RESOLVED That the Governing Body of the Township of Montgomery awards the contracting service to US Sports Institute, 4 Somerset Street, Whitehouse Station, NJ 08889, to provide the highest level of service and the most economic and efficient standards that will be in the best interest of the Township and its taxpayers; and

BE IT FURTHER RESOLVED That the Mayor, Chief Financial Officer, and Township Clerk are hereby authorized to execute any and all documents in connection with the submitted proposal.

6-1. Deputy Mayor Trzaska moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeeman Conforti and carried on the following:

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

7. MAYORAL APPOINTMENT

Economic Development Commission  
Advisor

1 yr. Adwait Tare

8. RESOLUTION #16-2-59 - RESOLUTION AWARDING A PROFESSIONAL ARCHITECTURAL SERVICES AGREEMENT IN CONNECTION WITH THE "POLICE DEPARTMENT AND MUNICIPAL BUILDING RENOVATION PROJECT"

WHEREAS, The Township of Montgomery ("Township") is preparing to undertake a construction project at the Township's municipal offices and known as the "Police Department and Municipal Building Renovation Project" ("Project"); and

WHEREAS, In preparation of the Project, the Township solicited proposals from architects for purposes of selecting an architect to design the Project and administer public bidding and construction in connection therewith, as set forth more specifically in the Township's Request for Proposals; and

WHEREAS, In response to the Township's Request for Proposals, Spiezle Architectural Group, Inc. ("Spiezle Architectural"), of Trenton, New Jersey, submitted a proposal to provide said architectural services to the Township; and

WHEREAS, At this time the Township seeks to hire Spiezle Architectural for purposes of providing a portion of the architectural services to the Township in accordance with the Township's Request for Proposals for the Project and specifically, Schematic Design Phase Services; and

WHEREAS, The Township is acquiring these services without a "fair and open process" as that phrase is defined by P.L. 2004, c.19, the "Local Unit Pay-to-Play Law"; and

WHEREAS, Spiezle Architectural has 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 Spiezle Architectural 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

WHEREAS, The Township Administrator has determined and certified in writing that the value of the acquisition over the course of the agreement will 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 this agreement as professional services without competitive bidding; and

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

WHEREAS, Funds for these services are included in the appropriations authorized in Account #04-215-55-901-1494J.

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

1. The factual recitals set forth in the foregoing "Whereas" clauses are incorporated herein as if fully restated.
2. Subject to the Township Attorney's approval as to form and content, the Mayor and Clerk are authorized and directed to execute the AIA Document B101 - 2007, Standard Form of Agreement Between Owner and Architect for this Project, as modified ("Agreement"), with Spiezle Architectural Group, Inc., 120 Sanhican Drive, Trenton, New Jersey, for the stipulated contract amount of \$65,375.00 for completion of the basic scope of services plus an additional sum up to \$10,000.00 for any additional services and reimbursable expenses, for a total not to exceed contract amount of \$75,375.00.
3. The scope of services awarded at this time shall be limited to completion of Schematic Design Phase Services.
4. The Agreement is awarded without competitive bidding as professional services, as permitted by law.
5. A copy of this Resolution, the Pay-to-Play Forms, the Township Administrator's Certification of Value, and the Agreement shall be placed on file in the Office of the Township Clerk and shall be available for public inspection.
6. A notice of this action shall be published in the official newspaper, as required by law.

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

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

9. **RESOLUTION #16-2-60 - TRANSFER OF FUNDS**

WHEREAS, There is a need to transfer funds to areas where there are insufficient funds to meet the demands of the Township; and

WHEREAS, There are sufficient funds to be transferred to those accounts as stated to meet the needs of the Township.

NOW, THEREFORE, BE IT RESOLVED, By the Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey, that in accordance with the provisions of N.J.S.A. 40A:4-58 and N.J.S.A. 40A:4-59 hereby authorizes the Chief Finance Officer to make the following transfers:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
Sewer - Pike Brook - Stage II (OE)	Sewer - Oxbridge - Plant G (OE)	\$ 5,000.00 \$ 5,000.00
Recreation (S&W)	Senior Center (OE)	\$15,000.00 \$15,000.00

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

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

10. **RESOLUTION #16-2-61 - AUTHORIZING TEMPORARY EMERGENCY APPROPRIATIONS**

WHEREAS, The 2016 Municipal Budget has not been adopted and there is a need to increase the Temporary Budget prior to the 2016 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

Liability Insurance	
Other Expense	\$75,000.00
Employee Group Insurance	
Other Expense	\$628,000.00
Streets and Roads	
Other Expense	\$200,000.00
Sewer - Liability Insurance	
Other Expenses	\$45,000.00

10-1. Deputy Mayor Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Conforti and carried on the following:

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

11. **ORDINANCE #16-1510 - Providing for 3.5% CAP - Public Hearing - Continued from February 4, 2016**

A. Mayor Graham 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 2016 BUDGET AND TO ESTABLISH A CAP BANK PURSUANT TO NJS 40A:4-45.14

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

C. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 18<sup>th</sup> day of February, 2016 and that notice thereof be published in an official newspaper as required by law.

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

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

12. ORDINANCE #16-1511 - Acquisition of Interests in Seven Properties on Cherry Valley Road for Road Improvements - Introduction

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY, PROVIDING FOR THE ACQUISITION OF INTERESTS IN SEVEN PROPERTIES ON CHERRY VALLEY ROAD IN THE TOWNSHIP OF MONTGOMERY FOR ROAD IMPROVEMENTS.

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 March 3, 2016 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

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

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

13. ORDINANCE #16-1512 - Conveyance of Un-Needed Property to Abutting Owner - Introduction

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY, IN SOMERSET COUNTY AUTHORIZING THE CONVEYANCE OF ±0.12 ACRES OF LAND NOT NEEDED FOR PUBLIC USE TO THE OWNER OF BLOCK 28005, LOT 65, SAID PARCEL TO BE MERGED WITH BLOCK 28005, LOT 65.

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 March 3, 2016 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

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

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

14. APPROVAL OF MINUTES

The Regular Session minutes of February 4, 2016 were approved as printed.

15. 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.

15-1. Committeeman Conforti moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Madrid and carried on the following:

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

16. UPDATE ON THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION PUBLIC HEARING FOR TRANSCO

Mayor Graham reported that she, Committeeman Smith, Committeewoman Madrid, Attorney Hadinger and Township Administrator Nieman had attended the hearing.

Attorney Hadinger stated that there were several comments made at the meeting. The commentators expressed concern about environmental conditions that they felt would be disturbed by further drilling by Transco, whether it is an HTD drill or an open cut. There was one person who spoke at the end of the hearing who supported Transco's application. The Township's Environmental Consultant attended as well and made some recommendations to supplement those of the Open Space Committee that should be considered by the New Jersey Department of Environmental Protection. If NJDEP grants the permit, there are some conditions that should be attached. She stated that Open Space Coordinator Lauren Wasilauski has prepared a draft letter with the list of conditions on a separate piece of paper, making it easier for NJDEP to attach it to any permit modifications.

(Item 16. Cont.)

Open Space Coordinator Lauren Wasilauski reviewed the letter and list of conditions. She explained some of the changes or clarifications to the permit application. Mayor Graham stated that it was her opinion that the Township should be as specific and demanding as can be about items that are vague and what the Township truly wants. Ms. Wasilauski stated that she and some others walked the areas before the project started and found some nice native plants in the wetlands areas. Committeewoman Madrid asked who would be identifying that there were native plants and recommending that they specifically detect them. Ms. Wasilauski explained that the Township's environmental consultant would and would flag those areas although that would be tough in the winter. Mayor Graham suggested that they put in the conditions that Transco would cut the whole area in the sod-like cut unless otherwise specified.

Mayor Graham asked if there was any way that the Township could propose that there be some money held in escrow from Transco for future work for a period of time. Ms. Wasilauski explained that this was private property and the Township holds an easement. She believed that Transco does the mowing on this property already.

- 16-1. **M16-02-01** - Deputy Mayor Trzaska moved to finalize the draft letter with revisions and have it sent to the New Jersey Department of Environmental Protection. The motion was seconded by Committeeman Conforti and carried unanimously.

17. **FUN FEST**

Committeeman Smith stated that the Montgomery EMS and the Fire Departments raised some strong objections to the Montgomery Business Association holding the Fun Fest on 9/11 this year. Committeeman Smith explained that the Montgomery Business Association picked that weekend to hold the event because the weekend before it is Labor Day and the weekend after they would be competing with Hopewell's Harvest Fest. They were strongly urged to find another weekend to hold the Fun Fest.

18. **COMMITTEE AND SUBCOMMITTEE REPORTS**

18-1. **ENVIRONMENTAL COMMISSION**

Committeeman Conforti reported on the Environmental Commission meeting. The Chairwoman opened the meeting conveying the history of the Commission to the newer members. He stated that the Commission is going to be making a recommendation regarding invasive species, specifically bamboo. It is becoming a safety issue. The Commission members have been gathering ordinances from other towns. He stated that they also drafted a letter to the New Jersey Department of Environmental Protection about Dutchtown-Zion Road.

18-2. **MUNICIPAL ALLIANCE**

Committeewoman Madrid attended the Municipal Alliance meeting and reported that they discussed setting priorities.

18-3. **MONTGOMERY VETERANS MEMORIAL COMMITTEE**

Deputy Mayor Trzaska reported that there is a real need for new members on the Veterans Memorial Committee. He explained that two members of the Committee live away from the Township most of the time, and one member is going to be moving away permanently.

18-4. **BOARD OF HEALTH**

Deputy Mayor Trzaska reported that the Board of Health members are working on a 2015 Year in Review document.

18-5. **OPEN SPACE COMMITTEE**

Deputy Mayor Trzaska reported that Mr. Weitze attended the Open Space Committee meeting and spoke about Dutchtown-Zion Road.

18-6. **BUDGET COMMITTEE**

Mayor Graham reported on the Budget Committee meeting. The process is moving along pretty quickly.

18-7. **WILDLIFE MANAGEMENT COMMITTEE**

Mayor Graham reported that the Wildlife Management Committee members are reviewing the forms for the hunters and addressing the number of hunters on some of the properties. There is also the possibility of adding the Stiles property to the program.

19. **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:
  - Pending affordable housing litigation and advice of counsel relative thereto;
  - Terms and conditions of contracts with Montgomery Township Board of Education and advice of counsel relative thereto.
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public. Matters concerning litigation may be announced upon the conclusion of any trial or settlement of the litigation. No agreements shall be authorized except by action of the Township Committee.

19-1. Deputy Mayor Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Smith and carried unanimously.

20. Meeting reconvened in Open Session.

21. **MARCH 3 MEETING**

Administrator Nieman inquired about the possibility of starting the March 3 meeting at 6:00 p.m. in order to conduct the Police Lieutenant interviews. It was the general consensus of the Township Committee that the time of the meeting remain at 7:00 p.m.

**ADJOURNMENT** was at 8:35 p.m. on a motion by Committeeman Conforti. The motion was seconded by Deputy Mayor Trzaska and carried unanimously.

Date of Approval:

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