

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
May 5, 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 - Victoria Britton, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

CHIEF FINANCIAL OFFICER - Walter Sheppard

DEPUTY TOWNSHIP CLERK - Margaret Crawford

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. **RESOLUTION SUPPORTING THE CLICK IT OR TICKET MOBILIZATION OF MAY 23 - JUNE 5, 2016**

WHEREAS, There were 560 motor vehicle fatalities in New Jersey in 2015; and

WHEREAS, A large percentage of the motor vehicle occupants killed in traffic crashes were not wearing a seat belt; and

WHEREAS, Use of a seat belt remains the most effective way to avoid death or serious injury in a motor vehicle crash; and

WHEREAS, The National Highway Traffic Safety Administration estimates that 135,000 lives were saved by safety belt usage nationally between 1975-2000; and

WHEREAS, The State of New Jersey will participate in the nationwide *Click It or Ticket* seat belt mobilization from May 23 - June 5, 2016 in an effort to raise awareness and increase seat belt usage through a combination of high visibility enforcement and public education; and

WHEREAS, The Division of Highway Traffic Safety has set a goal of increasing the seat belt usage rate in the state from the current level of 91% to 93%; and

WHEREAS, A further increase in seat belt usage in New Jersey will save lives on our roadways.

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery declares it's support for the *Click It or Ticket* seat belt mobilization both locally and nationally from May 23 - June 5, 2016 and pledges to increase awareness of the mobilization and the benefits of seat belt use.

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

5. **PUBLIC COMMENT - 5 MINUTES PER PERSON**

Eric Weitze, Viburnum Drive, spoke about Dutchtown-Zion Road. He stated he emailed his concerns to Mr. Kennedy at the New Jersey Department of Environmental Protection, but has not heard back as yet. He mentioned that he was disappointed with the Stony Brook Millstone Watershed Association. At a previous Township Committee meeting, a representative from the Association was at the meeting about the Transco pipeline. He explained that he spoke to the gentleman after the meeting, and he told him about the Dutchtown-Zion Road issue of flooding, etc. Shortly after that, Mr. Weitze met the representative on Dutchtown-Zion Road to show him. He called the gentleman after that meeting and left messages and to date he has not received a call back. He stated that he visited their website and saw that they favor limiting pavement, so he doesn't have hope that they will agree with him on the paving of that portion of Dutchtown-Zion Road.

6. **TOWNSHIP BUDGET PRESENTATION**

Chief Financial Officer Walter Sheppard presented the Township's proposed budget.

1. Montgomery's municipal tax levy has minimally changed over the past six (6) years (2010 through 2016);
2. Spending and employee headcount have been reduced, which was a result of finding ways to do more with less;
3. Montgomery has significantly reduced use of surplus in annual budgets;
4. Montgomery received a "Perfect Score" from Governor Christie's Best Practices in Local Government program in 2013 and was awarded a "Near Perfect Scores" in 2014 and 2015;
5. In 2015, Moody's Investors upgraded Montgomery Township's credit rating to Aa1.

(Item #6 Cont.)

Mr. Sheppard stated that the projected spending increases for 2016 were mandated cost increases of pensions; increases in Health Insurance; and statutory and contractual salary increases. He explained that efficiencies and cost reductions have been found to help mitigate increases. They include shared services agreements with many other municipalities; past investments in training and equipment to make employees more productive; implementation of new General Ledger and Encumbrance System; and a new banking provider leading to increase in interest income and new technology. Non-grant spending remains less than 2005 levels. State aid to the Township remains flat. The Municipal tax rate is up \$0.020 (from \$0.351 to \$0.371). The impact to services are:

1. No reduction in any core services;
2. Investment in the Police, Public Works and Recreation departments;
3. Extra funding for critical road projects and infrastructure improvements.
4. Continuing to work on closing the structural budget gap through long-term budget planning;
5. Continuing to revamp the municipal government organizational structure to optimize head count, responsibilities, and efficiencies;
6. Continuing to improve roads and infrastructure;
7. Aggressively analyzing new opportunities for consolidation/sharing services.

7. **RESOLUTION #16-5-110 - 2016 MUNICIPAL BUDGET INTRODUCTION**

BE IT RESOLVED That the statements of revenue and appropriations shall constitute the local budget for the year 2016.

BE IT FURTHER RESOLVED That a summary of said budget shall be published in an official newspaper as required by law together with a notice fixing June 2, 2016 at approximately 7:00 p.m. as the date and time when said budget will be considered for final adoption.

NOW, THEREFORE, BE IT RESOLVED That the governing body of the Township of Montgomery does hereby approve the budget for the year 2016.

- 7-1. Committeeman Conforti 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

8. **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 #16-5-111 - REFUND OVERPAID 2016 TAXES**

BE IT RESOLVED That refunds be given to the following for the overpayment of 2016 taxes:

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Amount</u>
19002	11	Robert W. & Kathleen N. Kress	\$1,000.00
37002	1.028	Santhosh & Eva Gopal	\$2,040.72

B. **RESOLUTION #16-5-112 - ACCEPTANCE OF DONATION - Earth Day Fair - Rocky Hill Cleaners**

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>
Rocky Hill Cleaners	\$200.00	2651

C. **RESOLUTION #16-5-113 - APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DIVISION OF HIGHWAY TRAFFIC SAFETY - THROUGH THE SOMERSET COUNTY PROSECUTOR'S OFFICE - 2016 Click it or Ticket**

BE IT RESOLVED That the Township Committee of the Township of Montgomery formally approves the application for the 2016 Click It or Ticket grant with the New Jersey Division of Highway Traffic Safety.

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

D. **RESOLUTION #16-5-114 - RELEASE OF PERFORMANCE GUARANTEE - Carrier Clinic New Addition and Alterations**

WHEREAS, Gail Smith, Township Engineer, has certified on May 3, 2016 that all public improvements in a project known as Carrier Clinic New Addition and Alterations 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.

(CONSENT AGENDA Item D Cont.)

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a performance guarantee in the amount of \$1,721,905.80 (Bond #106016246 in the amount of \$1,549,715.22 and \$172,190.58 cash) be released to Carrier Clinic, Inc. and a maintenance guarantee be posted as follows:

Original Construction Cost Estimate	\$1,721,905.80
15% Maintenance Guarantee	\$ 258,285.87

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.

BE IT FURTHER RESOLVED That the release shall also be conditioned upon the posting of a guarantee for the construction of the 4 foot wide parking striping, and 3 benches, for a total amount of \$1,459.20.

There are no roads to be accepted by the Township for this project.

There are no detention basins to be accepted by the Township. The detention basin is owned and maintained by the Carrier Clinic.

E. **RESOLUTION #16-5-115 - RELEASE OF PERFORMANCE GUARANTEE - Carrier Clinic Women's Housing**

WHEREAS, Gail Smith, Township Engineer, has certified on May 3, 2016 that all public improvements in a project known as Carrier Clinic Women's Housing 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 \$118,994.44 (Bond #0612168 in the amount of \$107,095.00 and \$11,899.44 cash) be released to Carrier Clinic, Inc. and a maintenance guarantee be posted as follows:

Original Construction Cost Estimate	\$118,994.44
15% Maintenance Guarantee	\$ 17,849.17

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 roads to be accepted by the Township for this project.

There are no detention basins associated with this project.

F. **RESOLUTION #16-5-116 - AUTHORIZATION TO EXECUTE A TREATMENT WORKS APPROVAL APPLICATION (TWA) - Princeton Audi Service Center - Empire Holdings Cherry Valley 39, LLC (Block 34001, Lot 64)**

BE IT RESOLVED By the Montgomery Township Committee that Donato Nieman, Township Administrator, is hereby authorized to execute a Treatment Works Approval application to the New Jersey Department of Environmental Protection related to Princeton Audi Service Center - Empire Holdings Cherry Valley 39, LLC (Block 34001, Lot 64).

8-1. Deputy Mayor Trzaska moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeewoman Madrid and carried on the following:

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

9. **RESOLUTION #16-5-117 - RESOLUTION AUTHORIZING SETTLEMENT OF 2014 AND 2015 TAX APPEALS FILED BY M&G MCKINLEY INVESTMENTS, LLC, FOR THE PROPERTY KNOWN AS MCKINLEY COURT AND IDENTIFIED AS BLOCK 37003, LOT 6.77, ON THE TAX MAP OF THE TOWNSHIP OF MONTGOMERY**

WHEREAS, M&G McKinley Investments, LLC ("M&G McKinley"), is the owner of the property commonly known as McKinley Court and identified as Block 37003, Lot 6.77, on the Tax Map of the Township of Montgomery ("Property"); and

WHEREAS, The assessed value of the Property was set at \$3,190,400 for the 2014 and 2015 tax years; and

WHEREAS, M&G McKinley filed appeals of the 2014 and 2015 tax assessments in the Tax Court of the State of New Jersey under Docket Nos.: 006329-2014 and 005385-2015; and

WHEREAS, A proposed settlement of the aforesaid tax appeals was negotiated between M&G McKinley, the Township Tax Assessor and the Township Tax Attorney as set forth in the Stipulation of Settlement annexed hereto; and

(Item #9 Cont.)

WHEREAS, Pursuant to the proposed Stipulation of Settlement, the aforesaid tax appeal is being resolved as follows:

- The 2014 and 2015 assessments in the amount of \$3,190,400 shall be reduced to \$2,800,000;
- Within 60 days of the Judgments being entered by the Tax Court, the Township will issue a check made payable to M&G McKinley Investments, LLC, for the refund due as a result of this settlement;
- M&G McKinley waives any claim to statutory interest provided the refund is paid as set forth above; and
- The parties agree that the Freeze Act shall not apply to this settlement or be the basis for reduction in the assessment for any future years.

WHEREAS, The Tax Assessor agrees it is in the best interests of the Township to resolve the aforesaid tax appeals pursuant to the terms and conditions set forth above and in the Stipulation of Settlement annexed hereto based on market conditions as well as the uncertainty and costs associated with continued litigation; and

WHEREAS, The aforesaid settlement is based on the specific and identifiable facts and circumstances pertaining to the Property and has no general application to other properties within the Township; and

WHEREAS, The Township Committee having reviewed and considered the pending tax appeals and the proposed settlement thereof agrees and confirms it is in the best interests of the Township to resolve the tax appeals as set forth herein and in the Stipulation of Settlement attached hereto; and

WHEREAS, The Township Committee makes this settlement with the Taxpayer without prejudice to its dealings with any other taxpayer's request for tax assessment reductions; and

WHEREAS, The Township Chief Financial Officer certifies sufficient funds are available to satisfy the refund payment and said certification of funds is attached to this Resolution.

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

1. The Township's Tax Appeal Counsel is authorized to execute on behalf of the Township of Montgomery the attached Stipulation of Settlement pertaining to the tax appeals filed by M&G McKinley Investments, LLC, under Docket Nos.: 006329-2014 and 005385-2015 for the property known as McKinley Court and identified as Block 37003, Lot 6.77, on the Tax Map of the Township of Montgomery.
2. This settlement shall be without prejudice to the Township's dealings with any other taxpayer request or appeal for tax assessment reductions.

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 #16-5-118 - 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	AMOUNT
Maintenance of Parks	
Other Expenses	\$15,000.00
Street Lighting	
Other Expenses	\$10,000.00
Gasoline	
Other Expenses	\$30,000.00
Recycling	
Other Expenses	\$25,000.00
Aid to Volunteer Ambulance Companies	
Other Expenses	\$4,500.00

10-1. 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

11. ORDINANCE #16-1516 - Montgomery Veterans Memorial Committee - Introduction

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY REGARDING THE MEMBERSHIP OF THE MONTGOMERY VETERANS MEMORIAL ADVISORY COMMITTEE AND AMENDING CHAPTER II 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 19, 2016 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

11-1. 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

12. 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.

12-1. Committeewoman Madrid 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

13. UPDATE ON YOUTH DEER HUNTING INSURANCE

Administrator Nieman explained that at the April 21 Township Committee he was asked to review whether or not the request made by the Wildlife Management Committee to allow for the children or minors of hunters licensed to hunt in New Jersey, to be added to the Township's hunting program and if so, would they have an impact on the Township's insurance premiums. He stated that he had spoken to the Township's insurance consultant at Howe Insurance. He was told that because they are licensed by the State of New Jersey, the consultant sees no impact to the insurance premiums. It is entirely up to the Township Committee to approve what age would be allowed, if the Township Committee wanted to allow this.

Chief Financial Officer Walter Sheppard stated that he spoke to the representatives at the New Jersey Joint Insurance Fund and they felt that a claim of this nature would have no more or less impact on the Township's insurance rates than any other claim that is similar in nature.

14. SNOW PLOWING POLICY

Administrator Nieman stated that he had received a request from the homeowners association in Hillside at Montgomery to take over the snow plowing of the streets. It is the Township's policy not to plow private streets in developments that were approved under that proviso. He informed the homeowners association, but wanted to let the Governing Body know also in case they were solicited individually.

15. POTENTIAL ORDINANCE FOR NON-EMERGENT EMS CALLS

Administrator Nieman stated that the ordinance for the non-emergent EMS calls is being prepared and will be given to the Governing Body in the very near future.

16. DEER FEEDING ORDINANCE

Administrator Nieman stated that the deer feeding ordinance was being prepared for introduction at an upcoming meeting.

17. COMMITTEE AND SUB-COMMITTEE REPORTS

17-1. ZONING BOARD OF ADJUSTMENT

Committeeman Conforti reported on the Zoning Board of Adjustment meeting. They had their first set of conversations regarding a proposal made by Verizon for a cell tower on River Road. They are looking to put a silo up, instead of a tower or "fake" tree.

17-2. LANDMARKS COMMISSION

Committeewoman Madrid reported on the Landmarks Commission meeting. There were a couple of applications from homeowners wanting to do some farming or making some changes to homes.

17-3. PLANNING BOARD

Committeeman Smith reported on the Planning Board meeting. After almost two years of working with Atlantic Realty and Country Club Meadows, the Planning Board approved the final design of Phase 1. This is the homes and Belle Mead Plaza.

17-4. MONTGOMERY BUSINESS ASSOCIATION'S FUN FEST

Committeeman Smith reported that the Montgomery Business Association's Fun Fest is planned for September at the Princeton Airport. The Association is trying to solicit some parking and traffic help along Route 206. They have reached out to the two Fire Companies to see if they could help. They also wondered if any of the Police Officers would want to volunteer.

17-5. ECONOMIC DEVELOPMENT COMMISSION

Mayor Graham reported on the Economic Development Commission meeting. They have mailed out their new Directory.

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 SSAMP application to the Somerset County Agricultural Development Board.
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public.

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

19. Meeting reconvened in Open Session and ADJOURNMENT was at 8:10 p.m. on a motion by Committeeman Smith. The motion was seconded by Committeeman Conforti and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk