

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
March 2, 2017

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 Trzaska, Deputy Mayor Smith, Committeemembers Graham, Madrid and Conforti

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

CHIEF FINANCIAL OFFICER - Michael Pitts

TOWNSHIP CLERK - Donna Kukla

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

4. **PUBLIC COMMENT**

- 4-1. Brett Borowski, York Drive, asked for an update on the farm ordinance and if there were any farmers who were out of compliance with the current piggery regulations.

Mayor Trzaska explained that the Township's current farm ordinance was actually out of compliance with State law. The Township's current ordinance states that there will be no pigs in town period. The issue came up approximately a year ago when the owners of the Goldenback property on Mountain View Road, the old Gallup Farm, made a request to the Township and the County Agricultural Board about having some livestock on their land. The Township said no because of an ordinance on the books. It was then pointed out that there were other farms in the Township that had pigs.

Attorney Hadinger stated that the whole area of the law has gotten very convoluted with the "Right to Farm" laws. The State Agricultural Development Commission and the Farm Bureau take the position that the Township doesn't have the right to regulate livestock and farming. Staff has looked at this situation carefully and feels that if there are adequate plans in place for management of the livestock, and in particular there is a federal process by which a farmer gets their farming certified and reviewed at fairly detailed level, then there are safeguards in that process that would protect neighbors from potentially adverse impacts. Some of the research that staff did resulted in the discovery that pigs produce less waste than a lot of livestock that are more common in the Township. The current ordinance says that commercial piggeries are prohibited. The amendment to the ordinance provides a clearer definition of a commercial piggery. The older ordinances throughout the State were driven by some of the activity up in the Secaucus area and other parts of the State, which had massive pig production facility pens.

Committeewoman Graham explained that this has been an on-going discussion in the Township for the last year or so.

Attorney Hadinger stated that the Open Space Committee, the Agricultural Advisory Committee and the Environmental Commission have worked in concert with staff to develop the new ordinance. Some of the neighboring residents have reviewed the draft ordinances and have made suggestions that were looked at for inclusion in the ordinance that was introduced on February 16.

Mr. Borowski explained that one of the farmers in town has a history of not being considerate of his neighbors and inquired about the penalty if he does not adhere to the ordinance. Attorney Hadinger explained that, as with any zoning ordinance, if there is a call about an infraction, the Zoning Officer would go out, investigate and address the situation. Mr. Borowski warned that just because there are no complaints, doesn't mean that the farmer is being compliant.

5. **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 #17-3-61 - REFUND OVERPAID 2016 AND 2017 TAXES**

BE IT RESOLVED That refunds be given to the following for the overpayment of 2016 and 2017 taxes:

Block	Lot	Name	Amount	Year
6003	20	Lawrence & Judith De Vincenzo	\$ 907.76	2016
7031	13	Core Logic Tax Services	\$2,904.82	2016
31003	15	Core Logic Tax Services	\$7,136.52	2017
37002	5.43	Wells Fargo Real Estate Tax Service	\$2,541.81	2017

B. **RESOLUTION #17-3-62 - REDEMPTION OF TAX SALE CERTIFICATE #2016-30**

BE IT RESOLVED That a refund in the amount of \$2,252.85 be given to Natu Patel, 505 Hoagland Court, Hillsborough, NJ 08844 for the redemption of Tax Sale Certificate #2016-30 on Block 37003, Lot 1.011.

(CONSENT AGENDA Cont.)

C. **RESOLUTION #17-3-63 - APPROVAL OF OUTDOOR ASSEMBLY - Run with Rotary 2017**

BE IT RESOLVED By the Montgomery Township Committee as follows:

1. The Rotary Club of Montgomery/Rocky Hill has requested approval of the Township Committee to conduct a 5-K race and 1-mile fun walk on April 30, 2017. The events will start on Main Boulevard and finish on Bergen Circle.
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 Township Committee approval.
 - (b) Portions of Main Boulevard, Bergen Circle, Larocque Circle, Morrow Road, and Lake Drive in Somerset County Skillman Park will be closed to vehicular traffic on Sunday, April 30, 2017 beginning at 10:35 a.m.
 - (c) This event shall be held subject to the provisions of the Montgomery Township Code, Outdoor Assembly, Chapter 4-2.1.
 - (d) 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.

D. **RESOLUTION #17-3-64 - APPROVAL OF USE OF TENT - Run with Rotary 2017**

BE IT RESOLVED That the Montgomery Township Committee hereby approves the use of the Township tent for the Run with Rotary 2017 road race as the Township Recreation Department will be one of the sponsors of the event and the advertising will be provided to the Township. The event will be held on April 30, 2017.

E. **RESOLUTION #17-3-65 - APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE 2016 SAFE CORRIDORS PROGRAM**

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

BE IT FURTHER RESOLVED That the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as HSF-2016-Montgomery Township-00014 to the New Jersey Department of Transportation on behalf of the Township of Montgomery; and

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

F. **RESOLUTION #17-3-66 - ENDORSING SUBMISSION OF THE RECYCLING TONNAGE GRANT APPLICATION**

WHEREAS, The Mandatory Source Separation and Recycling Act, PL 1987, c.102 has established a recycling fund from which tonnage grant may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, It is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS, The New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, The recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, A resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and to indicate the assent of the Township Committee to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, Such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

(CONSENT AGENDA Item H Cont.)

NOW THEREFORE BE IT RESOLVED By the Township Committee of Montgomery that Montgomery Township hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Arthur Villano to ensure that the application is properly filed.

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

G. **RESOLUTION #17-3-67 - APPROVAL OF AN AGREEMENT FOR RESERVATION OF REMAINING SEWER CAPACITY** - MM/PG Montgomery Properties, LLC (formerly Madison/CGEM, LLC)
(Block 34001, Lots 46.01, 56, 57, 77, 78 and 79)

BE IT RESOLVED By the Montgomery Township Committee that the Mayor and Clerk are hereby authorized to execute an agreement for reservation of remaining sewer capacity with MM/PG Montgomery Properties, LLC related to remaining capacity in the Stage II Sewage Treatment Plant for Madison Marquette (formerly Madison/CGEM, LLC) (Block 34001, Lots 46.01, 56, 57, 77, 78 and 79).

H. **RESOLUTION #17-3-68 - AUTHORIZING RIGHT-OF-ENTRY AGREEMENT** - Joseph F. and Martha Jane Weber - Improvements to Cherry Valley Road Reconstruction Project

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Right-of-Entry Agreement with Joseph F. and Martha Jane Weber to remove a dead tree on Township owned property as part of the Cherry Valley Road Reconstruction Project.

I. **RESOLUTION #17-3-69 - 3rd REDUCTION OF PERFORMANCE GUARANTEE** - S.A.V.E. Animal Shelter

WHEREAS, Gail Smith, Township Engineer, has certified on February 24, 2017 that a performance guarantee for S.A.V.E. Animal Shelter may be reduced; and

WHEREAS, The remaining and partially completed improvements will be adequately covered by a reduced performance guarantee as specified in the Township Engineer's estimate dated February 17, 2017; and

WHEREAS, The original guarantee amount was \$205,356.12.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a 3rd reduced performance guarantee amounting to \$84,884.90 reduced from \$120,559.71 (2nd reduction) be posted as follows:

10% Cash	\$ 8,488.49
90% Cash, Letter of Credit, or Surety Bond	\$76,396.42

J. **RESOLUTION #17-3-70 - ACCEPTING A GRANT AWARD FROM INVESTORS FOUNDATION** - First Responder Vehicle for Montgomery EMS

BE IT RESOLVED That the Montgomery Township Committee hereby accepts a \$50,000.00 grant award from Investors Foundation for the purpose of a First Responder Vehicle for Montgomery EMS (2016 Capital).

5-1. Deputy Mayor Smith moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeewoman Graham and carried on the following:

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

6. **RESOLUTION #17-3-71 - AUTHORIZING TEMPORARY EMERGENCY APPROPRIATIONS**

WHEREAS, The 2017 Municipal Budget has not been adopted and there is a need to increase the Temporary Budget prior to the 2017 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:

<u>Current Fund</u>	
Water	
Other Expense	\$15,000
Natural Gas	
Other Expense	\$15,000
Solid Waste Disposal	
Other Expense	\$20,000
Shade Tree	
Other Expense	\$ 2,000

6-1. 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, Graham, Smith, Trzaska
Nays - None

7. **RESOLUTION #17-3-72- AWARDING A NON-FAIR AND OPEN CONTRACT FOR CLEANING SERVICES AT MONTGOMERY KID CONNECTION**

WHEREAS, The Township of Montgomery has a need for cleaning services at Montgomery Kid Connection as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4 or 20.5 as appropriate; and

WHEREAS, The Chief Financial Officer has determined and certified in writing that the value of the acquisition could exceed \$17,500; and

WHEREAS, Daycare Cleaning Services, Inc., 1909 Fairfax Avenue, Cherry Hill, NJ 08003 has submitted a price quote and has completed and submitted a Business Entity Disclosure Certification; and

WHEREAS, There exists an account #01-201-28-372-214 which will fund this item; and

WHEREAS, A certificate as to the availability of funds has been signed by the Chief Financial Officer and filed in the office of the office of the Township Clerk.

NOW THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery authorizes a one year contract with Daycare Cleaning Services, Inc., in the amount not to exceed of \$20,000.

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

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

8. **RESOLUTION #17-3-73 - AWARD OF BID #B02-2017 - RESURFACING OF JAMESTOWN ROAD, WOODWARD DRIVE, MAGILL BOULEVARD, AND BARRINGTON ROAD & SIDEWALK REHABILITATION WITHIN THE CHERRY VALLEY CLUBSIDE DEVELOPMENT**

WHEREAS, The following bids for the Resurfacing of Jamestown Road, Woodward Drive, Magill Boulevard, and Barrington Road & Sidewalk Rehabilitation within the Cherry Valley Clubside Development were received and publicly opened on Wednesday, February 22, 2017 at 11:00 AM:

Bidders	Bid Amount
S. Brothers, Inc.	\$ 364,045.54
Top Line Construction Corp.	\$ 369,878.58
Black Rock Enterprises, LLC	\$ 393,145.54
Stilo Paving and Excavating	\$ 398,486.57
DeSantis Construction, Inc.	\$ 408,821.56
Mark Paving Co., Inc.	\$ 412,637.67
Glen G. Hale, Inc.	\$ 415,463.06
Richard E. Pierson Construction Co.	\$ 493,572.00

WHEREAS, It is the recommendation of the Purchasing Agent and the Township Engineer that S. Brothers, Inc. be awarded the bid; they being the lowest responsible bidder; and

WHEREAS, A certificate as to the availability of funds has been signed by the Chief Financial Officer and is on file in the office of the Township Clerk; and

WHEREAS, There exists account numbers 04-215-55-901-1443B and 04-215-55-901-1472B which will fund this project.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the contract for the Resurfacing of Jamestown Road, Woodward Drive, Magill Boulevard, and Barrington Road & Sidewalk Rehabilitation within the Cherry Valley Clubside Development project is hereby awarded to S. Brothers, Inc., P.O. Box 317, South River, NJ 08882 in the amount of \$364,045.54; and

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

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

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

9. **ORDINANCE #17-1541** - Establishing 2017 Sewer Capacity Charges and 2017 Sewer Service Rates - Introduction

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

AN ORDINANCE AMENDING CHAPTER XII SEWER AND WATER OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984) TO ESTABLISH 2017 SEWER CAPACITY CHARGES AND 2017 SEWER SERVICE RATES.

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 16, 2017 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

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

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

10. **APPROVAL OF MINUTES**

The Regular Session minutes of February 16, 2017 were approved as printed.

11. **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.

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, Graham, Smith, Trzaska
Nays - None

12. **BOARD OF EDUCATION**

Administrator Nieman stated he attended the Board of Education Strategic Planning and Visioning meeting.

13. **ENVIRONMENTAL COMMISSION**

Administrator Nieman stated that the Environmental Commission will be meeting on March 7.

14. **NEW JERSEY TRANSIT MEETING**

Administrator Nieman reported that he and Township Planning Director Lori Savron will be attending a New Jersey Transit/Rutgers University Bloustein School seminar on Tri County Corridor Transit Services and Needs.

15. **PROPERTY ON CORNER OF ROUTES 206/518**

Committeewoman Graham inquired as to the status of the property at the intersection of Routes 206 and 518.

Administrator Nieman replied that Dunkin Donuts was denied an access permit by the New Jersey Department of Transportation. They can change their development plan and come back to the Zoning Board of Adjustment.

16. **COMMITTEE AND SUB-COMMITTEE REPORTS**

16-1. **ZONING BOARD OF ADJUSTMENT**

Committeeman Conforti reported on the Zoning Board of Adjustment meeting, where they started the process on the new cell tower application at the Nassau Racquet and Tennis Club.

16-3. **TRANSCO COMPRESSOR STATION**

Committeewoman Graham reported that she attended the Franklin Township meeting regarding the proposed Transco Compressor Station. She stated that the Township would be getting more information.

(Item #16 Cont.)

16-4. ECONOMIC DEVELOPMENT COMMISSION

Committeewoman Graham reported on the Economic Development Commission meeting. There is a new member who is very enthusiastic. They have the new Directory almost ready to go and it should be mailed to Montgomery Township residents approximately March 27. The goal for this year was to make it a full directory of all businesses in the Township.

16-4. RAILROAD CROSSING

Deputy Mayor Smith stated that he would be meeting with Administrator Nieman and Township Engineer Gail Smith to start the process of the railroad crossing bid, in anticipation of the approval of the budget.

16-5. OTTO KAUFMAN COMMUNITY CENTER

Deputy Mayor Smith stated that he will be a meeting with Recreation Director Karen Zimmerman and an architect to determine if the Otto Kaufman Community Center can be expanded, how the Township should expand it, and any rehabilitation work to the existing building.

17. BEST PRACTICES PRESENTATION

Attorney Hadinger gave a Power Point presentation on "Best Practices for Managing Open Public Records Act, Open Public Meetings Act and Ethical Matters in Local Government". The three main topics of the presentation were:

1. Open Public Records Act (OPRA)

Definition of a public record, exceptions under OPRA, privacy, non-exceptions, role of custodian, failure to provide record, emails, better email practices, common law records, and common law balancing test.

2. Open Public Meetings Act (OPMA)

Basic requirements, definition of a public body, definition of a meeting, OPMA exceptions, closed session protocols, and OPMA violations.

3. Ethics and Conflicts of Interest

Definition of ethics and conflicts of interest, authority, bribery, transacting business, acceptance of benefits, Local Government Ethics Law, standards of conduct, acceptable conduct, common law conflicts of interest, common law standard of review, and handling a conflict.

ADJOURNMENT was at 8:24 p.m. on a motion by Committeewoman Graham. The motion was seconded by Committeewoman Madrid and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk