

MINUTES FOR  
MONTGOMERY TOWNSHIP COMMITTEE MEETING  
June 1, 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 - Lisa Maddox, Esq.

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**

Mayor Trzaska opened the public comment portion of the meeting. There being no public comment, Mayor Trzaska closed this portion of the meeting.

5. **REVIEW OF ANNUAL AUDIT REPORT & CORRECTIVE ACTION PLAN**

Chief Financial Officer Michael Pitts explained the 2016 audit report and the corrective action plan. It was a very clean audit. There are some minor issues but nothing serious at all. There were no recommendations for the first time in many years.

6. **RESOLUTION #17-6-128 - REVIEW OF ANNUAL AUDIT REPORT OF 2016**

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, The Annual Report of Audit for the year 2016 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, The Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34; and

WHEREAS, The Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled:

General Comments  
Recommendations

and

WHEREAS, The members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

General Comments  
Recommendations

as evidenced by the group affidavit form of the governing body; and

WHEREAS, Such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board; and

WHEREAS, All members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, Failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 - to wit:

R.S. 52:27BB-52 - "A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the Director of Local Government Services, under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office."

(Item #6 Cont.)

NOW, THEREFORE, BE IT RESOLVED, That the governing body of the Township of Montgomery, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

BE IT FURTHER RESOLVED That the Montgomery Township Committee has reviewed and approves the Corrective Action Plan as filed.

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. **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 #17-6-129 - REFUND OVERPAID 2016 AND 2017 TAXES**

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

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Amount</u>	<u>Year</u>
7021	49	Robert & Marie Staats	\$823.69	2017
28001	5.65	Ronald Mendoza & Izabela Duda	\$734.09	2016

B. **RESOLUTION #17-6-130 - CANCEL 2017 TAXES**

BE IT RESOLVED That the 2017 tax balance in the amount of \$3,606.01 on Block 4002, Lot 18 be cancelled. The property is owned by the Township of Montgomery and therefore tax exempt.

C. **RESOLUTION #17-6-131 - REDEMPTION OF TAX SALE CERTIFICATE #2014-30**

BE IT RESOLVED That a refund in the amount of \$9,191.00 be given to US Bank for BV001 Trust , 50 South 16<sup>th</sup> Street, Suite 2050, Philadelphia, PA 19102-2513 for the Redemption of Tax Sale Certificate #2014-30 on Block 31001, Lot 145.

D. **RESOLUTION #17-6-132 - PURSUANT TO N.J.S.A. 40A:4-87 (Chapter 159, P.L. 1948) - DOT Green Avenue Phase II**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special items of revenue in the budget of any County or Municipality when such item shall have been made by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, Said Director may also approve the insertion of any item of appropriation for an equal amount.

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery hereby requests the Director of the Division of Local Government Services to approve the insertion of items of revenue in the budget of the year 2017, in the amounts listed below, which items is now available as a revenue from the State of New Jersey Department of Transportation:

DOT Green Avenue Phase II	\$180,000
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BE IT FURTHER RESOLVED That a like sum, be, and the same, hereby is appropriated under the above appropriation titles.

BE IT FURTHER RESOLVED That the Chief Finance Officer shall file an electronic Special Item of Revenue Resolution submittal form to the Division of Local Government Services.

E. **RESOLUTION #17-6-133 - PURSUANT TO N.J.S.A. 40A:4-87 (Chapter 159, P.L. 1948) - Clean Communities Grant**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special items of revenue in the budget of any County or Municipality when such item shall have been made by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, Said Director may also approve the insertion of any item of appropriation for an equal amount.

(CONSENT AGENDA Item E Cont.)

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery hereby requests the Director of the Division of Local Government Services to approve the insertion of items of revenue in the budget of the year 2017, in the amounts listed below, which items is now available as a revenue from the State of New Jersey:

FY 2017 Clean Communities Grant	\$57,653.34
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BE IT FURTHER RESOLVED That a like sum, be, and the same, hereby is appropriated under the above appropriation titles.

BE IT FURTHER RESOLVED That the Chief Finance Officer shall file an electronic Special Item of Revenue Resolution submittal form to the Division of Local Government Services.

F. **RESOLUTION #17-6-134 - RELEASE OF PERFORMANCE GUARANTEE - Country Classics at Fox Brook (Kucera Lots)**

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WHEREAS, Gail Smith, Township Engineer, has certified on May 18, 2017 that all public improvements in a project known as Country Classics at Fox Brook (Kucera Lots) 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 \$161,611.20 (Bond #PAIFSU0670182 in the amount of \$145,450.08 and \$16,161.12 cash) be released to Country Classics at Montgomery, LLC and a maintenance guarantee be posted as follows:

Original Construction Cost Estimate	\$161,611.20
15% Maintenance Guarantee	\$ 24,241.68

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.

7-1. 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

8. **RESOLUTION #17-6-135 - SIGN MAINTENANCE AGREEMENT FOR "WELCOME TO MONTGOMERY" SIGNS ON SOMERSET COUNTY ROADS**

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WHEREAS, The Township of Montgomery (hereinafter "Township") seeks to install new, or upgrade existing "Welcome to Montgomery" signs, (hereinafter "Signs"), within Somerset County (hereinafter "County") rights-of-way at municipal boundaries; and

WHEREAS, The County requires the Township to be responsible for the maintenance of the Signs; and

WHEREAS, The Township of Montgomery has expressed a willingness to cooperate with the County requirements.

NOW, THEREFORE IT BE RESOLVED, In consideration of the conditions contained herein, and pursuant to all applicable federal, state, county, and local law and ordinances, the Township Committee of the Township of Montgomery agrees as follows;

1. The Township has prepared location maps showing the Signs, at the following locations:
  - a. County Route 518 West near the Rocky Hill Borough boundary;
  - b. County Route 518 East near the Hopewell Township boundary;
  - c. County Route 601 North near the Princeton Municipal boundary;
  - d. County Route 605 North near the Princeton Municipal boundary;
  - e. County Route 605 South near the Rocky Hill Borough boundary;
  - f. County Route 533 South near the Griggstown Causeway;
  - g. County Route 533 South near the Hillsborough Township boundary.
2. The Township agrees that the Signs must not block any other traffic control sign.
3. The Township agrees to pay all costs, including but not limited to installation, maintenance, repair and replacement, of the Signs.
4. The Township agrees to defend, indemnify, protect and save harmless the County and its agents and employees from and against any and all suits, claims, losses, demands or damages of whatever kind of nature arising out of or claimed to rise out of the performance of any services, actions or operations in connection with the installation of the Signs.
5. The Township acknowledges that if the Signs become a hazard, in any way, to the public, the County reserves the right to remove the Signs.

(Item #8 Cont.)

BE IT FURTHER RESOLVED, A copy of this Resolution shall be placed on file in the Office of the Township Clerk, and shall be available for public inspection.

- 8-1. 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

9. **RESOLUTION #17-6-136 - PROFESSIONAL SERVICES RESOLUTION** - Surveying Services for Marian Drive and Cairns Place - Saladin Associates, P.C.

WHEREAS, the Township of Montgomery seeks to retain the services of a professional surveying firm to provide surveying services for Marian Drive and Cairns Place, including location of existing site features, preparation of road cross sections, topography, storm and sanitary sewer data collection, right-of-way and property corner location and mapping, collection of visible utility information, plotting all field notes, and preparation of a map and metes and bounds descriptions for vacating the cul-de-sac right-of-way adjacent to 47 and 48 Cairns Place ("scope of work"); and

WHEREAS, there exists a need to acquire these services without a "fair and open process" as defined by P.L. 2004, c.19, the "Local Unit Pay to Play Law); and

WHEREAS, the firm Saladin Associates, P.C., has submitted a written proposal dated May 8, 2017 ("Proposal"), which Proposal shall be incorporated herein by reference, offering to provide the sought-after service to the Township; and

WHEREAS, Saladin Associates, P.C. has completed and filed with the Township of Montgomery a Campaign Contributions Affidavit as required by N.J.S.A. 19:44A-20.2 et seq. certifying that Saladin Associates, P.C. has not made any prohibited contributions to a candidate committee or municipal committee representing elected officials of the Township of Montgomery; and

WHEREAS, The New Jersey Local Public Contracts Law N.J.S.A. 40A:11-1 et seq authorizes the award of a contract for "professional services' without competitive bidding on the basis that the services are to be performed by persons who are recognized as licensed and regulated professionals; and

WHEREAS, the Chief Financial Officer has provided a certification that sufficient funds are available for payment of this contract under Account # 04-215-55-901-1521B.

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 an agreement with Saladin Associates, P.C. for providing provide surveying services described in the Proposal and scope of work. The terms of the agreement shall be subject to the approval of the Township Attorney.
2. Saladin Associates, P.C. shall be paid a not to exceed fee of \$5,600.00 for its services.
3. 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.
4. A notice of this action shall be published in the official newspaper as required by law.
5. Performance of services and payment for services are subject to the certification of availability of funds by the Chief Financial Officer.

- 9-1. 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

10. **ORDINANCE #17-1547 - Government Energy Aggregation - Public Hearing**

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY,  
NEW JERSEY, AUTHORIZING THE CONTINUATION OF THE GOVERNMENT  
ENERGY AGGREGATION PROGRAM.

- B. Mayor Trzaska 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 1<sup>st</sup> day of June, 2017 and that notice thereof be published in an official newspaper as required by law.

- 10-1. 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

11. **ORDINANCE #17-1548** - Grant of Easement to Delaware and Raritan Canal Commission of the State of New Jersey; Riverside Farms Waste Water Treatment Plant - Public Hearing

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

AN ORDINANCE AUTHORIZING THE GRANTING OF A CONSERVATION EASEMENT TO DELAWARE AND RARITAN CANAL COMMISSION OF THE STATE OF NEW JERSEY OVER A PORTION OF LOT 64, IN BLOCK 7019, BY THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY; RIVERSIDE FARMS WASTE WATER TREATMENT PLANT.

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

C. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 1<sup>st</sup> day of June, 2017 and that notice thereof be published in an official newspaper as required by law.

11-1. 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, Graham, Smith, Trzaska  
Nays - None

12. **ORDINANCE 17-1549 - BOND**-Acquisition of Land-Block 30001, Lot 9.01 - Introduction

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY, IN THE COUNTY OF SOMERSET, NEW JERSEY, PROVIDING FOR THE ACQUISITION OF LAND FOR OPEN SPACE, RECREATION, CONSERVATION AND OTHER MUNICIPAL PURPOSES AND RELATED EXPENSES IN AND FOR THE TOWNSHIP OF MONTGOMERY AND APPROPRIATING \$1,260,000 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$1,197,000 IN BONDS OR NOTES OF THE TOWNSHIP OF MONTGOMERY TO FINANCE THE SAME.

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 June 15, 2017 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

12-1. Committeeman Conforti 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

13. **ORDINANCE 17-1550** - Supplementing and Amending Ordinance #17-1538 (2017 Salary and Wage Plan) - Introduction

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

AN ORDINANCE SUPPLEMENTING AND AMENDING ORDINANCE #17-1538, ESTABLISHING A COMPREHENSIVE SALARY AND WAGE PLAN FOR THE TOWNSHIP OF MONTGOMERY, SOMERSET COUNTY, AND TO PROVIDE FOR ITS ADMINISTRATION IN 2017.

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 June 15, 2017 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 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, Graham, Smith, Trzaska  
Nays - None

14. **APPROVAL OF MINUTES**

The Regular Session minutes of May 18, 2017 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, Graham, Smith, Trzaska  
Nays - None

16. **SUMMER MEETING SCHEDULE**

After some discussion, it was the general concensus of the Governing Body to cancel the July 6 meeting.

17. **HOUSE ON KILDEE ROAD**

Mayor Trzaska explained that there had been a problem with a house on Kildee Road that was being rented as an Airbnb. The idea that it was a short term rental was a small part of the problem, but mainly it was that it was rented for one day for a big party event. He was not sure that Montgomery Township should go the route of other municipalities in aggressively managing short term rentals, but just the fact that a short term rental for a party or event is starting to skirt the limits of residentially owned land or property. There was some discussion about the use of the house in a residential zone being used for a commercial event. Attorney Maddox explained that the Township could use the zoning laws in this instance, because the purpose was not residential and this is a residential area.

Deputy Mayor Smith stated that there are houses in the Township that are Bed and Breakfasts. Mayor Trzaska explained that they are probably approved and permitted. Deputy Mayor Smith stated that this is why he likes the 30 day limit. You can't do a rental if it is less than 30 days. That will kill all the Airbnb, because no one will rent for 30 days for a party. Committeeman Conforti stated that they also broke the zoning laws and that needs to be enforced. Deputy Mayor Smith agreed.

Committeeman Conforti stated that he would like to see what other towns are doing. Mayor Trzaska thought it was definitely worthwhile to see what other towns were doing.

Attorney Maddox explained that there is pending legislation to impose a tax on these rentals and also to allow municipalities to regulate them. There are other towns that are taking this issue on. There would be options presented to the Governing Body for consideration in the future.

18. **COMMITTEE AND SUB-COMMITTEE REPORTS**

18-1. **ZONING BOARD OF ADJUSTMENT**

Committeeman Conforti reported on the Zoning Board of Adjustment meeting where they scheduled the next meeting to hear the next phase of the Verizon application presentation.

18-2. **SITE PLAN/SUBDIVISION COMMITTEE**

Committeeman Conforti reported that the Site Plan/Subdivision Committee had met.

18-3. **LANDMARKS COMMISSION**

Committeewoman Madrid reported that the Landmarks Commission approved a small fence on the Goldenback property.

18-4. **SCULPTURE IN BLAWENBURG**

Committeewoman Madrid and Committeeman Conforti both reported on their visit to see the sculpture in Blawenburg that Open Space Committee Chair Clem Fiori spoke about at the May 18 Township Committee meeting. They both stated that it was a beautiful piece of art.

18-5. **ECONOMIC DEVELOPMENT COMMISSION**

Committeewoman Graham reported the she and Economic Development Commission Chair Arun Mani met with Administrator Nieman about designating a person to be a liaison that new businesses can call. They are finalizing the details on how to establish a scholarship for a Vo-Tech student and to establish an award for a new business in town.

(Item #18 Cont.)

18-6. MEMORIAL DAY EVENT

Mayor Trzaska reported on the Memorial Day event put on by the Montgomery Veterans Memorial Committee. He stated that besides the rainy weather, he considered it a success. There was a nice turn out of people.

ADJOURNMENT was at 7:30 p.m. on a motion by Committeeman Conforti. The motion was seconded by Committeewoman Madrid and carried unanimously.

Date of Approval:

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Donna Kukla, Township Clerk