

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
August 3, 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, Committeemembers Graham, Madrid and Conforti
Deputy Mayor Smith was absent

Also present were:

TOWNSHIP ATTORNEY - Lisa Maddox, 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. **EAGLE SCOUT PRESENTATION - Collin Szczepanski**

Collin Szczepanski explained his project to build a dugout cover at Montgomery Veterans Park at Field 1 on the home side. This will provide shade for the players. He has had the design signed and sealed by DS Engineering located in Rocky Hill. He will utilize pressure treated lumber, concrete and shingles. He has been in contact with the Montgomery Girls Softball League and Parks Foreman John Snyder. The initial proposal has been completed. The next steps are approval by the Governing Body and then the building permit to construct the dugout cover. The cost will be between \$1,800.00 and \$2,000.00 for the total construction. The funding will be through donations and fundraising.

- 4-1. Committeeman Conforti moved to accept the Eagle Scout project of Collin Szczepanski. The motion was seconded by Committeewoman Madrid and carried unanimously.

5. Committeewoman Graham steps down from the dais.

6. **ORDINANCE #17-1555 - Prohibiting Short-Term Rentals of Residential Properties - Public Hearing**

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

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF MONTGOMERY
(1984) TO ESTABLISH A NEW SECTION 8-7 PROHIBITING SHORT-TERM
RENTALS OF RESIDENTIAL PROPERTIES AND PROVIDING PENALTIES FOR
THE VIOLATION THEREOF.

- B. Mayor Trzaska described the events leading up to consideration of this ordinance. Administrator Nieman gave a detailed description of what steps have been taken thus far. He stated that with the cooperation of the Police Department, the Township was able to contact the person who acts as the host for this property and he was told that these kinds of events cannot continue. He was informed that there would be an ordinance in place that will limit the length of time that a property can be rented to a minimum of 30 days. The Township also contacted the New Jersey Alcoholic Beverage Commission because it is believed that the sale of alcohol there is a violation of the law. The Township Clerk was very aggressive in pursuing this and there will be an investigation to see if Federal law might have been violated. The Health Department is involved and is looking at the possibility of revoking the septic license for that site because it was not approved for the number of people who were using the property on the weekend. Zoning issues were also being looked at. Wells Fargo Bank, who holds the mortgage on the property which is now in foreclosure, has been put on notice that an asset that they hope to recover their loan on is at risk. The Township Attorney has been asked to contact the attorneys who handle foreclosures for the bank to put them on notice that this is going on.

Police Director Wain stated that he understood that people are frustrated with the situation. The Police have had positive feedback regarding their actions with respect to this issue. They will continue to protect the rights of everyone and will continue to provide for the safety of all involved.

- C-1. Mayor Trzaska opened the hearing to the public.

- C-2. Emad Youssef, Kildee Road, asked how this ordinance will be enforced if there was a party this weekend. Administrator Nieman explained that the Police would go to the site and explain that occupancy for less than 30 days is not acceptable and will ask them to leave. On the Airbnb's website there is a notice saying that if the Police are called and violations are issued the person can forfeit their deposit and be asked to leave the premises. There will also be a notice posted on the door of the premises.

- C-3. Sara Kocinski, Kildee Road, asked what would happen if there were a party occurring tonight or tomorrow night, because there are people currently renting the home.

Mayor Trzaska stated that, if the ordinance passes, it needs to be published in the official newspaper. Township Clerk Donna Kukla stated that she had it scheduled for publication tomorrow and the ordinance would then be in effect.

(Item #6 Cont.)

- C-4. Michael Cohen, Kildee Road, stated that he has photographs of garbage as well as parking of vehicles on the lawn of the property. He stated that he deeply appreciated the efforts of the Township Committee and the Township Police Department.

Mayor Trzaska reiterated the appreciation of the Police Department and of the Public Works Department. Administrator Nieman stated that the Public Works employees had to clean up the garbage left by the party-goers. He explained that the Township was looking into whether they can place a lien against the property for the expenses incurred for cleanup. The Township is also looking to violate the catering truck that was there because any retail food conveyer needs to be inspected by the Township.

Committeeman Conforti suggested sending a bill to the host for the cleanup. Mayor Trzaska stated that just because the ordinance is passed, doesn't mean it will be proactively enforced where every weekend someone will go to every house in the Township to try to trap people.

- C-5. Fred Copalongo, Fieldstone Road, asked what the enforcement is and is the homeowner subject to a fine. Administrator Nieman stated that the Township does not have the legal authority to physically remove these people from the premises. It is a violation of the Township's Code and ultimately it would go to Municipal Court with fines up to \$1,500.00 to the owner of the property, the host, and organizer of the event with possible jail time for the host.

- C-6. Frank Drift, Sunset Road, stated that the liquor being served was being served illegally unless they have a liquor license. The vendor has already committed a crime for serving alcohol for a fee without a permit. Administrator Nieman stated that this is why the New Jersey Division of Alcoholic Beverage Control was contacted, and they are looking at the potential for a charge of a fourth degree felony under Federal law.

Mr. Drift stated that he was worried about how the ordinance could be interpreted.

- C-7. Brett Borowski, York Drive, stated that there had been a similar problem years ago in his area. He stated that he felt this ordinance should be adopted tonight because these people need relief as soon as possible, but he actually doesn't like it. He feels it would be selective enforcement. Administrator Nieman explained that the Township is not looking to harass someone who hasn't created a problem for their neighbors. Because this law is evolving, the Township wanted an ordinance that would stand up under review because there is potential for challenge by Airbnb. This ordinance will be enforced as equally as any other ordinance on the books. Mr. Borowski stated that even if the Township doesn't discriminate when they pass this ordinance, the community can discriminate. He would like to see how the community deals with all Airbnb's. He asked that the Township reconsider it going forward. Mayor Trzaska stated that the Township consider prohibiting short term rental of the entire property, not just the renting of a room.

- C-8. Emad Youssef, Kildee Road, asked if the person who rents out the house for a party such as like what has been going on, will only get one violation. Administrator Nieman stated that the Township can issue numerous violations, that it doesn't have to be just one. The Township will do all that can be done to ensure that the event ceases.

- C-9. Committeeman Conforti moved to close the public hearing. The motion was seconded by Committeewoman Madrid and carried unanimously.

- D. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 3rd day of August, 2017 and that notice thereof be published in an official newspaper as required by law.

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

7. Committeewoman Graham returns to the dais

8. PUBLIC COMMENT

- 8-1. Harold Wasserman, Dogwood Lane, stated that during the time he has lived in his current home the property taxes have almost quadrupled. He recently found out that the Township was planning on further burdening the taxpayers with another \$25 million of debt to create a new municipal building. He stated that Township Committee has referenced crowding and high maintenance costs as the rationale for this project. He stated that the Court Room is no longer used. He asked how many jail cells are ever occupied. These problems are insignificant when compared with the property tax burden the residents all face. At the very least, the Township Committee should formulate an alternate plan to refurbish this facility, add space where required, repurpose and use space, correct any maintenance issues and bring the facility to code. If there is some alternate reason why the Township is considering buying the Convatec facility, he urges the Governing Body to make it public so the taxpayers can evaluate the merits of purchasing it. He understood that there were bonds that are almost paid off that the Township plans to reissue when financing the purchase of the Convatec property. He urged the Governing Body to consider using these funds for property tax relief. He is aware that 85% of the property tax bill comes from the schools. Unfortunately, we have no control over that. At the very least this purchase should be put to a vote at the next election. He asked about the yearly repair bill for the current Municipal Building.

Administrator Nieman responded that part of the reason they were looking into a new Municipal Building is because of the limitations on the property and the cost of renovating the existing building. The Township would not have pursued doing something off this site if it was not less costly.

Mayor Trzaska gave a brief history of this issue. The Township is going through the process to purchase the Convatec property for \$5.9 million. It has not closed yet, because there is environmental paperwork that needs to be completed. There are some other reasons to buy the property. One of the main reasons is that the Township wants to preserve 1/3 of that land. Some of the \$5.9 million would come back to the Township from the Open Space Trust Fund. The Governing Body started talking about renovating the existing Municipal Building back in 2014, and initially the Governing Body knew there were some really significant problems. When renovation was looked at, a possible \$4 to \$5 million project became a \$10 to \$15 million project.

Administrator Nieman stated that he has analyzed the current municipal building on seven different occasions with seven different engineers. The building was insufficient and not able to handle the municipal operations in 1999 and certainly not able to do it today. The computer servers are in what was once a janitor's closet. There is no storage in part of the building. There is a shipping container in the rear of the building that is used for storing equipment. He explained that there are environmental constraints on the building. This building could not be built today because of the environmental regulations. 50% of this property is deed restricted because it was purchased many years ago with the idea of building a community center and a park, which was never done. The parking lot could not be built today because it is in a flood zone. The Police Department does not meet the Department of Correction's standards. Mayor Trzaska stated that, during Superstorm Sandy, they found out that the current generator was only able to power about 1/4 of the Municipal Building. Installing a new, larger generator was looked into but it was discovered that it would cost over \$1 million because the electrical system would have to be upgraded to be able to handle it. Mayor Trzaska suggested that Mr. Wasserman come into the Municipal Building during business hours for a tour to see the problems being described.

Mr. Wasserman asked what the Township would do with the existing Convatec building if the Township did not use it as a Municipal Building. Administrator Nieman responded that it had to be looked into further. He stated that the Public Works Department was using a very antiquated building and had to store some equipment off-site. He stated that it might be that if renovating the Convatec building would be too cost prohibitive, there was also the possibility that they would be demolished and a new building built. Somerset County and Montgomery Township were working together to see what was more feasible, if the Township were to definitely buy that property.

Committeeman Conforti commented that what Mr. Wasserman said about the school budget and his statement that there was nothing the taxpayers could do about it really bothered him. There is everything the taxpayers can do with the school budget. There are some things that are out of the control of the community, but people should still go the meetings and keep the School Board on their toes.

Mayor Trzaska stated that the Township was in the process of buying Convatec for multiple reasons. The Township Committee is going to continue to assess what the present Municipal Building can be and what it will cost to renovate it, compared to something new on a different piece of property.

Committeewoman Graham thanked Mr. Wasserman for coming to the meeting and letting his concerns be heard. She added that it was not simply a question of renovating this building or doing something to another building. She stated that the Governing Body and the community had to look at the global picture for the Township.

- 8-2. Frank Drift, Sunset Road, stated that he agreed with Mr. Wasserman. He asked why the Township couldn't renovate the front building at Convatec. The last time he was in there, it was a beautiful building and it could be renovated into what the Township needs for a Municipal Building.

Committeeman Conforti explained the math requirement and rationale in coming up with the \$25 million estimate for the Convatec building project.

(Item #8 Cont.)

- 8-3. Frank Drift, Sunset Road, spoke about the violations at the new development at the intersection of Belle Mead-Griggstown Road and Route 206. He stated that anyone else building detention basins in the Township would have to have a fence around them.

Administrator Nieman responded that the developer was not in violation. The Engineering Department is on the site all the time and there are no safety violations.

- 8-4. Alan Wirsul, Ridgeview Drive, commented that the spending at the Board of Education level was out of sight. He does attend many School Board meetings and does ask questions about their spending. He suggested that the Governing Body take more action in the Board of Education budget and spending. He spoke briefly about the Township's possible purchase of the Convatec site.

- 8-5. Brett Borowski, York Drive, spoke about the Cherry Valley Road reconstruction. He stated that he had seen something about permits coming through. Administrator Nieman explained that the permits were approved and the Municipality of Princeton is going to go out to bid for the project because they are designing it. Mayor Trzaska stated that he was okay with the delay because of the traffic on that road due to the Stony Brook bridge on Route 206 being closed. He hoped that the bridge would be reopened before Cherry Valley Road was closed for reconstruction.

Mr. Borowski asked about the resolution which was passed about a redevelopment area on Route 206 near the Honda dealer. Mayor Trzaska explained that the Governing Body is actually working on a redevelopment area for that whole area. This resolution did not include the old Texaco Gas Station. He explained the resolution and the process.

Mr. Borowski stated that there was an optic problem with the Township's budget and the taxes. He explained that the Governing Body spoke about cutting expenditures and then turned around and talked about road projects and the purchasing of the Convatec site. He suggested that the Township think about the possibility of charging the hosts of these Airbnb properties a fee and implementing an occupancy tax.

- 8-6. Harold Wasserman, Dogwood Lane, asked why the revenue is going down. Administrator Nieman answered that the roll back taxes for all of the development that occurred in the 1990's and early 2000's is over. For years that surplus was used to offset the need to raise taxes.

9. **LUBAS FIELD DISCUSSION** - Karen Zimmerman and Stephen Shueh

Stephen Shueh, Recreation Committee Chair, spoke about the 2016 Recreation survey. He explained that one of the items was the repurposing of properties for the best use.

Karen Zimmerman, Recreation Director, explained that Lubas Field is primarily a softball field. It was dedicated in 1972 and used as a baseball field. In the 1980's and 1990's it was used extensively for men's adult softball. In the early 2000's it was used for girls' softball. In the past seven (7) years it has seen a significant decline in usage. The Township's Public Works department is still cutting the grass and maintaining the infield. She stated that the Recreation Committee, while doing their Master Plan update, thought about repurposing Lubas Field. The Soccer Club has asked for a multipurpose field be put there. All it would take is the removal of the infield mix and planting grass seed. They already have money in the capital budget from 2012 to replace the backstop at the site. They would be able to get new higher fencing with that money.

Mr. Shueh stated that they are asking the Township for the resources to substitute what is a softball field that is very rarely used for flag football, soccer and Lacrosse.

- 9-1. **Motion #17-8-01** - Committeeman Conforti moved to utilize the 2012 capital budget monies to perform the needed work to Lubas Field. The motion was seconded by Committeewoman Madrid and carried on the following

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

10. **HABITAT FOR HUMANITY - RIGHT OF ENTRY UPDATE**

Administrator Nieman stated that Habitat for Humanity approached the Township about properties on Route 601 in town that are unencumbered. They have asked for permission to go onto the properties to perc test them. If the perc tests work out, they will appear before the Governing Body to seek approval for a building project. It was the general consensus of the Governing Body to execute the right of entry agreement so that Habitat for Humanity can perform the perc tests.

11. IMPROVEMENTS TO STAGE II SEWAGE TREATMENT PLANT - Jim Cosgrove

Administrator Nieman reminded the Governing Body that at their July 20, 2017 meeting, Jason Kiernan, Director of Wastewater Operations gave a presentation about some of the issues being faced by some of the Sewage Treatment Plants.

James Cosgrove, Township Environmental Consultant, gave a brief PowerPoint presentation. He explained that one of the major problems with this facility is that it floods. Over the past few years there have been several storms that have caused flooding so significant that it totally inundated the facility. This is a safety issue for the employees. Alternatives were looked into, and the one he is recommending is to build a flood wall around the facility and upgrade the plant. Because of the topography, the wall would not need to be around the whole building. Other alternatives were to relocate the Wastewater Treatment Plant and to consolidate treatment to the Skillman Village Wastewater Treatment Plant. He asked that the Governing Body approve the resolution regarding the Kleinfelder proposal for design, permitting, and financing assistance services already on tonight's agenda.

12. 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 #17-8-177 - APPROVAL OF OUTDOOR ASSEMBLY PERMIT - Montgomery FunFest

BE IT RESOLVED By the Montgomery Township Committee as follows:

1. The Montgomery Business Association has requested approval of the Township Committee to conduct a Montgomery FunFest event at Princeton Airport on September 10, 2017.
2. The Township Committee has considered the application and hereby grants the same subject to the following conditions:
 - (a) This approval is for the period specified and is not to be considered approval to conduct similar events without Committee approval.
 - (b) This event shall be held subject to the provisions of the Montgomery Township Code, Outdoor Assembly, Chapter 4-2.1.
3. The organizers will obtain the required approval from the Police Department regarding parking facilities, traffic plan and safety considerations.
4. The organizers will obtain the required health certificates from the Township Health Department.
5. The organizers will obtain the required construction permits and Fire Prevention inspections from the Township Code/Construction and Fire Prevention Departments.

B. RESOLUTION #17-8-178 - RESOLUTION AUTHORIZING MUNICIPAL ALLIANCE GRANT FOR FISCAL YEAR 2017-2018

WHEREAS, The County of Somerset has prepared a contract which would provide \$19,700.16 to Montgomery Township for the provision of Montgomery-Rocky Hill Municipal Alliance activities for prevention of alcoholism and drug abuse, and the Township would provide a 75% match of \$14,775.12 in in-kind services, and a 25% cash match of \$4,925.04 will be raised by the Municipal Alliance Committee or provided by the municipality, and a copy of the proposed agreement is on file in the office of the Township Clerk.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery, County of Somerset, that it hereby authorizes the Mayor and Clerk to sign the original of this agreement.

C. RESOLUTION #17-8-179 - RESOLUTION ADVISING THE SOMERSET COUNTY BOARD OF CHOSEN FREEHOLDERS OF MUNICIPAL PARTICIPATION IN THE SECOND UPDATE OF THE SOMERSET COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

WHEREAS, The current Somerset County All-Hazards Mitigation Plan approved by the Federal Emergency Management Agency (FEMA) includes a Jurisdictional Annex for Montgomery Township, through which the municipality is eligible for potential pre- and post-hazard mitigation planning and mitigation funding; and

WHEREAS, In order to continue to reduce hazard risks, strengthen community resiliency, and remain eligible for potential FEMA funding, the Township of Montgomery hereby commits to participating in the development of second update of the Somerset County Multi-Jurisdictional Hazard Mitigation Plan.

NOW, THEREFORE, BE IT RESOLVED on the 3rd day of August, 2017, by the Township Committee of the Township of Montgomery that:

1. Montgomery Township agrees to participate in the update of the Somerset County Multi-Jurisdictional Hazard Mitigation Plan.

(CONSENT AGENDA Item C Cont.)

2. The following two municipal representatives (Sean Devlin, Municipal Hazard Mitigation Officer and John Ferrara, Alternate Municipal Hazard Mitigation Officer) are hereby authorized to serve on the Multi-Jurisdictional HMP Planning Committee; actively participate as requested throughout the process, and lead a Municipal Hazard Mitigation Planning (HMP) Committee tasked with carrying out local participation requirements.
3. The following additional members are hereby named to the Municipal HMP Committee (Mayor Ed Trzaska, Elected Official; Arthur Villano, Superintendent of Public Works; Donato Nieman, Township Administrator; and Gail Smith, Township Engineer).
4. At the end of the project, when FEMA deems the updated plan approvable, the Township of Montgomery will, as required, pass a resolution formally adopting the final updated Somerset County Multi-Jurisdictional Hazard Mitigation Plan, which will include an updated municipal annex. This resolution will be provided immediately to the Somerset County Planning Division for submittal to FEMA, who requires the resolution on file.

BE IT FURTHER RESOLVED That a signed copy of this Resolution will be provided to both the Somerset County Board of Chosen Freeholders and the Somerset County Planning Division.

D. **RESOLUTION #17-8-180 - APPROVAL OF CONSTRUCTION SEQUENCE AGREEMENT - Belle Mead Planned Unit Development - Sub Development Area 2**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a construction sequence agreement with Country Club Meadows, LLC, with respect to Block 5016, Lots 1 & 3 and Block 5023, Lots 2 & 3, subject to review and approval by the Township Attorney as to form and content.

E. **RESOLUTION #17-8-181 - AUTHORIZING RIGHT-OF-ENTRY AGREEMENT - Raritan Valley Habitat for Humanity**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Right-of-Entry Agreement with Raritan Valley Habitat for Humanity to investigate the suitability for development of a single family dwelling on Block 3007, Lots 15 and 16. The dwelling, if constructed, would help the Township meet its affordable housing obligation.

F. **RESOLUTION #17-8-182 - RESOLUTION AUTHORIZING THE PROVISION OF A LOAN PURSUANT TO THE TOWNSHIP OF MONTGOMERY AFFORDABILITY ASSISTANCE PROGRAM FOR THE TENANT OF AN AFFORDABLE HOUSING UNIT LOCATED AT 404 MCKINLEY COURT MONTGOMERY, NEW JERSEY**

WHEREAS, Applicant 2017-05 ("Tenant") will be renting 404 McKinley Court, Montgomery Township ("Property"), a property governed by the statutes, ordinances, rules and regulations restricting occupancy and use of the property as an affordable housing unit; and

WHEREAS, The Tenant has requested a loan through Montgomery Township's Affordability Assistance Program to pay for a security deposit for the Property; and

WHEREAS, The Township's Affordable Housing Administrative Agent, CGP&H, LLC., has reviewed the Tenant's application and qualified the Tenant for the requested assistance; and

WHEREAS, The amount of the requested loan for a security deposit will be paid directly to the landlord, M&G McKinley Investments, LLC, by the Township; and

WHEREAS, The Township is willing, pursuant to the Affordable Assistance Program, to extend a loan to the Tenant in the amount of Eight Hundred Forty-Nine, 30/100 dollars (\$849.30); and

WHEREAS, The funding for the loan will be from the Montgomery Township Affordable Housing Trust Fund.

NOW THEREFORE BE IT RESOLVED On this 3rd day of August, 2017, by the Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey, that:

1. The Mayor and Clerk are hereby authorized, pursuant to the Township's Affordability Assistance Program, to enter into an Agreement with Tenant and provide Tenant with a loan to be used to pay a security deposit for the Property.
2. The Mayor, Administrator, Clerk, Township Attorney, CFO, and such other staff and officials as may be appropriate are authorized to take such steps as may be reasonably required to implement this resolution, including issuance of the loan amount.

12-1. Committeeman Conforti moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeewoman Madrid and carried on the following:

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

13. MAYORAL APPOINTMENT - Wildlife Management Ad Hoc Committee

BE IT RESOLVED that Michael Benvenuto, Jr. is hereby appointed to the Wildlife Management Ad Hoc Committee

14. RESOLUTION #17-8-183 - CHANGE ORDER #1 (FINAL) - BID #B02-2017: Resurfacing of Jamestown Road, Woodward Drive, Magill Boulevard, and Barrington Road & Sidewalk Rehabilitation within the Cherry Valley Clubside Development (Increase)

WHEREAS, Resolution #17-3-73 adopted on March 2, 2017, authorized the award of a contract for the Resurfacing of Jamestown Road, Woodward Drive, Magill Boulevard, and Barrington Road & Sidewalk Rehabilitation within the Cherry Valley Clubside Development project to S. Brothers, Inc. in the amount of \$364,045.54; and

WHEREAS, The Township Engineer has requested the Committee's approval of a Change Order to reflect quantity adjustments and costs for the project; and

WHEREAS, Change Order #1 would allow for bid item quantity adjustments as outlined on said Change Order; and

WHEREAS, The work comprising Change Order #1 will result in a net increase in the original contract amount by \$14,345.79 or 3.94%; and

WHEREAS, There exists Accounts #04-215-55-901-1443B, 04-215-55-901-1472B and 04-215-55-901-1494B, which will fund this change order; and

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

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

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

1. Change Order #1 is hereby approved as the final change order for this project.
2. This Resolution, when counter-signed by S. Brothers, Inc., shall serve as a contract amendment to the original contract for the purpose of increasing the total contract price by \$14,345.79 for a total contract amount of \$378,391.33.

14-1. 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, Trzaska
Nays - None
Absent - Smith

15. RESOLUTION #17-8-184 - PROFESSIONAL SERVICES RESOLUTION - Riverside and Oxbridge Wastewater Treatment Plant Project Proposal for Construction and Administration Services - Kleinfelder

WHEREAS, The Township of Montgomery seeks to retain the services of professional engineering firm to provide construction administrative services during the construction of the Riverside and Oxbridge Wastewater Treatment Plant Consolidation Project; and

WHEREAS, The Township has a need to acquire these services without a "fair and open process" as defined in P.L. 2004, c. 19, the "Local Unit Pay-To-Play Law", and Kleinfelder has competed and filed with the Township a Campaign Contributions Affidavit as required by N.J.S.A 19:44A-20.2 et seq. certifying that Kleinfelder 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 19:44-20.26 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 firm of Kleinfelder has submitted a proposal dated June 20, 2017 to provide the sought-after services to the Township for the lump sum cost of \$296,240.00; and

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

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

WHEREAS, The Chief Financial Officer has provided a certification that sufficient funds are available for payment of this contract under Account #08-215-55-901-1495E and #08-215-55-901-1495D.

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 Kleinfelder to provide professional engineering services during the construction of the Riverside and Oxbridge Wastewater Treatment Plan Consolidation Project.

(Item #15 Cont.)

2. Kleinfelder shall be paid a total lump sum fee of \$296,240.00 for its professional services. The contract amount may be amended by change order, as permitted by law.
3. A copy of this Resolution, the Certification of Contract Value, the June 20, 2017 proposal, the Pay-To-Play Forms and the agreement shall be placed on file in the Office of the Township Clerk, and shall be available for public inspection
4. A notice of this action shall be published in the official newspaper as required by law.

15-1. Committeewoman Madrid 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, Trzaska
 Nays - None
 Absent - Smith

16. **RESOLUTION #17-8-185 - PROFESSIONAL SERVICES RESOLUTION** - Stage II Wastewater Treatment Plant Flood Protection Project Proposal for Design, Permitting and Financing Assistance Services - Kleinfelder

WHEREAS, The Township of Montgomery seeks to retain the services of professional engineering firm to provide design, permitting and financing assistance services for the Stage II Wastewater Flood Protection Project; and

WHEREAS, The Township has a need to acquire these services without a "fair and open process" as defined in P.L. 2004, c. 19, the "Local Unit Pay-To-Play Law", and Kleinfelder has competed and filed with the Township a Campaign Contributions Affidavit as required by N.J.S.A 19:44A-20.2 et seq. certifying that Kleinfelder 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 19:44-20.26 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 firm of Kleinfelder has submitted a proposal dated June 22, 2017 to provide the sought-after services to the Township for the not to exceed lump sum cost of \$473,600.00; and

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

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

WHEREAS, The Chief Financial Officer has provided a certification that sufficient funds are available for payment of this contract under Account #08-215-55-901-1495C.

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 Kleinfelder to provide professional engineering services to provide design, permitting and financing assistance services for the Stage II Wastewater Flood Protection Project.
2. Kleinfelder shall be paid a total not to exceed lump sum fee of \$473,600.00 for its professional services. The contract amount may be amended by change order, as permitted by law.
3. A copy of this Resolution, the Certification of Contract Value, the June 22, 2017 proposal, the Pay-To-Play Forms and the agreement shall be placed on file in the Office of the Township Clerk, and shall be available for public inspection
4. A notice of this action shall be published in the official newspaper as required by law.

16-1. 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, Trzaska
 Nays - None
 Absent - Smith

17. **RESOLUTION #17-8-186 - AWARD OF BID #B07-2017** - Riverside and Oxbridge WWTP Consolidation Project

WHEREAS, The following bids for the Riverside and Oxbridge WWTP (Wastewater Treatment Plant) Consolidation Project were received and publicly opened on Wednesday, July 26, 2017:

Bidders	Bid Amount
CMS Construction, Inc.	\$ 3,956,694.00
Pact Two, LLC	\$ 4,203,670.00
Tomar Construction	\$ 4,313,670.00
Coppola Services, Inc.	\$ 4,374,890.00
Carbro Constructors Corp.	\$ 4,870,237.00
T&T Commonwealth Construction Co., Inc.	\$ 4,967,670.00
Eagle Construction Services, Inc.	\$ 5,467,470.00

(Item #17 Cont.)

WHEREAS, It is the recommendation of the Purchasing Agent and the Township Engineer that CMS Construction, 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 08-215-55-901-1495E and 08-215-55-901-1495D which will fund this project.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the contract for the Riverside and Oxbridge WWTP Consolidation Project is hereby awarded to CMS Construction, Inc., 521 North Avenue, Plainfield, NJ 07060 in the amount of \$3,956,694.00; and

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

17-1. 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, Trzaska
Nays - None
Absent - Smith

18. **RESOLUTION #17-8-187 - RESOLUTION AUTHORIZING THE SALE OF A PLENARY RETAIL DISTRIBUTION LICENSE**

WHEREAS, N.J.S.A. 33:1-12.14 provides that no new Plenary Retail Distribution License shall be issued in a municipality unless and until the number of such licenses existing in the municipality is fewer than one for each 7,500 of its population; and

WHEREAS, The U.S. Census Bureau determined in 2015 that the population of the Township of Montgomery ("Township") exceeds 22,500 persons; and

WHEREAS, Pursuant to N.J.S.A. 33:1-1 et seq. and Chapter VI of the Code of the Township of Montgomery (1984), the Township is authorized to issue a new Plenary Retail Distribution license; and

WHEREAS, It is in the interests of the Township to permit the issuance of an additional Plenary Retail Distribution license.

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

1. The Township hereby determines that it will sell at public sale one Plenary Retail Distribution License for the sale of alcoholic beverages, in accordance with the procedures set forth in N.J.S.A. 33:1-19.3 et seq.
2. The Township Clerk shall publish a notice of the public sale and an invitation to bid in the official newspaper of the Township at least two times, the notices to be published at least one week apart, the second of which shall be published at least thirty days prior to the date after which no further applications shall be accepted. Nothing herein shall preclude the Township Clerk from publishing additional newspaper or alternative notices, provided the publication requirements set forth above are satisfied.
3. The following conditions shall apply to the award and issuance of each license:
 - a. The premises on which the licensee operates may be (1) an existing building in which such use is a permitted use or (2) a site which has or may receive preliminary and final site plan approval (within the time period required for license issuance set forth in paragraph 10 below) from the Township Planning Board. Pursuant to N.J.A.C. 13:2-2.1, proposed building plans must be included for sites that have received or may receive preliminary and final site plan approval but are not yet constructed.
 - b. The premises on which the licensee operates must comply with all Township zoning regulations and New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
 - c. The minimum bid that shall be considered for the license shall be \$350,000.00.
 - d. Prospective bidders must be pre-qualified, and only the bids of qualified bidders will be opened.
 - e. To pre-qualify, a prospective bidder must submit the following to the Township Clerk at the Township Municipal Building at 2261 Van Horne Road, Belle Mead, New Jersey 08502, on or before 10:00 a.m. on September 26, 2017:

(Item #18 Cont.)

- (1) A full and complete twelve-page Alcoholic Beverage Control Application form.
 - (2) A separate certification of proof of compliance by the applicant that it meets any and all conditions or requirements contained in this resolution and knows of no other reason why he or she would be disqualified from having an interest in a Retail Liquor License in the State of New Jersey under the standards set forth in the Alcoholic Beverage Control Act and the rules and regulations promulgated thereunder.
 - (3) The remittance of a deposit in the amount of \$35,000.00 (10% of minimum bid amount) by certified check, made payable to the "Township of Montgomery."
 - (4) A separately sealed opaque envelope containing the bid amount, the outside of which shall state "2017 Retail Distribution Liquor License Bid" and the name of the bidder.
4. At 10:00 a.m. on October 10, 2017, the Township Clerk shall publicly announce those prospective bidders who have pre-qualified for bidding in compliance with the Alcoholic Beverage Control Act, and the rules and regulations promulgated thereunder, Township ordinances, the conditions set forth in the published notices, and other applicable law. A list of such pre-qualified bidders shall be posted on the public announcements bulletin board in the Township Municipal Building 2261 Van Horne Road, Belle Mead, New Jersey 08502.
 5. The Township Clerk shall open the bids of the pre-qualified bidders at 10:00 a.m. on October 17, 2017 at the Township Municipal Building, 2261 Van Horne Road, Belle Mead, New Jersey 08502. Immediately after opening the sealed bids of the pre-qualified bidders, the Township Clerk shall publicly announce the amount of each bid and the name of each bidder.
 6. The Township Committee, by written resolution, adopted at the public meeting on October 19, 2017 shall award the license to the highest bidder, if the Township does not reject all bids. If the award is made to the highest qualified bidder, the ultimate issuance of the license shall be subject to each of the following:
 - a. Payment of the balance of the bid for the license by certified check made payable to the "Township of Montgomery" within five days of the date of the resolution of the Township Committee awarding the license. Failure to make timely payment of the balance shall, at the option of the Township, result in voiding of the license award and forfeiture of the successful bidder's deposit whereupon the Township may award the license to the next highest qualified bidder or take no further action.
 - b. Payment by the successful bidder of the New Jersey State License Application Fee.
 - c. Payment of the Annual Municipal Retail License Fee.
 - d. Satisfactory outcome of further municipal background checks to investigate the source of funds used to purchase the license.
 - e. Receipt of favorable State and/or federal criminal background checks for each prospective licensee.
 - f. Compliance with publication, hearing, and resolution requirements under *N.J.A.C. 13:2-2.1 et seq.*
 7. The deposit of all unsuccessful bidder(s) shall be returned within ten days of the date of the award of the license(s).
 8. The Township reserves the right to reject all bids where the highest qualified bid is not accepted.
 9. The sale may be postponed or cancelled at any time prior to the opening of the bids.
 10. If the license has not been issued pursuant to this resolution by March 26, 2018, no license shall thereafter be issued without further resolution by the Township Committee, determining to issue a new license.
 11. The successful bidder shall comply with all other provisions of *N.J.A.C.13:2-2.1 et seq.*, including, but not limited to, publication of notice of application.
- 18-1. 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, Trzaska
Nays - None
Absent - Smith

19. **ORDINANCE #17-1553** - Acquisition of Property - Kehilat Shalom (Block 6001, Lot 24) -
Public Hearing

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY, COUNTY OF SOMERSET AND STATE OF NEW JERSEY, AUTHORIZING THE ACQUISITION OF REAL PROPERTY, SPECIFICALLY BLOCK 6001, LOT 24 AND AUTHORIZING THE EXPENDITURE OF FUNDS FROM THE TOWNSHIP OF MONTGOMERY OPEN SPACE TRUST FUND.

B-1. Mayor Trzaska opened the hearing to the public.

B-2. Lauren Wasilauski, Open Space Coordinator, thanked the Kehilat Shalom for being patient during this process and for working with the Township to acquire this open space.

B-3. Committeeman Conforti moved that the public hearing be closed. 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 3rd day of August, 2017 and that notice thereof be published in an official newspaper as required by law.

19-1. Committeewoman Graham 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, Trzaska
Nays - None
Absent - Smith

20. **ORDINANCE #17-1554** - Traffic Regulations on Private Property-Montgomery Ridge -
Public Hearing

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

AN ORDINANCE AMENDING SCHEDULE XXI, TRAFFIC REGULATIONS ON PRIVATE PROPERTY, OF CHAPTER VII, TRAFFIC, OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984) TO ADD THE PRIVATE PROPERTY OF THE MONTGOMERY RIDGE DEVELOPMENT.

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

C. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 3rd day of August, 2017 and that notice thereof be published in an official newspaper as required by law.

20-1. 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, Trzaska
Nays - None
Absent - Smith

21. **APPROVAL OF MINUTES**

The Regular Session minutes of July 20, 2017 were approved as printed.

22. **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.

22-1. 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, Trzaska
Nays - None
Absent - Smith

23. **TENNIS COURTS**

Administrator Nieman stated that the Board of Education will send over a draft Shared Services agreement for Township review.

24. **SCHEDULING OF WEDDINGS**

Donna Kukla, Township Clerk, explained that the Clerk's office has people constantly requesting if the Mayor or former Mayors could perform their wedding ceremonies. She stated that she knew they were often too busy during the dates and hours requested. She stated that the County Clerk will perform weddings by appointment. She asked if the Governing Body wanted the Clerk's office to continue to offer this service or should we just send everyone to the County Clerk. Administrator Nieman stated that he would like to have posted on the website the fact that the Somerset County Clerk's office performs weddings by appointment.

25. **COMMITTEE AND SUB-COMMITTEE REPORTS**

25-1. **ENVIRONMENTAL COMMISSION**

Committeeman Conforti reported that the Environmental Commission discussed trying to finish up the bamboo ordinance that has been in discussion for some time.

25-2. **LANDMARKS COMMISSION**

Committeewoman Madrid reported that the Landmarks Commission was concerned about the Zoning Board being sued by Verizon for their approval of the cell tower in a historic district. They are planning on drafting a letter from the Commission trying to support the Zoning Board decision.

25-3. **OPEN SPACE AND RECREATION COMMITTEES**

Committeewoman Graham reported that she and Mayor Trzaska met with representatives of the Open Space and Recreation Committees and a representative of the Boy Scouts. She explained that the Boy Scouts are proposing that they be allowed to camp at the Cherry Brook Preserve. They are asking that property to be made into a camping facility.

25-4. **VETERANS MEMORIAL COMMITTEE**

Mayor Trzaska reported that the Montgomery Veterans Memorial Committee has scheduled a dedication ceremony recognizing Montgomery Township as a Purple Heart Community and also to honor former Montgomery resident Ashley Henderson-Huff. Ashley was killed by a suicide bomber in Iraq on September 19, 2006. The ceremony will be held on September 19 at 6:00 p.m. in the Court Room.

26. **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 subject to be discussed in this session is as follows:
 - Potential acquisition of Block 10001, Lot 7.01 {Drift} with public funds for open space, conservation, municipal purposes.
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public. Acquisition of property shall only be authorized by the Township Committee in a public session.

26-1. Committeeman Conforti moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Madrid and carried unanimously.

27. Meeting reconvened in Open Session and **ADJOURNMENT** was at 9:35 p.m. on a motion by Committeeman Conforti. The motion was seconded by Committeewoman Madrid and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk