

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
December 7, 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 - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

ASSISTANT CHIEF FINANCIAL OFFICER - Dale Melville

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. **ENERGY AGGREGATION UPDATE**

Administrator Nieman explained that the Township solicited bids again on the Municipal Electrical Aggregation program. The bids were not competitive, so the Township will allow PSE&G to become the default supplier of electricity. Their prices are competitive. The Township will go out to bid again in the Spring.

- 5-1. **RESOLUTION #17-12-255 - RESOLUTION REJECTING REFRESHED PRICE PROPOSALS RECEIVED DECEMBER 7, 2017 FROM THIRD PARTY POWER SUPPLIERS IN CONNECTION WITH THE MCEA**

WHEREAS, The Government Energy Aggregation Act of 2003 (P.L. 2003, c.24; N.J.S.A. 48:3-93.1 et seq.) ("Act") and rules promulgated by the New Jersey Board of Public Utilities (N.J.A.C. 14:4-6.1 et seq.) ("Rules") govern the establishment and implementation of a government energy aggregation program, which is a government-operated purchasing cooperative through which multiple energy consumers join together for the purchase of electric utility services by a government aggregator; and

WHEREAS, By Ordinance No. 13-1434 adopted on April 4, 2013, the Township of Montgomery ("Township") created a Government Energy Aggregation Program in the Township of Montgomery, New Jersey, known as the Montgomery Community Energy Aggregation ("MCEA"); and

WHEREAS, The Township is the Lead Agency of the MCEA; and

WHEREAS, The residents of Montgomery Township are included in the MCEA on an "opt-out" basis, as set forth in the Rules; and

WHEREAS, On August 9, 2013 the Township publicly noticed and issued a Request for Proposals for electric generation service and government energy aggregation services under the MCEA, and on September 5, 2013 awarded a contract to a third-party supplier for a 24-month contract running from December 2013 to December 2015 which resulted in significant energy cost savings for Township residents participating in the MCEA; and

WHEREAS, By Ordinance No. 15-1500 adopted on December 3, 2015, the Township of Montgomery authorized the continuation of the MCEA; and

WHEREAS, On February 8, 2016 the Township publicly noticed and issued a Request for Proposals for electric generation service and government energy aggregation services under the MCEA, and on March 3, 2016 awarded a contract to a third-party supplier for an 18-month contract running from June 2016 to December 2017 which has resulted in significant energy cost savings for Township residents participating in Round 2 of the MCEA; and

WHEREAS, By Ordinance No. 17-1547 adopted on June 1, 2017, the Township of Montgomery authorized the further renewal and continuation of the MCEA; and

WHEREAS, By virtue of Ordinance Nos. 13-1434, 15-1500 and 17-1547 and in accordance with the Act and Rules, the Township is authorized to award a contract or contracts for the Provision of Electric Generation Service and Government Energy Aggregation Services on behalf of participating residential customers; and

WHEREAS, On July 20, 2017, the Township, in its capacity as Lead Agency of the MCEA, publicly noticed and issued a Request for Proposals (RFP) for the Provision of Electric Generation Service and Government Energy Aggregation Services for Round 3 of the MCEA ("MCEA-Round 3") by New Jersey Board of Public Utilities (NJBPU)-licensed and qualified electric power suppliers in New Jersey; and

(Item #5-1 Cont.)

WHEREAS, The RFP provided for a two-stage process that included: Stage 1 for the submission of supplier questions and comments and the submission of qualification documents by interested, NJBPU-licensed electric power suppliers; and Stage 2 for the submission of price proposals; and

WHEREAS, The RFP provides for the submission of separate pricing for electric generation service for one pricing group, Participating Residential Accounts, for several potential start dates and contract durations (terms), and for two different contract language options: Option A) using the form of Master Performance Agreement attached to the RFP; and Option B) using the form of MPA attached to the RFP except that subsection 3.2 (a) (iii) (C) is removed, and a new subsection 2.1.5 as set forth in the RFP is added to the MPA; and the RFP provides for the award of a contract, including start date, contract duration and contract language option, at the discretion of the Township of Montgomery and in accordance with the evaluation criteria set forth in the RFP; and

WHEREAS, During Stage 1 non-binding Notices of Intent and other qualification documents were received from four (4) NJBPU-licensed electric power suppliers; and

WHEREAS, A number of supplier questions and comments were received and, as a result, on August 8, 2017 a document entitled "Responses to Supplier Questions and Addendum No.1," which supplemented and amended the RFP, was issued and distributed to all suppliers that had submitted a Notice of Intent to Propose and/or requested a copy of the RFP; and

WHEREAS, Stage 2 price proposals and accompanying Transmittal Letters were submitted by three (3) NJBPU-licensed electric power suppliers by the 2:00 p.m. August 17, 2017 deadline set forth in the RFP; and

WHEREAS, The Township, in consultation with its energy agent, conducted an in-depth evaluation of qualifications and analysis of price proposals, in accordance with the evaluation criteria set forth in the RFP and Addendum No.1; and

WHEREAS, As a result of the evaluation of qualifications and proposals and analysis of price proposals submitted on August 17, 2017, the Montgomery Township Committee determined that no contract award be made at that time and, as a result, resolved to reject all price proposals received on August 17, 2017, and further resolved that the RFP be held open for a period of up to 120 days, and that the Township may accept refreshed prices in accordance with the RFP, at any time during that 120-day period, consistent with applicable law; and

WHEREAS, On November 21, 2017, Addendum No.2 to the RFP was issued and distributed to all suppliers that had submitted a Notice of Intent to Propose and/or requested a copy of the RFP, indicating that the Township would accept refreshed price proposals by no later than 2:00 p.m. on December 7, 2017, for a contract term commencing in April 2018 and continuing for a term of either fourteen (14) or twenty (20) or twenty-four (24) months; and

WHEREAS, Refreshed price proposals and accompanying Transmittal Letters were submitted by two (2) NJBPU-licensed electric power suppliers by the 2:00 p.m. December 7, 2017 deadline set forth in Addendum No.2 to the RFP; and

WHEREAS, The Township, in consultation with its energy agent, has conducted an in-depth evaluation of qualifications and analysis of refreshed price proposals, in accordance with the evaluation criteria set forth in the RFP and Addendum Nos.1 and 2; and

WHEREAS, Pursuant to the RFP, the Township reserved the right to make an award to a supplier, or to make no award at all; and

WHEREAS, Pursuant to the Rules, the Township shall base its award of a contract to a NJBPU-licensed electric power supplier for the Provision of Electric Generation Service and Government Energy Aggregation Services for the MCEA upon the most advantageous proposal, price and other factors considered; and

WHEREAS, As a result of the evaluation of qualifications and proposals and analysis of refreshed price proposals submitted on December 7, 2017, the Montgomery Township Committee has determined that no contract award shall be made at this time.

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

1. The Montgomery Township Committee shall make no contract award as a result of the refreshed price proposals submitted on December 7, 2017; said price proposals are hereby rejected on the basis that the award of a contract based thereon is not in the Township's best interests.
2. In consultation with its energy agent, the Township shall monitor energy market conditions and re-issue a RFP for a new MCEA contract at such time as the Township, in consultation with its energy agent, determines appropriate.

5-1. 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

6. **CONSENT AGENDA** - All matters listed hereunder are considered to be routine in nature and will be enacted in one motion. Any Township Committeeperson may request that an item be removed for separate consideration.

A. **RESOLUTION #17-12-256 - REFUND OVERPAID 2017 TAXES**

BE IT RESOLVED That a refund be given to the following for the overpayment of 2017 taxes:

| <u>Block</u> | <u>Lot</u> | <u>Name</u> | <u>Amount</u> |
|--------------|------------|-----------------------------------|---------------|
| 6001 | 27.01 | Marco Cucchi & Molly S. Lependorf | \$5,940.13 |
| 24001 | 26 | Dennis D'Angelo | \$ 400.49 |
| 25001 | 16 | Sculpture House, Inc. | \$ 934.96 |
| 37004 | 1.76 | Harriet S. Stuart | \$2,271.56 |

B. **RESOLUTION #17-12-257 - REDEMPTION OF TAX SALE CERTIFICATES #2017-02, #2017-09, #2017-25, #2017-28 AND #2017-30**

BE IT RESOLVED That a refund in the amount of \$4,653.74 be given to Natu Patel, 505 Hoagland Court, Hillsborough, NJ 08844 for the redemption of Tax Sale Certificate #2017-02 on Block 5024, Lot 6.02 CONDO.

BE IT FURTHER RESOLVED That a refund in the amount of \$103,248.92 be given TFS Cust Fig Cap Inv NJ13 LLC, P.O. Box 54472, New Orleans, LA 70154 for the redemption of Tax Sale Certificate #2017-09 on Block 7007, Lot 34.

BE IT FURTHER RESOLVED That a refund in the amount of \$3,577.83 be given to Natu Patel, 505 Hoagland Court, Hillsborough, NJ 08844 for the redemption of Tax Sale Certificate #2017-25 on Block 37002, Lot 1.165.

BE IT FURTHER RESOLVED That a refund in the amount of \$2,734.89 be given to Natu Patel, 505 Hoagland Court, Hillsborough, NJ 08844 for the redemption of Tax Sale Certificate #2017-28 on Block 37003, Lot 1.142.

BE IT FURTHER RESOLVED That a refund in the amount of \$3,737.02 be given to Natu Patel, 505 Hoagland Court, Hillsborough, NJ 08844 for the redemption of Tax Sale Certificate #2017-30 on Block 37004, Lot 6.59.

C. **RESOLUTION #17-12-258 - AUTHORIZING RENEWAL OF RIGHT-OF-ENTRY AGREEMENT - Country Club Meadows**

WHEREAS, A Right-of-Entry Agreement with Country Club Meadows expired on November 17, 2017 and needs to be renewed.

NOW, THEREFORE, BE IT RESOLVED That the Mayor and Clerk are hereby authorized to renew and execute a Right-of-Entry Agreement with Country Club Meadows, LLC to construct an extension to Covert Drive, sidewalk, play area, walking path, and a footbridge over Crusier Brook on the property pursuant to sections 7-b.iv, 7.b.v and 7.b.vi of the consent order and stipulation of settlement dated July 10, 2014 between Montgomery Township and Country Club Meadows, LLC concerning properties owned by the developer in the Belle Mead portion of Montgomery Township.

D. **RESOLUTION #17-12-259 - RELEASE OF MAINTENANCE GUARANTEE - Bloomberg Business Park Solar Collector Project**

WHEREAS, Gail Smith, Township Engineer, has certified on November 28, 2017 that all public improvements in a project known as Bloomberg Business Park - Solar Collector Project have been in satisfactory continuous use for a period greater than two years and therefore recommends the release of the posted maintenance guarantee.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that Maintenance Bond #0906077 in the amount of \$53,811.90 be released to Sun Power Corporation Systems. 700 South Clinton Avenue, Trenton, NJ 08611.

BE IT FURTHER RESOLVED That the release of the Maintenance Bonds shall be conditioned upon the posting of adequate escrow funds.

E. **RESOLUTION #17-12-260 - AMENDING RESOLUTION #17-10-230 - 2ND REDUCTION OF PERFORMANCE GUARANTEE AND ACCEPTANCE OF SANITARY SEWERAGE IMPROVEMENTS - Estates at Montgomery, Phase I**

WHEREAS, Gail Smith, Township Engineer, has certified on October 4, 2017 that a performance guarantee for Estates at Montgomery, Phase I, may be reduced; and

WHEREAS, On October 5, 2017, Resolution #17-10-230 was adopted by the Township Committee authorizing a reduction of a performance guarantee and acceptance of sanitary sewerage improvements for Estates at Montgomery, Phase I; 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 October 4, 2017; and

WHEREAS, Construction of the Riverside and Oxbridge WWTP Consolidation Project is expected to begin shortly; and

WHEREAS, The force main for the Oxbridge WWTP portion of the consolidation project will discharge into the sanitary sewer line on Estates Boulevard; and

WHEREAS, This sewer line was constructed as part of Estates at Montgomery Section I; and

(CONSENT AGENDA Item E Cont.)

WHEREAS, In order to make the force main connection, the Township should accept the sanitary sewerage improvements at this time. The completed sanitary sewerage improvements are acceptable to the Engineering department, with the exception of adjustment of manhole elevations for final paving.

WHEREAS, The amount of the reduction authorized by Resolution #17-10-230 was incorrect due to a revised engineer's estimate that added an additional \$4,800.00 to the original guarantee amount.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the revised 2nd reduced performance guarantee amount of \$355,527.00 reduced from the revised original performance bond amount of \$836,975.40 (\$832,175.40 + \$4,800.00) be posted as follows:

| | |
|--------------------------------------------|--------------|
| 10% Cash | \$ 35,552.70 |
| 90% Cash, Letter of Credit, or Surety Bond | \$319,974.30 |

BE IT FURTHER RESOLVED That the reduction in the performance guarantee include the condition that Fleet Montgomery, LLC post a 2-year maintenance guarantee in the amount of 15% of the sanitary sewerage improvements portion of the performance guarantee amount, \$96,688.00:

15% Maintenance Guarantee \$14,503.20

Upon satisfactory completion of this condition, it is recommended that the Township accept the following:

1. **Sanitary Sewerage Improvements** - Sanitary sewerage improvements located as follows:
 - a. Along Estates Boulevard from Manhole #9 at Station 1+64, to Manhole #15 at Station 12+50;
 - b. Along Remy Court from Manhole #13 at Station 0+00, to approximately Station 2+50;
 - c. Through the Pike Brook WWTP property, Block 6001, Lot 19 from Manhole #15 at the end of Estates Boulevard to Manhole #16 to Manhole #17.

The reduced performance guarantee amount for the remaining improvements is sufficient to complete the remaining work and there is adequate engineering escrow posted for inspections.

F. **RESOLUTION #17-12-261 - AMENDING RESOLUTION #17-10-231 - 2ND REDUCTION OF PERFORMANCE GUARANTEE AND ACCEPTANCE OF SANITARY SEWERAGE IMPROVEMENTS** - Estates at Montgomery, Phase II

WHEREAS, Gail Smith, Township Engineer, has certified on October 4, 2017 that a performance guarantee for Estates at Montgomery, Phase II, may be reduced; and

WHEREAS, On October 5, 2017, Resolution #17-10-231 was adopted by the Township Committee authorizing a reduction of a performance guarantee and acceptance of sanitary sewerage improvements for Estates at Montgomery, Phase II; 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 October 4, 2017; and

WHEREAS, Construction of the Riverside and Oxbridge WWTP Consolidation Project is expected to begin shortly; and

WHEREAS, The force main for the Oxbridge WWTP portion of the consolidation project will discharge into the sanitary sewer line on Estates Boulevard; and

WHEREAS, This sewer line was constructed as part of Estates at Montgomery Section I; and

WHEREAS, In order to make the force main connection, the Township should accept the sanitary sewerage improvements at this time. The completed sanitary sewerage improvements are acceptable to the Engineering department, with the exception of adjustment of manhole elevations for final paving.

WHEREAS, The amount of the reduction authorized by Resolution #17-10-231 was incorrect due to a revised engineer's estimate that added an additional \$5,820.00 to the original guarantee amount.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the revised 2nd reduced performance guarantee amount of \$285,070.02 reduced from the revised original performance bond amount of \$604,872.60 (\$599,052.60 + \$5,820.00) be posted as follows:

| | |
|--------------------------------------------|--------------|
| 10% Cash | \$ 28,507.00 |
| 90% Cash, Letter of Credit, or Surety Bond | \$256,563.02 |

(CONSENT AGENDA Item F Cont.)

BE IT FURTHER RESOLVED That the reduction in the performance guarantee include the condition that Fleet Montgomery, LLC post a 2-year maintenance guarantee in the amount of 15% of the sanitary sewerage improvements portion of the performance guarantee amount, \$43,340.00:

15% Maintenance Guarantee \$6,801.00

Upon satisfactory completion of this condition, it is recommended that the Township accept the following:

1. **Sanitary Sewerage Improvements** - Sanitary sewerage improvements located along Remy Court from approximately Station 2+50 to Manhole No. 2 at approximately Station 11+41;

The reduced performance guarantee amount for the remaining improvements is sufficient to complete the remaining work and there is adequate engineering escrow posted for inspections.

G. **RESOLUTION #17-12-262 - DECLARING CERTAIN GENERAL EQUIPMENT AS SALVAGE FOR DISPOSAL**

WHEREAS, The Township Administrator desires to declare certain property as salvage to be disposed of.

NOW, THEREFORE, BE IT RESOLVED That the Township Committee does hereby authorize the disposal of the following items:

- 40-50 conference chairs
- 10 office desks, chairs and file cabinets
- 1 ceiling mounted overhead projector and screen
- 1 cleaning cart
- 1 floor buffer
- 1 yellow metal cage for outside storage of propane tanks
- 1 yellow metal storage cabinet for flammable materials
- Assorted ornamental garden grass (planted in and around buildings)

H. **RESOLUTION #17-12-263 - AUTHORIZING SEWER PARTICIPATION AGREEMENT - Arun and Sanjana Rimal - Block 8002, Lot 4**

BE IT RESOLVED By the Montgomery Township Committee that the Mayor and Clerk are hereby authorized to execute a Sewer Participation Agreement with Arun and Sanjana Rimal related to sewer capacity in the Riverside Farms Sewage Treatment Plant for Block 8002, Lot 4.

I. **RESOLUTION #17-12-264 - SHARED SERVICES AGREEMENT - UCC Inspection and Support Staff Services**

WHEREAS, N.J.S.A. 40A:65-1 et seq., Uniform Shared Services and Consolidation Act, permits municipalities to enter into contracts for the purposes of sharing services; and

WHEREAS, From time to time the Townships of Montgomery, Franklin, Branchburg and Hillsborough have a need for additional Uniform Construction Code inspectors and support staff; and

WHEREAS, The Townships of Montgomery, Franklin, Branchburg and Hillsborough deem it to be in their best interests to enter into a Shared Services arrangement to provide for the sharing of services of Uniform Construction Code inspectors and support staff.

NOW, THEREFORE, BE IT RESOLVED, By the Township Committee of the Township of Montgomery in Somerset County, New Jersey, that the Shared Services Agreement between the Townships of Montgomery, Franklin, Branchburg and Hillsborough for Uniform Construction Code inspection and support staff services is hereby approved and the Mayor and Clerk are authorized to sign the same; and

BE IT FURTHER RESOLVED That the agreement shall take effect upon the adoption of concurrent resolutions by all parties to the agreement.

J. **RESOLUTION #17-12-265 - AUTHORIZING A PUBLIC HEALTH SHARED SERVICES PARTNERSHIP AGREEMENT BETWEEN THE MERCER COUNTY DEPARTMENT OF HEALTH (LINCS AGENCY) AND THE MONTGOMERY TOWNSHIP HEALTH DEPARTMENT FOR PUBLIC HEALTH PREPAREDNESS AND RESPONSE TO BIOTERRORISM, OUTBREAKS OF INFECTIOUS DISEASE, AND OTHER PUBLIC HEALTH THREATS AND EMERGENCIES**

BE IT RESOLVED That authorization is hereby given for an agreement between the Mercer County Department of Health (LINCS AGENCY) and the Montgomery Township Health Department to ensure an adequate and appropriate level of countywide participation and collaboration for public health preparedness and response to bioterrorism, outbreaks of infectious disease and other public health threats and emergencies, and in accordance with the requirements of the New Jersey Department of Health's Local Core Capacity for Public Health Emergency Preparedness Grant.

(CONSENT AGENDA Cont.)

K. RESOLUTION #17-12-266 - AUTHORIZING EXECUTION OF THE GOVERNOR'S COUNCIL ON ALCOHOLISM AND DRUG ABUSE GRANT FOR CYCLE JULY 2018-JUNE 2019 - MUNICIPAL ALLIANCE

WHEREAS, The Governor's Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey; and

WHEREAS, The Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and

WHEREAS, The Township Committee further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and

WHEREAS, The Township Committee has applied for funding to the Governor's Council on Alcoholism and Drug Abuse through the County of Somerset.

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey hereby recognizes the following:

1. The Township Committee does hereby authorize submission of a strategic plan for the Montgomery/Rocky Hill Municipal Alliance grant for fiscal year 2018-2019 in the amount of:

| | |
|------------|--------------|
| DEDR | \$ 19,700.16 |
| Cash Match | \$ 4,925.04 |
| In-Kind | \$ 14,775.12 |

2. The Township Committee acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

L. RESOLUTION #17-12-267 - AUTHORIZATION TO SIGN AN AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION TO RELOCATE RIPARIAN BOUNDARY - Crusier Brook Bridge Replacement Project

BE IT RESOLVED By the Township Committee of the Township of Montgomery that authorization is hereby given for the Township to sign an agreement with the New Jersey Department of Transportation with regard to the relocation of the Riparian Boundary for the Crusier Brook Bridge Replacement project.

M. RESOLUTION #17-12-268 - AUTHORIZING EXECUTION OF THE SOMERSET COUNTY COMMODITY RESALE AGREEMENT ID#201SCCRS - 2017-2021

WHEREAS, Resolution #11-9-237 adopted on September 15, 2011, authorized the execution of a Public Works Commodities and Services through Cooperative Joint Services Agreement with Somerset County; and

WHEREAS, Said agreement was for the period January 1, 2012 to December 31, 2021; and

WHEREAS, Somerset County wishes to replace the previous agreement on file due to modifications in accordance with the rules and regulations set for by the State of New Jersey Department of Community Affairs, Division of Local Government Services.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery that the Mayor and Clerk are hereby authorized to execute the modified agreement expiring December 31, 2021.

N. RESOLUTION #17-12-269 - RESOLUTION AUTHORIZING THE PROVISION OF A LOAN PURSUANT TO THE TOWNSHIP OF MONTGOMERY AFFORDABILITY ASSISTANCE PROGRAM FOR THE PURCHASER OF AN AFFORDABLE HOUSING UNIT LOCATED AT 604 MCKINLEY COURT

WHEREAS, Applicant 2017-06 ("Owner") is under contract to purchase 604 McKinley Court, Princeton, NJ 08540, 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 Owner has requested a down payment assistance loan through Montgomery Township's Affordability Assistance Program toward the purchase of 604 McKinley Court, Princeton, NJ 08540; and

WHEREAS, The Township's Affordable Housing Administrative Agent, Community Grants Planning and Housing, has reviewed the Owner's application and qualified the Owner for the requested assistance; and

WHEREAS, The amount of the requested Loan for down payment assistance is \$20,270.00 and

WHEREAS, The Township is willing, pursuant to the Affordable Assistance Program, to extend a Loan to the Owner in the amount of \$20,281.60; and

(CONSENT AGENDA Item N Cont.)

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

NOW THEREFORE BE IT RESOLVED On this 7th day of December, 2017, by the Township Committee 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 Affordability Assistance Program Repayment Agreement with Owner and provide Owner with a Loan to be used as a down payment toward the purchase of an affordable housing unit located at 604 McKinley Court, Princeton, NJ.
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.

6-1. Administrator Nieman mentioned that the equipment that was declared as salvage (Item G - Resolution #17-12-262) was offered to Pennington Borough.

6-2. 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

7. **RESOLUTION #17-12-270 - CHANGE ORDER #1 - Lenape Swim Club, Runyon Barn and Folsiak Property Demolition Project (Decrease)**

WHEREAS, Resolution #17-7-175 adopted on July 20, 2017, authorized the award of a contract for the Lenape Swim Club, Runyon Barn and Folsiak Property Demolition Project to IBN Construction Corp. in the amount of \$156,098.00; and

WHEREAS, The Purchasing Agent and Open Space Coordinator have requested the Committee's approval of a Change Order to reflect quantity adjustments and costs for the project; and

WHEREAS, The work comprising Change Order #1 will result in a net decrease in the original contract amount by \$8,750.00 and reduces the contract amount to \$147,348.00; 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 Clerk/Purchasing Agent.

7-1. 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

8. **RESOLUTION #17-12-271 - AUTHORIZING RIGHT-OF-WAY USE AGREEMENT - New York SMSA Limited Partnership (d/b/a Verizon Wireless)**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Right-of-Way Use Agreement with New York SMSA Limited Partnership (d/b/a Verizon Wireless) for purposes of operating the wireless telecommunications Network or Networks serving Verizon Wireless customers.

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, Trzaska
Nays - None
Absent - Smith

9. **RESOLUTION #17-12-272 - RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT WITH MONTGOMERY TOWNSHIP BOARD OF EDUCATION FOR THE CONSTRUCTION OF TENNIS COURTS AT MONTGOMERY UPPER MIDDLE SCHOOL**

WHEREAS, The Township of Montgomery and Montgomery Township Board of Education have determined that it is in the public's interests to enter into a shared services agreement for the construction of tennis courts at Montgomery Upper Middle School; and

WHEREAS, The tennis courts to be constructed will be used for Board of Education and Township programs, and when not being used for Board of Education or Township programs, will be open to individual residents; and

WHEREAS, The Board of Education will manage the contract for the construction of the tennis courts under the terms of the shared services agreement; and

WHEREAS, The Board of Education will be responsible for maintenance of the courts after their construction; and

WHEREAS, The shared services agreement will have a term of thirty (30) years, subject to additional renewal; and

(Item #9 Cont.)

WHEREAS, Funding for the Township's share of the costs of construction is available pursuant to Ordinance No. 16-1521.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery in Somerset County, New Jersey that the shared services agreement with the Montgomery Township Board of Education for the construction of tennis courts at the Montgomery Upper Middle School is hereby approved, and the Mayor and Clerk are authorized to execute the same on behalf of the Township.

- 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, Trzaska
Nays - None
Absent - Smith

10. **RESOLUTION #17-12-273 - RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTGOMERY DESIGNATING E1004A, LLC AS REDEVELOPER FOR PROPERTY SHOWN AS BLOCK 34001, LOTS 60, 61 & 62 ON THE TAX ASSESSMENT MAPS OF MONTGOMERY TOWNSHIP AND SOMETIMES REFERRED TO AS THE "MONTGOMERY FIVE" SITE**

WHEREAS, By Resolution No. 17-17-161 adopted July 5, 2017, the Township Committee directed the Montgomery Township Planning Board ("Planning Board") to conduct an investigation into whether the property located at 980, 966 & 958 State Road (Route 206), also being known as Block 34001, Lots 60, 61 & 62 on the Montgomery Township Tax Assessment Maps (rev. ed. 2017) and sometimes referred to as the "Montgomery Five" site (hereinafter the "Property") constitutes and shall be established by the Township as a non-condemnation area in need of redevelopment under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.;

WHEREAS, The Planning Board completed its investigation of the Property, received and reviewed the report of its experts Michael F. Sullivan, ASLA, AICP and Emily Goldman, PP, AICP titled "Preliminary Investigation of an Area in Need of Redevelopment Study (Non-Condensation): Montgomery Five Tract" (hereinafter the "Report"), and, following a public hearing on August 7, 2017, acted to recommend that the Property be declared a non-condemnation area in need of redevelopment, said action being memorialized by resolution of August 7, 2017;

WHEREAS, By Resolution No. 17-8-196 adopted August 17, 2017, the Township Committee accepted the Planning Board's findings and the Report, and determined the Property to be a non-condemnation area in need of redevelopment and, pursuant to N.J.S.A. 40A:12A-7, directed the Planning Board to prepare a redevelopment plan;

WHEREAS, By letter dated August 30, 2017, the New Jersey Department of Community Affairs confirmed the Township's designation of the Property as a non-condemnation area in need of redevelopment;

WHEREAS, Working with its experts, Michael F. Sullivan, ASLA, AICP and Emily Goldman, PP, AICP, the Planning Board prepared a redevelopment plan for the Property entitled "Montgomery Five Redevelopment Plan," dated September 18, 2017 (the "Redevelopment Plan");

WHEREAS, On September 18, 2017 the Planning Board approved the Redevelopment Plan and referred it to the Township Committee pursuant to N.J.S.A. 40A:12A-7f;

WHEREAS, Adoption of the Redevelopment Plan was also supported and recommended by the Planning Board's 2017 Re-examination Report of the Master Plan adopted September 18, 2017;

WHEREAS, The Township Committee reviewed the Redevelopment Plan, determined that it has been designed to effectuate the Township's Master Plan, and approved the Redevelopment Plan on October 5, 2017 with its adoption of Ordinance No. 17-1559 entitled "AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY, IN SOMERSET COUNTY ADOPTING, PURSUANT TO N.J.S.A. 40A:12A-7, A REDEVELOPMENT PLAN FOR THE PROPERTY LOCATED AT 980, 966 & 958 STATE ROAD (ROUTE 206), ALSO BEING KNOWN AS BLOCK 34001, LOTS 60, 61 & 62 ON THE MONTGOMERY TOWNSHIP TAX ASSESSMENT MAPS (SOMETIMES REFERRED TO AS THE "MONTGOMERY FIVE" SITE);"

WHEREAS, Pursuant to N.J.S.A. 40A:12A-8(f), the Township Committee is empowered to designate a redeveloper to effectuate the Amended Redevelopment Plan;

WHEREAS, The principal of E1004A, LLC, a New Jersey limited liability company has successful experience as a developer in the region; and

WHEREAS, E1004A, LLC, a New Jersey limited liability company has the ability to successfully plan, gain funding for, and construct the project pursuant to the Amended Redevelopment Plan.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery that E1004A, LLC, a New Jersey limited liability company is hereby designated as the Redeveloper of the Redevelopment Plan.

- 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, Trzaska
Nays - None
Absent - Smith

11. **RESOLUTION #17-12-274 - A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTGOMERY AUTHORIZING THE EXECUTION OF A REDEVELOPMENT AGREEMENT WITH E1004A, LLC**

WHEREAS, The New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, establishes that the governing body of a municipality may act as a redevelopment authority; and

WHEREAS, The Township Committee, acting as Montgomery Township's redevelopment authority and by virtue of Ordinance No. 17-1559, AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY, IN SOMERSET COUNTY ADOPTING, PURSUANT TO N.J.S.A. 40A:12A-7, A REDEVELOPMENT PLAN FOR THE PROPERTY LOCATED AT 980, 966 & 958 STATE ROAD (ROUTE 206), ALSO BEING KNOWN AS BLOCK 34001, LOTS 60, 61 & 62 ON THE MONTGOMERY TOWNSHIP TAX ASSESSMENT MAPS (SOMETIMES REFERRED TO AS THE "MONTGOMERY FIVE" SITE) adopted October 5, 2017, approved a redevelopment plan for Block 34001, Lots 60, 61 & 62 (the "Redevelopment Area"); and

WHEREAS, The Township Committee is authorized to undertake redevelopment projects, and, in furtherance thereof, provide for the implementation of the Redevelopment Plan approved for the Redevelopment Area; and

WHEREAS, On December 7, 2017, the Township Committee adopted Resolution #17-12-273, designating E1004A, LLC, a New Jersey limited liability company as the redeveloper for the Redevelopment Area; and

WHEREAS, The Township Committee and E1004A, LLC desire to enter into a redevelopment agreement for the Redevelopment Area in furtherance of the Redevelopment Plan.

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

1. A redevelopment agreement with E1004A, LLC for the redevelopment of the Redevelopment Area is hereby approved, and the Mayor & Clerk are authorized to execute the same on behalf of the Township; and
2. The Mayor, Township Clerk, Township Administrator, Township Attorney and any and all other appropriate staff are authorized to take such steps as are necessary to implement the redevelopment agreement with E1004A, LLC.

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

12. **RESOLUTION #17-12-275 - AMENDMENT TO RESOLUTION 17-11-250 RESOLUTION AUTHORIZING ENTRY INTO A SUBLEASE WITH THE SOMERSET COUNTY IMPROVEMENT AUTHORITY PURSUANT TO THE SOMERSET MUNICIPAL BANC PROGRAM TO PURCHASE POLICE VEHICLES AND RELATED EQUIPMENT**

WHEREAS, Under the Somerset Municipal Banc Program ("Program"), various municipalities, educational services commissions and school districts within the County of Somerset ("County") and the County (each a "Participant") may submit a request to the Somerset County Improvement Authority ("Authority") to borrow funds to finance the purchase, through a lease, of certain capital equipment and, if applicable, other personal property ("Equipment"); and

Under the Somerset Municipal Banc Program, the Authority entered into the lease, entitled "Sublease Purchase Agreement," dated November 02, 2017 ("Authority Lease") with TD Equipment Finance, Inc. ("Lessor"), to permit the Lessor to acquire and lease the Equipment to the Authority in exchange for payment over time; and

WHEREAS, Pursuant to the Authority Lease, the Authority has the right to sublease the Equipment to a Participant in exchange for payment, subject to annual appropriation of said Participant, in an amount sufficient to pay the corresponding payments from the Authority to the Lessor for the Equipment, plus all administrative expenses of the Program; and

WHEREAS, Pursuant to the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto, specifically Section 37 thereof (N.J.S.A. 40:37A-79), the County may for the purpose of aiding the Authority in the planning, undertaking, acquisition, construction or operation of a public facility, guaranty the punctual payment of moneys for the purposes of the Authority (the "County Guaranty"); and

WHEREAS, In order to implement the County Guaranty, and in accordance with the terms of that certain agreement entitled Guaranty Agreement between the County and the Authority (the "County Agreement"), the County intends to appropriate moneys to the Authority to the extent the lease payments made by the Authority to the Lessor are not sufficient; and

WHEREAS, The Township of Montgomery ("Township") has made a request under the Program for financing to purchase three police vehicles and related equipment ("Police Equipment"); and

WHEREAS, The Authority has prepared a sublease, entitled "Sublease Purchase Agreement" ("Participant Lease") to allow the Township to purchase the Police Equipment with payments to be made over a three-year period.

(Item #12 Cont.)

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

Section 1. That the Participant Lease, in the form presented at this meeting, is hereby approved, and the Township's Mayor, Administrator, Clerk, and Chief Financial Officer (each an "Authorized Participant Representative") are hereby authorized to execute the Participant Lease, with such additions, deletions or modifications as such officer shall approve, and to deliver the same to the addresses designated on the Participant Lease, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 2. That any Authorized Participant Representative is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for the execution and delivery of the Participant Lease and for carrying out the sale, issuance and delivery of the Police Equipment, and all related transactions contemplated by this resolution.

Section 3. This Resolution constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Township reasonably expects to pay expenditures with respect to the Police Equipment prior to the date that the Township incurs obligations under the Participant Lease. The Township reasonably expects to reimburse such expenditures with the proceeds of obligations to be incurred by the Township under the Participant Lease. The principal amount of the Township's obligation for the Police Equipment is \$122,956.19, with the total amount of the Township's obligation under the Participant Lease (principal plus \$3,167.95 interest plus \$1,229.57 fee) to be \$127,353.71.

Section 4. A copy of the Participant Lease is available for review at the office of the Township Clerk during normal business hours.

Section 5. This resolution shall become effective immediately.

12-1. 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

13. **RESOLUTION #17-12-276 - MODIFICATION OF TERMS TO STREET/ RIGHT-OF-WAY OPENING PERMIT NOS. 17-R-10 AND 17-R-11 - NEW JERSEY AMERICAN WATER COMPANY (NJAW)**

WHEREAS, Pursuant to Township Street/ Right-of-way Opening Permit Nos. 17-R-10 and 17-R-11 New Jersey American Water Company ("NJAW") installed approximately 1,840 Linear Feet of 12" waterline in the public right-of-way of Township Line Road and Pike Run Road; and

WHEREAS, During the course of said installation, the public right-of-way was damaged; and

WHEREAS, NJAW agreed to complete repairs to the right-of-way consisting of a 2" roadway mill and 2" overlay from edge to edge on Township Line Road and a 2" roadway mill and 2" overlay of one-half of the roadway on Pike Run Road in the areas where the waterline impacted the existing pavement; and

WHEREAS, Gail Smith, the Township Engineer, has recently discussed said repairs with representatives from NJAW, and the Township Engineer and NJAW representatives believe both parties would benefit from NJAW providing the Township with a payment in the amount of \$69,750.00 in lieu of actual restoration so the Township may arrange for the repair work to be completed according to a schedule and in a manner that would be more advantageous to the Township; and

WHEREAS, The Township Engineer recommends that the Township accept the aforesaid payment of \$69,750.00 in lieu of requiring the repairs.

NOW THEREFORE BE IT RESOLVED by the Montgomery Township Committee that the agreement between the Township and NJAW be modified to permit the payment in lieu of actual restoration so the Township may arrange for the work to be completed according to its needs;

BE IT FURTHER RESOLVED, that this resolution shall not take effect until it has been countersigned by the properly designated representatives of NJAW to signify their agreement to this resolution.

13-1. 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

14. **RESOLUTION #17-12-277 - RESOLUTION AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT AND RELEASE CONCERNING THE MID-AMERICAN SALT LITIGATION**

WHEREAS, The Township is currently involved in litigation filed in the Federal District Court by Mid-American Salt, LLC ("Mid-American") entitled *Mid-American Salt, LLC. v. Morris County Cooperative Pricing Council et al.*, Federal Court, District of New Jersey, Docket No. 2:17-cv-04262 (SDW/LDW), concerning an agreement to purchase roadway rock salt during the winter of 2016-17; and

(Item #14 Cont.)

WHEREAS, Since the filing of the litigation, the parties have worked to address and amicably resolve the claims asserted in the litigation, and now desire to enter into a Settlement Agreement and Release to resolve this pending litigation; and

WHEREAS, Settlement of the litigation presents an opportunity for the Township to resolve the matter pending between the parties, will result in significant cost saving and other benefits to the Township, will provide certainty regarding the outcome of claims asserted, and serves the interest of the public.

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

1. The preamble to this Resolution is hereby incorporated as if more fully set forth herein.
2. The Mayor and Clerk are hereby authorized and directed to sign on behalf of the Township the above-reference Settlement Agreement and Release, a copy of which is on file in the Township Clerk's Office, or such other substantially similar agreement, the terms and form of which shall have been reviewed and approved by the Township Attorney in consultation with the Township Administrator.
3. The Mayor, Administrator, Clerk, Township Attorney, and other appropriate officers, employees and professionals, are hereby authorized and directed to prepare and execute any and all documents and undertake any and all acts necessary to effectuate the above-referenced settlement.
4. This Resolution shall take effect immediately.

14-1. 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

15. **RESOLUTION #17-12-278 - RESOLUTION RESCINDING RESOLUTION #17-10-239**

WHEREAS, The Township Committee adopted Resolution #17-10-239 on October 19, 2017 authorizing issuance of a plenary retail distribution license to MTC Restaurant IV, LLC; and

WHEREAS, Resolution #17-10-239 was premature procedurally.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery, County of Somerset, New Jersey that Resolution #17-10-239 is hereby rescinded.

15-1. 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

16. **RESOLUTION #17-12-279 - RESOLUTION ACCEPTING BID OF MTC RESTAURANT IV, LLC FOR PLENARY RETAIL DISTRIBUTION LICENSE TO BE ISSUED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTGOMERY**

WHEREAS, By Resolution #17-8-187 adopted on August 3, 2017, the Township Committee of the Township of Montgomery ("Township") in the County of Somerset, State of New Jersey, authorized the sale of a Plenary Retail Distribution License pursuant to the New Jersey Alcoholic Beverage Control Act, *N.J.S.A. 33:1-1.1 et seq.*; and

WHEREAS, MTC Restaurant IV, LLC satisfied all conditions for pre-qualification as set forth in Resolution #17-8-187 and submitted a bid in the amount of \$426,500.00.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Montgomery, County of Somerset, New Jersey that it hereby accepts the bid of MTC Restaurant IV, LLC, in the amount of \$426,500.00, under the following conditions:

1. Payment of the balance of the bid amount by certified check made payable to the "Township of Montgomery" within five days of the date of this resolution. 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 bidder's deposit.
2. Payment of the New Jersey State License Application Fee.
3. Payment of the Annual Municipal Retail License Fee.
4. Satisfactory outcome of municipal background checks, including those to investigate the source of funds used to purchase the license.
5. Compliance by MTC Restaurant IV, LLC with publication, hearing and resolution requirements under *N.J.A.C. 13:2-2.1 et seq.*
6. Pursuant to *N.J.S.A. 33:1-19.2*, if the license has not issued pursuant to this resolution by March 26, 2018, the license shall not be issued.

(Item #16 Cont.)

BE IT FURTHER RESOLVED that a copy of this resolution, certified by the Township Clerk to be a true copy, shall be forwarded to MTC Restaurant IV, LLC.

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. **ORDINANCE #17-1562 - BOND-Open Space Acquisition - Public Hearing**

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 \$10,000,000 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$9,500,000 IN BONDS OR NOTES OF THE TOWNSHIP OF MONTGOMERY TO FINANCE THE SAME.

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

B-2. Mayor Trzaska explained that this is the issuance of bonds because the interest rates are low at the present. He stated that the Township's Open Space Trust brings in about \$1.5 million every year.

B-3. Open Space Coordinator Lauren Wasilauski explained what properties this ordinance is pertaining to.

B-4. Brett Borowski, York Drive, thanked the Governing Body for the explanation of this ordinance, but he suggested that someone type up something in English rather than legalese that explains the Township Committee's thought process and rationale because a lot of people still think that the Township is spending \$25 million on a Municipal Building because of the bond amount.

B-4. Committeewoman Madrid 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 7th day of December, 2017 and that the ordinance summary and proper 20-day statement be published in an official newspaper as required by law.

17-1. 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

18. **APPROVAL OF MINUTES**

The Special Session minutes of November 17, 2017 were approved as printed.

19. **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.

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. **CONVATEC PROPERTY**

Administrator Nieman stated that there had been a meeting with the architects on the Convatec property.

21. **RAILROAD CROSSING AT HOLLOW ROAD**

Mayor Trzaska stated that some residents were asking about the safety improvements to the Hollow Road railroad crossing. After a long conversation and a long process with the Federal Railroad Administration and CSX, there was approval for the quad gate crossing. These improvements will be moving forward with CSX doing the work.

22. **COMMITTEE AND SUB-COMMITTEE REPORTS**

22-1. **ENVIRONMENTAL COMMISSION**

Administrator Nieman stated that the Environmental Commission discussed the possibility of combining the next Earth Day event with Run with Rotary.

22-2. **ZONING BOARD OF ADJUSTMENT**

Committeeman Conforti reported on the Zoning Board of Adjustment meeting where just a couple of minor items were discussed.

22-3. **OPEN SPACE AND RECREATION COMMITTEES**

Committeewoman Graham reported on the joint meeting of the Open Space and Recreation Committees. The two committees are working together to develop the pathways plan. Mayor Trzaska stated this was good timing since the Township just closed on 35 acres on Cherry Hill Road. This adds to the Cherry Brook preserve.

Committeewoman Graham explained that the Open Space Committee discussed the replacement of the CSX bridge on Campmeeting Avenue. Eventually the railroad is going to take that bridge out and replace it with a normal two-way bridge and move the one-way bridge so the Township will be able to use it anywhere else in town. CSX will move it for the Township.

23. **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 properties (Block 32001, Lot 24 {Thompson Cherry Valley}; Block 10001, Lot 7 {Tarzia}; and Block 33001, Lots 26.01 and 26.02 {WBT Mountainview LLC and PRL Cherry Valley LLC}) with public funds for agricultural, open space, conservation and municipal purposes;
 - Personnel - Police Sergeant Interviews;
 - Potential affordable housing litigation and advice of counsel relative thereto.
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. No appointments shall be authorized except by action of the Township Committee in a public session. Matters concerning litigation may be announced upon the conclusion of any trial or settlement of the litigation. It is possible that at the conclusion of Closed Session, the Governing Body may reconvene in open session for the purpose of taking action on an affordable housing settlement agreement.

23-1. Committeewoman Madrid moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Conforti and carried unanimously.

24. Meeting reconvened in Open Session.

25. **RESOLUTION #17-12-280 - RESOLUTION AUTHORIZING MOUNT LAUREL SETTLEMENT AGREEMENT WITH FAIR SHARE HOUSING CENTER**

WHEREAS, On or about December 16, 2005 the Township of Montgomery ("Township") petitioned the New Jersey Council on Affordable Housing ("COAH") for Third Round substantive certification of its Third Round Housing Element and Fair Share Plan; and

WHEREAS, Before COAH acted upon the Township's 2005 petition, the Appellate Division of the New Jersey Supreme Court invalidated COAH's Third Round Rules in In re Adoption of N.J.A.C. 5:94 and 5:95, 390 N.J.Super. 1 (App.Div. 2007); and

WHEREAS, Following COAH's adoption of revised Third Round Rules, N.J.A.C. 5:96 and 5:97 on June 8, 2008, the Township submitted an amended petition to COAH for Third Round substantive certification on December 30, 2008; and

(Item #25 Cont.)

WHEREAS, Before COAH acted upon the Township's 2008 amended petition, the Appellate Division invalidated COAH's revised Third Round Rules in In re Adoption of N.J.A.C. 5:96 and 5:97, 416 N.J.Super. 462 (App.Div.2010) and, thereafter, in In re Adoption of N.J.A.C. 5:96 and 5:97, 215 N.J. 578 (2013), the New Jersey Supreme Court affirmed the Appellate Division's invalidation of COAH's revised Third Round Rules, finding that the "growth share methodology" utilized by COAH in its revised rules was inconsistent with the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. ("FHA"), and requiring COAH to adopt new Third Round rules within five months based upon COAH's prior round rules and methodologies; and

WHEREAS, COAH failed to adopt new rules as required by the Supreme Court, and on March 10, 2015, the Supreme Court issued a decision entitled In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) ("Mount Laurel IV"), in which, inter alia, it: (1) found that COAH had violated its requirement to timely adopt new Third Round regulations; (2) held that, without new Third Round regulations, COAH could not process petitions for substantive certification for the municipalities currently under COAH's jurisdiction, (3) determined that for municipalities, such as Montgomery Township, that had "participating status" before COAH under COAH's third round rules, court review of such municipalities' housing plans would be necessary; (4) directed trial courts to be an alternative forum to COAH, (5) authorized municipalities under COAH's jurisdiction to file a Declaratory Judgment Action along with a motion for Temporary Immunity by July 8, 2015, or risk exposure to exclusionary zoning lawsuits, and (6) ruled that municipalities would have up to five months to prepare and file a Housing Element and Fair Share Plan with the trial court for review; and

WHEREAS, On July 7, 2015, pursuant to the Court's Mount Laurel IV decision, the Township instituted a declaratory judgment action in the Superior Court of New Jersey, entitled In the Matter of the Application of the Township of Montgomery in Somerset County, bearing Docket No. SOM-L-924-15, seeking a judgment of immunity and repose pursuant to the FHA and a judicial declaration that the Township's housing plan is presumptively valid because it presents a realistic opportunity for providing its fair share of the regional need for low- and moderate- income housing (the "DJ Action"); and

WHEREAS, Fair Share Housing Center ("FSHC") is an interested party in the DJ Action; and

WHEREAS, The Township and FSHC engaged in good faith negotiations in an effort to resolve the claims raised by FSHC regarding the Township's compliance with its affordable housing obligations; and

WHEREAS, Settlement of the claims brought by FSHC present an opportunity to resolve the various matters pending between the parties, will provide certainty regarding the Township's ability to satisfy its affordable housing obligations, and avoid the litigation costs associated with a full trial and potential appeals thereafter; and

WHEREAS, The Township and FSHC have reached a Settlement Agreement dated December 7, 2017, the terms of which are fair and reasonable to low and moderate income households.

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

1. The Mayor and Township Clerk are hereby authorized and directed to sign on behalf of the Township the above-referenced settlement Agreement, a copy of which is on file in the Township Clerk's Office, or such other substantially similar agreement, the terms and form of which shall have been reviewed and approved by Township counsel in consultation with the Township Administrator.
2. The Mayor, Township Administrator, Clerk, Attorneys, Planners, and other appropriate officers, employees and professionals, are hereby authorized and directed to prepare and execute any and all documents and undertake any and all acts necessary to effectuate the above-referenced settlement.
3. This Resolution shall take effect immediately.

25-1. 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

ADJOURNMENT was at 9:45 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