

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
February 17, 2011

1. Montgomery Township Committee met at the Municipal Building, 2261 Van Horne Road, Belle Mead, NJ at 6:30 p.m. on the above date. Those present were:

TOWNSHIP COMMITTEE: Mayor Caliguire, Deputy Mayor Dyer, Committeemembers Carter (by phone) and Graham
Committeeman Trzaska was absent

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

CHIEF FINANCIAL OFFICER - Walter Sheppard

TOWNSHIP CLERK - Donna Kukla

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

4. **POLICE REPORT**

Police Lieutenant Fillebrown reported on the following activities of the Police Department for the month of January, 2011:

-- 73 motor vehicle accidents;
-- 19 arrests;
-- 5 thefts;
-- 2 burglaries;
-- 5 domestic violence;
-- 3 criminal mischief.

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

- A. **RESOLUTION #11-2-60 - ACCEPTANCE OF DONATIONS** - Earth Day Fair 2011 -
The Elm Group, Hilton Management, LLC & Rocky Hill Cleaners

BE IT RESOLVED That the Montgomery Township Committee hereby accepts the following donations for the Earth Day Fair 2011:

<u>Name</u>	<u>Amount</u>	<u>Check #</u>
The Elm Group	\$100.00	50028
Hilton Management LLC	\$500.00	4960
Rocky Hill Cleaners	\$200.00	1438

- B. **RESOLUTION #11-2-61 - ACCEPTANCE OF DONATION** - Montgomery/Rocky Hill Municipal Alliance - Friedman

BE IT RESOLVED That the Montgomery Township Committee hereby accepts the following donation for the Montgomery/Rocky Hill Municipal Alliance:

<u>Name</u>	<u>Amount</u>	<u>Check #</u>
Robin F. & Jeffrey I. Friedman	\$100.00	651

- C. **RESOLUTION #11-02-62 - REDUCTION OF CONTRACT AMOUNT** - Fleet Management and Maintenance

WHEREAS, The Township Committee of the Township of Montgomery awarded the contract for Fleet Management and Maintenance to First Vehicle Services in the amount of \$2,424,081; and

WHEREAS, Said contract was awarded on December 18, 2008 by Resolution #08-12-360; and

WHEREAS, Said contract was amended on January 21, 2010 by Resolution #10-1-41 which reduced the contract from \$2,424,081 to 2,394,381, and was awarded for a 5-year period; and

WHEREAS, Several vehicles were no longer needed by the Township, were declared as surplus, and were sold at auction; and

WHEREAS, The removal of said vehicles from the Township fleet necessitated a reduction in the contract amount to First Vehicle Services.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the contract for Fleet Management and Maintenance is hereby reduced in the amount of \$6,600.00 to \$2,387,781.

BE IT FURTHER RESOLVED That the Chief Financial Officer is hereby authorized and directed to reduce the contract for Fleet Management and Maintenance by \$6,600.00 to \$2,387,781.00.

(CONSENT AGENDA Cont.)

D. **RESOLUTION #11-2-63 - APPROVING AMENDED SANITARY SEWER EASEMENT -
Phillips Easement - Riverside Farms**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute an amended Sanitary Sewer Easement with regard to the Phillips easement, subject to the Township Engineer's review and approval of Exhibit A to the easement.

E. **RESOLUTION #11-2-64 - DECLARING CERTAIN POLICE EQUIPMENT AS SURPLUS PERSONAL
PROPERTY**

WHEREAS, The Township of Montgomery has determined that certain personal property as described below, is no longer needed for public purposes; and

WHEREAS, N.J.S.A. 40a:11-36 requires that such personal property be sold at public auction to the highest bidder.

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

1. The below listed schedule of Township property is declared surplus and no longer needed for public purposes.
2. The Purchasing Agent is hereby authorized and directed to advertise public sale of said personal property to be sold on GovDeals.com, a State of New Jersey authorized web based auction. Said sale shall commence within ten (10) days of approval by the Township Committee.
3. The Township reserves the right to reject any and all bids if it determines such rejection to be in the public interest.
4. Said sale shall be in the manner of a public auction and in accordance with the procedure to be announced.

Surplus Personal Property

1. four (4) Motorola HT 600 portable radios
2. one (1) 6 unit bank radio charger for the Motorola HT 600 portables
3. two (2) Spectra Close-Up Law Enforcement Kits, each contains a Polaroid 1200 si camera, a light lock non contacting lens, five packs of Spectra image film and a Spectra/Image close up stand duplicator, in a carrying case
4. one (1) Spectra/Image close up stand duplicator
5. one (1) Polaroid CU-5 close up Land Camera and case
6. one (1) Nikon 35 mm FM2 camera, body only
7. four (4) 2 packs Spectra image Polaroid film
8. three (3) packs @ 10 photos Polaroid 779 Plus film
9. sixty-five (65) rolls of 35 mm 36 exposure 400 Konica Centuria film
10. twenty-six (26) rolls of 35 mm 36 exposure 400 VX 400 Super film

F. **MAYORAL APPOINTEMENT WITH TOWNSHIP COMMITTEE CONSENT - Economic Development
Commission**

BE IT RESOLVED That Wil Minggia is hereby appointed Economic Development Commission Regular Member, replacing Phil Welch, 3 year term expiring December 31, 2012.

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

ROLL CALL - Ayes - Dyer, Carter, Graham, Caliguire
Nays - None
Absent - Trzaska

6. **RESOLUTION #11-2-59 - REFUND OVERPAID 2011 TAXES**

BE IT RESOLVED That refunds be given to the following for the overpayment of 2011 taxes:

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Amount</u>
15005	2	BAC Tax Services Corporation	\$4,386.27
28003	218	Sharbell Building Company	\$ 506.22
30001	16.29	Mark S. & Patricia M. Caliguire	\$5,846.94
30003	70	Chase Home Finance	\$4,481.40
34007	5	Citi Mortgage	\$ 683.10

6-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Deputy Mayor Dyer and carried on the following:

ROLL CALL - Ayes - Dyer, Carter, Graham
Nays - None
Absent - Trzaska
Abstain - Caliguire

7. **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.

7-1. Deputy Mayor Dyer moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Graham and carried on the following:

ROLL CALL - Ayes - Dyer, Carter, Graham, Caliguire
Nays - None
Absent - Trzaska

8. **RESOLUTION #11-2-65 - TRANSFER OF FUNDS**

WHEREAS, There is a need to transfer funds to areas where there are insufficient funds to meet the demands of the Township, and

WHEREAS, There are sufficient funds to be transferred to those accounts as stated to meet the needs of the Township,

NOW, THEREFORE, BE IT RESOLVED, By the Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey, that in accordance with the provisions of N.J.S.A. 40A:4-58 and N.J.S.A. 40A:4-59 hereby authorizes the Chief Finance Officer to make the following transfers:

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
Municipal Clerk (OE)		\$7,500.00
Public Works (OE)		\$5,000.00
	Committee Expenses (OE)	\$7,500.00
	Streets and Roads (OE)	\$5,000.00

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

ROLL CALL - Ayes - Dyer, Carter, Graham, Caliguire
Nays - None
Absent - Trzaska

9. **RESOLUTION #11-2-66 - AUTHORIZING TEMPORARY EMERGENCY APPROPRIATIONS**

WHEREAS, The 2011 Municipal Budget has not been adopted and there is a need to increase the Temporary Budget prior to the 2011 Budget being adopted, in order to maintain operations until such time as the Township Budget is in place; and

WHEREAS, N.J.S.A. 40A:4-20 provides for approval of emergency temporary appropriations prior to the Municipal Budget being adopted, by a confirming vote of two-thirds of the full governing body.

NOW, THEREFORE, BE IT RESOLVED, By confirmation of two-thirds of the full governing body, that the Temporary Chief Finance Officer is authorized to increase the temporary emergency appropriations as follows:

Natural Gas	
Other Expenses	\$10,000.00

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

ROLL CALL - Ayes - Dyer, Carter, Graham, Caliguire
Nays - None
Absent - Trzaska

10. **PUBLIC COMMENT**

10-1. Daniel Huttar, Transportation Advisory Committee member, stated that the Town was unprepared to deal with a developing threat in the form of an increase in traffic volume that promises to overwhelm the roads. To date, the new Transportation Advisory Committee has shown little evidence that it has the sense of mission required to tackle a significant and possibly controversial issue such as the comprehensive update of the Master Plan Traffic Circulation Element that this threat requires. He was prepared to propose a plan to the Transportation Advisory Committee designed to address the problem. His plan would be:

1. Have the Town's contracted Traffic Engineer develop a town-wide traffic volume impact projection for each through road.
2. Using the study results and with the consultant's help, TAC will produce a corresponding update of the Traffic Circulation Element.
3. TAC will promote adoption of the update by the Planning Board.

Mayor Caliguire suggested that Traffic Engineer John Rea be in attendance at the Transportation Advisory Committee meeting and further discussion take place then.

Robert Kress, Meadow Run Drive, reiterated what Mr. Huttar spoke about. He spoke about the volume of traffic on Route 206 at the different main intersections.

10-2. Liz Palius, River Road, gave Committee the official copy of the endorsed Corridor Management Plan for the Millstone River Byway. She updated Committee about the Byway and what is in the works. She stated that the Byway Committee is asking for one person from each of the principles be appointed to sit in on meetings and work with the Committee.

Committeewoman Graham volunteered to be the person from Montgomery Township.

10-3. Walt Beadling, Thornton Way, spoke about televising the Township Committee meetings. He stated that they ascertained that the cost of having the equipment would be approximately \$6,000.00, and there would have to be a budget for someone to run the equipment. He stated that this was a relatively small portion of the total Township budget. He got the sense that was an amount that was difficult for the Township Committee to justify.

Mayor Caliguire explained that any amount would be difficult to justify at present, when everyone was trying to cut back spending. It was something that would be looked at by the budget subcommittee.

11. **ORDINANCE #11-1375 - LDO - Small Animal Hospital Within a Neighborhood Shopping Center in the "NC" District - Public Hearing**

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

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XVI,
"LAND DEVELOPMENT", OF THE CODE OF THE TOWNSHIP OF
MONTGOMERY (1984) COUNTY OF SOMERSET, STATE OF NEW JERSEY
AND SPECIFICALLY SECTION 16-4.5 REGARDING THE "NC"
NEIGHBORHOOD COMMERCIAL DISTRICT TO PERMIT AS A PRINCIPAL
USE "SMALL ANIMAL HOSPITALS" WITHIN A NEIGHBORHOOD
SHOPPING VILLAGE IN THE NEIGHBORHOOD COMMERCIAL DISTRICT.

B. The Clerk read the following report from Planning Board:

"At the February 7, 2011 Planning Board meeting, the Board found the above referenced ordinance consistent with the Master Plan and recommended adoption as written."

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

C-2. Rebecca and Steven Smith, Route 518, asked what was considered a small animal hospital.

Richard Coppola, Township Planner, explained that it was the exact same use which allows for a small animal hospital that does not have any outside facilities and/or kennels, and are allowed in the Highway Commercial district and the Commercial 2 district.

C-3. Robert Kress, Meadow Run Drive, spoke about the fact that any small animal hospital in a store front location is actually, in his opinion, just a start up location. This has been proven with the Harlingen Veterinary Clinic which started in a small shopping center and is now a building on its own at the corner of Route 206 and Sunset Road.

Planner Coppola stated that it would not be the same in Blawenburg, because when the Harlingen Vet was happening, the Planning and Zoning Boards looked at the Ordinance.

C-4. Deputy Mayor Dyer moved that the public hearing be closed. The motion was seconded by Committeewoman Graham and carried unanimously.

(Item #11 Cont.)

- D. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 17th day of February, 2011 and that notice thereof be published in an official newspaper as required by law.

11-1. Deputy Mayor Dyer moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Graham and carried on the following:

ROLL CALL - Ayes - Dyer, Carter, Graham, Caliguire
Nays - None
Absent - Trzaska

12. Committeewoman Graham stepped down from the dais

13. **ORDINANCE #11-1376 - LDO - Site Specific Inclusionary Zones for COAH Qualified Affordable Housing - Public Hearing**

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

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XVI, "LAND DEVELOPMENT", OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984) COUNTY OF SOMERSET, STATE OF NEW JERSEY AND SPECIFICALLY CREATING A NEW SUBSECTION 16-4.14 ENTITLED "SITE SPECIFIC INCLUSIONARY ZONES FOR COAH QUALIFIED AFFORDABLE HOUSING"

- B. The Clerk read the following report from Planning Board:

"At the February 7, 2011 Planning Board meeting, the Board found the above referenced ordinance consistent with the Master Plan and recommended adoption as written."

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

C-2. Planner Coppola explained that this ordinance had already been adopted and was being re-adopted because of some technicality. There is also a developer's agreement.

C-3. Robert Kress, Meadow Run Drive, spoke about the proposed road that was supposed to be built in that area. He also expressed his displeasure about the traffic situation.

C-4. Micheline Watrous, River Road, stated that one of her concerns was that currently the buffer zone along Route 206 was very poorly planted. She asked for different plantings when this new development is being constructed.

C-5. Deputy Mayor Dyer moved that the public hearing be closed. The motion was seconded by Committeeman Carter and carried unanimously.

- D. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 17th day of February, 2011 and that notice thereof be published in an official newspaper as required by law.

13-1. Deputy Mayor Dyer moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Carter and carried on the following:

ROLL CALL - Ayes - Dyer, Carter, Caliguire
Nays - None
Absent - Trzaska, Graham

14. Committeewoman Graham returned to the dais, and Mayor Caliguire stepped down from the dais.

15. **ORDINANCE #11-1378 - Sewer User Rates 2011 - Public Hearing**

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

AN ORDINANCE AMENDING CHAPTER XII SEWER AND WATER OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984) TO ESTABLISH 2011 SEWER USER RATES

B. Deputy Mayor Dyer opened the hearing to the public. There being no comment, Committeeman Carter 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 17th day of February, 2011 and that notice thereof be published in an official newspaper as required by law.

15-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Carter and carried on the following:

ROLL CALL - Ayes - Dyer, Carter, Graham
Nays - None
Absent - Trzaska, Caliguire

16. ORDINANCE #11-1379 - Kid Connection - Fees - Introduction

A. Deputy Mayor Dyer read the title of the ordinance as follows:

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY INCREASING FEES FOR KID CONNECTION PROGRAMS AND AMENDING CHAPTER II OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984).

B. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby passed on first reading and that the same be published in an official newspaper as required by law together with a Notice of Pending Ordinance fixing March 2, 2011 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

16-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Carter and carried on the following:

ROLL CALL - Ayes - Dyer, Carter, Graham
Nays - None
Absent - Trzaska, Caliguire

17. ELECTRICITY SUPPLIER

Attorney Hadinger explained that Administrator Nieman was going to report on changes in the law that is allowing municipalities to look for alternate suppliers of energy and basically get cheaper rates. This falls outside of the specific bidding requirements in the Local Public Contracts Law. He will report at a future meeting, but he is proceeding in working with some potentially alternate suppliers.

18. PROCLAMATION - MONTGOMERY NIGHT OFF - March 3, 2011

WHEREAS, The quality of our community life begins within the homes of individual families; and

WHEREAS Families are indispensable to a stable and free society. They pass along the traditions and principles that help make America compassionate, decent, and hopeful; and

WHEREAS, Strong families make strong communities, and everyone has a role to play in building strong families, including neighborhood organizations, businesses, nonprofit agencies, policymakers and schools, as well as families themselves; and

WHEREAS, Strong families help to protect our children from making harmful choices with respect to alcohol and drugs, which is a mission of Montgomery's Municipal Alliance and Youth Services Commission; and

WHEREAS, Montgomery Night Off is meant to highlight the importance of family bonds, while providing an extra opportunity for families to share in activities together without distractions such as political, civic, or organizational meetings, sports practices, games or competitions, youth club activities or private lessons, and even school homework.

NOW, THEREFORE, BE IT RESOLVED That the Montgomery Township Committee, in coordination with the Montgomery Township Board of Education, hereby urges all local organizations, youth clubs, and athletic teams to cancel scheduled events on Thursday, March 3 and to encourage families to spend the evening together to celebrate Montgomery Night Off by spending quality time with each other.

18-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Carter and moved on the following:

ROLL CALL - Ayes - Dyer, Carter, Graham
Nays - None
Absent - Trzaska, Caliguire

19. APPROVAL OF MINUTES

19-1. Committeewoman Graham moved the adoption of the Regular Session minutes of February 3, 2011. The motion was seconded by Committeeman Carter and carried on the following:

ROLL CALL - Ayes - Dyer, Carter, Graham
Nays - None
Absent - Trzaska, Caliguire

19-2. Committeeman Carter moved the adoption of the Special Session minutes of February 9, 2011. The motion was seconded by Deputy Mayor Dyer and carried on the following:

ROLL CALL - Ayes - Dyer, Carter
Nays - None
Absent - Trzaska, Caliguire
Abstain - Graham

20. **VOTING REDISTRICTING FOR 2011 ELECTIONS**

Township Clerk Kukla reported that she had met with the County Board of Elections and the Township will be redistricted. There are four (4) districts that need to be split.

21. **RESOLUTION TO CLOSE MEETING TO THE PUBLIC**

BE IT RESOLVED by the Township Committee of the Township of Montgomery in Somerset County, New Jersey as follows:

1. The Township Committee will now convene in a closed session that will be limited only to consideration of items with respect to which the public may be excluded pursuant to Section 7B of the Open Public Meetings Act.
2. The general nature of the subjects to be discussed in this session is as follows:
 - Advice of counsel with respect to Tax Appeals.
3. It is unknown precisely when, if ever, the matters will be disclosed to the public. Approval of any agreements shall only be authorized by 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 the closed session, the Township Committee will reconvene in open session for the purpose of taking action.

21-1. Committeeman Carter moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Graham and carried unanimously.

22. Meeting reconvened in Open Session.

23. **RESOLUTION #11-2-67 - A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTGOMERY AUTHORIZING THE SETTLEMENT OF A RESIDENTIAL TAX APPEAL (FERN V. TOWNSHIP OF MONTGOMERY; BLOCK 31001, LOT 11.04; 137 BEDENS BROOK ROAD)**

WHEREAS, Charles and Katherine Fern, the owners of 137 Bedens Brook Road, Block 31001, Lot 11.04 in the Township of Montgomery ("the Property") have filed an appeal of their 2010 real property taxes in the New Jersey Tax Court, Fern v. Township of Montgomery, Tax Court Docket No. 001640-2010; and

WHEREAS, the parties have reached a settlement of the tax appeal, subject to approval by the Township's governing body, as follows:

CURRENT ASSESSMENT (2010)	REQUESTED ASSESSMENT (2010)
LAND \$ 328,700	LAND \$ 328,700
IMPROVEMENT \$1,021,000	IMPROVEMENT \$ 875,500
TOTAL \$1,349,700	TOTAL \$1,204,200

together with a reimbursement to the property owners, or a credit to be applied to the Property's 2011 taxes, resulting from any overpayment in 2010, and other salient terms; and

WHEREAS, the Township's Tax Assessor has reviewed the proposed terms of settlement, and find that same will result in the assessment of the Property at the fair assessable value consistent with assessing practices generally applicable in the taxing district as required by law; and

WHEREAS, it is equitable and just, and in the best interest of the citizens of the Township, to authorize the settlement of the tax appeal;

NOW THEREFORE BE IT RESOLVED by the Mayor and Township Committee of the Township of Montgomery, in Somerset County, in the State of New Jersey, that the Township's attorney be and hereby is authorized to formalize the settlement of the subject tax appeal pursuant to the parties' agreed terms, and execute and file with the Tax Court any and all documents necessary to accomplish said settlement.

23-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Carter and carried on the following:

ROLL CALL - Ayes - Dyer, Carter, Graham
Nays - None
Absent - Trzaska, Caliguire

ADJOURNMENT was at 7:55 p.m. on a motion by Committeeman Carter. The motion was seconded by Committeewoman Graham and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk