

MINUTES FOR  
MONTGOMERY TOWNSHIP COMMITTEE MEETING  
March 2, 2011

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: Deputy Mayor Dyer, Committeemembers Carter and Trzaska  
Mayor Caliguire and Committeewoman Graham were absent

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

CHIEF FINANCIAL OFFICER - Walter Sheppard

DEPUTY TOWNSHIP CLERK - Margaret Crawford

2. Deputy Mayor Dyer 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. Deputy Mayor Dyer led the Salute to the Flag.

4. **PUBLIC COMMENT**

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

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 #11-3-68 - REFUND OVERPAID 2011 TAXES**

BE IT RESOLVED That a refund in the amount of \$2,344.98 be given to Chase Home Finance, P.O. Box 961250, Fort Worth, TX 76161 for the overpayment of 2011 Taxes on Block 37002 Lot 5.82.

- B. **RESOLUTION #11-3-69 - ACCEPTANCE OF DONATIONS - Earth Day Fair 2011 - Green with Envy Home Store, Honda of Princeton and Gibraltar Rock**

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>
Green with Envy Home Store	\$ 25.00	220
Honda of Princeton	\$100.00	47535
Gibraltar Rock Inc.	\$350.00	6175

- C. **RESOLUTION #11-3-70 - ENDORSING THE SOURLAND MOUNTAIN COMPREHENSIVE MANAGEMENT PLAN**

WHEREAS, The Township Committee previously supported the identification of the Sourland Mountain Region ("Region") as a Special Resource Area in the State Development and Redevelopment Plan by resolution #04-8-286 adopted on August 19, 2004 which recognized that the Sourland Mountain Region comprises the headwaters of many of the streams in the Region and surrounding towns, and its forested areas maintain the stream water and groundwater quality, including drinking water, while providing habitat for many threatened and endangered species, while also offering many unique scenic, historic, agricultural and recreational resources for residents of and visitors to the area; and

WHEREAS, In 1986 a group of citizens formed the Sourland Planning Council, a private, non-profit organization whose mission is to preserve the ecological and historical resources of the Region, and which received a grant from the State of New Jersey to prepare a Comprehensive Management Plan for the Region and assist in the formation of a consortium of representatives from the five municipalities within the Region; and

WHEREAS, The Sourland Alliance (originally the Sourland Mountain Municipal Alliance) was formed and the Montgomery Township Committee recognized the importance of a cooperative municipal alliance consisting of the five Townships within the Region by authorizing participation in the Sourland Mountain Municipal Alliance by resolution #09-5-144 adopted on May 7, 2009; and

WHEREAS, The Sourland Mountain Comprehensive Management Plan ("Plan") has since been developed by the Sourland Planning Council and the Sourland Alliance to (1) develop background studies on the critical environmental features of the Region so that land use capability can be examined and (2) provide a framework for partnership among the government entities within the Region to advance certain goals and recommendations that will protect these unique resources mentioned above.

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery endorses the Sourland Mountain Comprehensive Management Plan, while recognizing that every regulatory recommendation may not be appropriate for implementation in Montgomery Township, but looks forward to working with the Sourland Planning Council and Sourland Alliance, to the extent reasonably possible, in its efforts to safeguard the uniqueness of the Sourland Mountain Region, to protect the natural resources, to protect the water supply, to maintain the rural characteristics of the municipalities and to provide and maintain the quality of life for the current residents and for future generations.

(CONSENT AGENDA Cont.)

D. **RESOLUTION #11-3-71 - PROFESSIONAL SERVICES RESOLUTION**

WHEREAS, There exists a need to acquire the following professional services for 2011 without a "fair and open process" as defined by P.L. 2004, c.19, the "Local Unit Pay-to-Play Law":

- (1) Appraisal Services.

WHEREAS, The Montgomery Township Purchasing Agent has determined and certified in writing that the value of the services over the course of the contracts 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 professional services contracts without competitive bidding; and

WHEREAS, The Chief Financial Officer has certified that sufficient funds are available for the aforesaid services in accordance with the amounts set forth in the 2011 Temporary Budget, with performance of said services after March 31, 2011 being subject to the Township's amendment of the 2011 Temporary Budget, and/or adoption of the final 2011 Budget.

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 proper agreements with Martin Appraisal Associates as Township Appraiser.
- (2) These contracts are awarded for a period of one year, for the amounts set forth in each contract, and without competitive bidding as "Professional Services" under the provisions of the Local Public Contracts Law N.J.S.A. 40A:11-5(1)(a) as contracts for services to be performed by persons authorized by law to practice recognized professions that are regulated by law and because the services to be performed are not susceptible of quantifying in bid specifications.
- (3) These contractors have completed and filed with Montgomery Township a Campaign Contributions Affidavit as required by N.J.S.A. 19:44A-20.2 et seq. certifying they have not made any prohibited contributions to a candidate committee or municipal committee representing the elected officials of the Township.
- (4) A copy of this Resolution, the Certifications of Contract Value, the Campaign Contributions Affidavit, and the executed Agreements shall be placed on file in the office of the Township Clerk.
- (5) A notice of this action shall be published once in the official newspaper as required by law.
- (6) Performance of services under the terms of these contracts, and payment for the services, after March 31, 2011 is subject to the amendment of the 2011 Temporary Budget and/or adoption of the final 2011 Budget, and certification of availability of funds by the Chief Financial Officer

E. **RESOLUTION #11-3-72 - APPROVING AMENDED SANITARY SEWER EASEMENT - Christopher & Georgette Petromelis - Riverside Farms**

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

F. **RESOLUTION #11-3-73 - APPROVING AMENDED SANITARY SEWER EASEMENT - Robert & Anna Cohan - Riverside Farms**

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

G. **RESOLUTION #11-3-74 - EXTENSION OF TIME TO COMPLETE IMPROVEMENTS - Pike Run, Phase 8**

WHEREAS, Gail Smith, Township Engineer, has certified on February 14, 2011 that adequate funds remain in the posted guarantee to cover the remaining public improvements in Pike Run, Phase 8 and therefore recommends a time extension to September 11, 2011 to complete said improvements.

H. **RESOLUTION #11-3-75 - RELEASE OF ESCROW FEE - Steve Virostko, Jr. - Street Opening Permit - 10-R-23**

WHEREAS, George Remboske, Assistant to the Township Engineer, recommended the release of the cash escrow fee to Steve Virostko, Jr. because all work has been satisfactorily completed with respect to a street opening permit at Block 8001, Lot 4 (121 Green Avenue).

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the cash escrow fee in the amount of \$100.00 be released to Steve Virostko, Jr., 121 Green Avenue, Belle Mead, NJ 08502.

BE IT FURTHER RESOLVED That a Maintenance Guarantee is not required.

(CONSENT AGENDA Cont.)

I. **RESOLUTION #11-3-76 - AMENDING RESOLUTION #11-1-40 - RELEASE OF MAINTENANCE GUARANTEE - Rock Brook School**

WHEREAS, On January 20, 2011 the Montgomery Township Committee approved the release of a Maintenance Bond for Rock Brook School; and

WHEREAS, The Resolution incorrectly listed the amount of the cash Maintenance Bond to be returned.

NOW THEREFORE, BE IT RESOLVED That the correct amount of the Maintenance Guarantee to be returned to the Rock Brook School is \$3,512.25.

J. **RESOLUTION #11-3-77 - AUTHORIZATION TO EXECUTE TREATMENT WORKS APPROVAL PERMIT APPLICATION (TWA-1) - Starkey Cook Subdivision**

BE IT RESOLVED By the Montgomery Township Committee that Donato Nieman, Township Administrator, is hereby authorized to execute a Treatment Works Approval Permit application to the New Jersey Department of Environmental Protection related to the Starkey Cook Subdivision for connection to the Cherry Valley Sewage Treatment Plant.

5-1. Committeeman Carter moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeeman Trzaska and carried on the following:

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

6. **RESOLUTION #11-3-78 - 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>
Finance Administration (OE)		\$ 5,000.00
Senior Center (S&W)		\$15,000.00
Recreation (OE)		\$ 7,500.00
	Legal (OE)	\$ 5,000.00
	Senior Center (OE)	\$15,000.00
	Senior Center (OE)	\$ 7,500.00

6-1. Committeeman Carter moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Trzaska and carried on the following:

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

7. **RESOLUTION #11-3-79 - 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:

Utility Liability Insurance	
Other Expenses	\$85,000.00
Employee Group Insurance	
Other Expenses	\$190,000.00

7-1. Committeeman Carter moved to **TABLE** foregoing resolution until March 17, 2011. The motion was seconded by Committeeman Trzaska and carried unanimously.

8. **RESOLUTION #11-3-80 - PURCHASE OF EQUIPMENT FOR ROADS DEPARTMENT THAT EXCEEDS \$17,500**

WHEREAS, There exists a need for certain snow removal equipment for the Roads Department of the Township of Montgomery; and

WHEREAS, Said snow removal equipment is available from Trius Equipment, Inc.; and

WHEREAS, Said funds are available 2011 temporary operating budget; and

WHEREAS, The Chief Financial Officer has certified the availability of said funds; and

WHEREAS, This equipment was purchased through a "non-fair and open" process as defined by P.L. 2004, c.19, the local Unit Pay-to Play Law; and

WHEREAS, Said purchases exceed the \$17,500.00 threshold.

NOW THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery that the Purchasing Agent is hereby authorized and directed to purchase one snow plow in the amount of \$11,905.00 and one snow blower in the amount of \$12,540.00 from Trius Equipment, Inc.; and

BE IT FURTHER RESOLVED That the Purchasing Agent is authorized to sign said purchase orders.

8-1. Committeeman Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Carter and carried on the following:

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

9. **RESOLUTION #11-3-81 - PURCHASE OF MICROSOFT BULK SOFTWARE FROM NJ STATE CONTRACT**

WHEREAS, There exists a need for the purchase of upgrading the bulk software for the Township of Montgomery; and

WHEREAS, Said bulk software is available through the WSCA contract of the State of New Jersey Purchase Bureau; and

WHEREAS, The cost of said software exceeds the Township's bid threshold; and

WHEREAS, Said funds are available in the Capital account 04-216-55-901-1327A; and

WHEREAS, The Chief Financial Officer has certified the availability of said funds.

NOW THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery that the Purchasing Agent is hereby authorized and directed to purchase Microsoft bulk software from N.J. State contract A77003 in an amount not to exceed \$77,250.00.

9-1. Committeeman Carter moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Trzaska and carried on the following:

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

10. **ORDINANCE #11-1379 - Kid Connection - Fees - Public Hearing**

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. 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 Committeeman Trzaska and carried unanimously.

C. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 2<sup>nd</sup> day of March, 2011 and that notice thereof be published in an official newspaper as required by law.

10-1. Committeeman Carter moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Trzaska and carried on the following:

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

11. ORDINANCE #11-1380 - Towing and Storage - 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 CONCERNING LICENSES FOR TOWING AND STORING OF MOTOR VEHICLES, AND REPLACING CHAPTER IVA 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 17, 2011 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

11-1. Committeeman Carter moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Trzaska and carried on the following:

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

12. ORDINANCE #11-1381 - Leasing of Real Property (33 Reading Boulevard) - Introduction

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

AN ORDINANCE AUTHORIZING, PURSUANT TO N.J.S.A. 40A:12-1 et seq., THE LEASING OF REAL PROPERTY BY THE TOWNSHIP OF MONTGOMERY FROM BONAVENTURE, LLC (33 READING BOULEVARD).

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 17, 2011 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

12-1. Committeeman Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Carter and carried on the following:

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

13. APPROVAL OF MINUTES

Committeeman Carter moved the adoption of the Regular Session minutes of February 17, 2011. The motion was seconded by Deputy Mayor Dyer and carried on the following:

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

14. 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.

14-1. Committeeman Carter moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Trzaska and carried on the following:

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

15. **ELECTRICITY SUPPLIER**

Administrator Nieman introduced John Smith and Fred Luthy of Capable Communications, LLC.

Mr. Smith explained the process of the bidding of the Township's electricity supplier. He stated that a municipality, under a newly enacted regulation, is allowed to bid its natural gas and electrical supplier. He explained that PSE&G is still a monopoly, they still own the wires and the delivery. The kilowatts on the supply side are traded every day. Electricity has been de-regulated for quite some time, but this is a time in history now where suppliers can charge less than what PSE&G can provide. A lot of companies in the private industry are looking at these suppliers now that they can go to an alternative supplier. He stated that his company took Montgomery's bills to bid out to all the local suppliers and came back with a proposal with a number of suppliers who bid for the service. He distributed a handout with an explanation of all the information, including how much the Township would save by going with an alternative supplier. He stated that he estimated anticipated savings would be considerable. He did state that the Township should pay their bills on time so that no late fees would be incurred. He explained that these rates can be locked in for 6 months, 1 year, 2 years, up to 3 years. He stated that his company represents over a dozen suppliers, they run the bids for the municipality and they have come back with a pretty aggressive bid. His company is paid by the supplier and is paid the same no matter which supplier the Township chooses. He explained how the contracting process would work once the Township agrees.

Committeeman Carter stated that this would be a great idea for savings and asked that a 2 year agreement be put together to be proposed and presented to the Township Committee at the March 17, 2011 meeting.

16. **BOARD OF HEALTH**

Committeeman Trzaska reported that the Health Department conducted a couple of events that they called "Meet Your Health Departments" in Pennington and Hopewell since they just started new services in those municipalities. It was a really good turn-out and they are going to be looking into possibly setting up a few events in Montgomery for April or May.

17. **ZONING BOARD OF ADJUSTMENT**

Committeeman Trzaska updated the Committee on the two Zoning Board meetings in February. The Green Avenue cell phone tower application continues. There was a new application for another cell phone tower at the Nassau Tennis Club.

Administrator Nieman noted that there was an article in the Star Ledger about a new antenna that Bell Labs has come up with that is 2 inches in size. This won't be available for a while.

18. **READ ACROSS AMERICA**

Committeeman Carter stated that March 2 was Dr. Seuss' birthday. He had a chance to read in two classrooms at the Village School and one classroom at the Orchard Hill School. He mentioned that the Deputy Mayor would be reading on March 3. They had a good presence from the military at the Orchard Hill School.

19. **FIRE PREVENTION**

Deputy Mayor Dyer stated that she attended the Bureau of Fire Prevention meeting and explained that they would be coming to a Township Committee meeting to look at the possibility of a fee increase for fire inspections.

Administrator Nieman explained that Montgomery has the lowest fire inspection fees in the County.

20. **REDISTRICTING FOR ELECTIONS**

Committeeman Carter mentioned an email that was received from the Township Clerk and a Somerset County Press Release about the new voting districts. This will all be happening for the Board of Education Election which occur on April 27.

**ADJOURNMENT** was at 7:45 p.m. on a motion by Committeeman Carter. The motion was seconded by Committeeman Trzaska and carried unanimously.

Date of Approval:

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Donna Kukla, Township Clerk