

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE
May 1, 2008

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 Fay, Committeewoman Wilson, Committeeman Caliguire and Committeeman Joye
Mayor Birge was absent

Also present were:

TOWNSHIP ATTORNEY - Paul Adezio, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

TEMPORARY CHIEF FINANCIAL OFFICER - Walter Sheppard

TOWNSHIP CLERK - Donna Kukla

2. Deputy Mayor Fay 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 Fay led the salute to the flag.

4. **ROUTE 206/HARLINGEN ROAD TRAFFIC SIGNAL**

Committeewoman Wilson stated that she had drafted a letter to the New Jersey Department of Transportation, to be signed by Mayor Birge, regarding the proposed traffic signal at Route 206 and Harlingen Road. This follows up a meeting that the Transportation Advisory Committee had with the Department of Transportation.

5. **LEAGUE OF MUNICIPALITIES' COAH CHALLENGE**

Committeewoman Wilson commented on the letter sent from the League of Municipalities asking for pledges from municipalities toward a COAH challenge, and stated that they were not asking for a check just a pledge.

Motion #08-5-1 - Committeeman Caliguire moved to authorize a pledge of \$500.00 to the New Jersey League of Municipalities for the COAH Challenge. The motion was seconded by Committeeman Joye and carried on the following:

ROLL CALL: Ayes - Caliguire, Joye, Wilson, Fay
Nays - None
Absent - Birge

6. **NIGHT OFF**

Deputy Mayor Fay spoke about the Municipal Alliance's idea of a "Night Off", when everyone would take one night in the year to do nothing except spend time with their family. The date planned for the first "Night Off" will be March 5, 2009.

7. **PUBLIC COMMENT**

There being no comment, Deputy Mayor Fay closed the public comment portion of the meeting.

8. **POLICE PROMOTIONAL PROCESS**

Township Labor Counsel Steve Goodell explained the three (3) phases of the promotion process for the positions of Police Lieutenants and Police Captain. He stated that there will be five (5) testing graders for each position. The graders for the Lieutenants position would consist of the Police Director, the ranking officer, the Township Administrator, the Township Attorney, and two (2) members of the Governing Body. The graders for the Captain position would consist of the Police Director, a Lieutenant, the Township Administrator and a Township Committee member. The interview process would be done by the Township Committee in an Executive Session.

Committeeman Caliguire questioned if the Township Committee would be allowed to take into consideration the past performance of the candidates and the opinions of the Police Director and other members of the Police Department. Attorney Goodell answered that they have created this process so that the Director and, in the case of the Lieutenant process, the existing Lieutenant have a strong say in the first two (2) phases.

9. **RESOLUTION #08-5-133 - AUTHORIZING POLICE PROMOTIONAL PROCESS**

BE IT RESOLVED That the Montgomery Township Committee approves a promotional process to select a candidate or candidates for the position of Captain of Police for the Montgomery Township Police Department.

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

ROLL CALL: Ayes - Caliguire, Joye, Wilson, Fay
Nays - None
Absent - Birge

10. **ORDINANCE #08-1283 - Police Department Authorized Strength - Introduction**

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

AN ORDINANCE AMENDING SUBSECTION 2-3.1 OF THE CODE OF THE TOWNSHIP OF MONTGOMERY, IN SOMERSET COUNTY, NEW JERSEY (1984) REGARDING THE AUTHORIZED STRENGTH OF THE POLICE DEPARTMENT

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 May 15, 2008 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

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

ROLL CALL: Ayes - Caliguire, Joye, Wilson, Fay
Nays - None
Absent - Birge

11. **ORDINANCE #08-1284 - 2008 Salary & Wages - Introduction**

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

AN ORDINANCE ESTABLISHING A COMPREHENSIVE SALARY AND WAGE PLAN FOR THE TOWNSHIP OF MONTGOMERY, SOMERSET COUNTY, AND TO PROVIDE FOR ITS ADMINISTRATION IN 2008.

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 May 15, 2008 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

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

ROLL CALL: Ayes - Caliguire, Joye, Wilson, Fay
Nays - None
Absent - Birge

12. **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 #08-5-113 - REFUND OVERPAID 2007 TAXES**

BE IT RESOLVED That refunds be given to the following for the overpayment of 2007 taxes:

| <u>Block</u> | <u>Lot</u> | <u>Name</u> | <u>Amount</u> | <u>Year</u> |
|--------------|------------|----------------------------------|---------------|-------------|
| 24001 | 20 | Stoltenberg, Carol & Diane Savoy | # 15.00 | 2007 |
| 25003 | 3 | Henyon, Gilbert B. Lt. & Cynthia | \$ 12.73 | 2007 |

B. **RESOLUTION #08-5-114 - REFUND OVERPAID 2008 SEWER BILL**

BE IT RESOLVED That a refund in the amount of \$95.42 be given to Freeman, Darlene M., P.O. Box 7588, Princeton, NJ 08540 for the overpayment of 2008 sewer on Block 37002, Lot 5.153.

C. **RESOLUTION #08-5-115 - REDEMPTION OF TAX SALE CERTIFICATE**

WHEREAS, The Township has received payment for the redemption of Tax Sale Certificate #2007-19 in the amount of \$1,725.11.

BE IT RESOLVED That a check in the amount of \$1,725.11 be given to Plymouth Park Tax Services, LLC, P.O. Box 2288, Morristown, NJ 07962-2288 for the redemption of Tax Sale Certificate #2007-19 on Block 37002, Lot 5.37.

(CONSENT AGENDA Cont.)

D. **RESOLUTION #08-5-116 - ACCEPTANCE OF DONATION** - 12 Chairs from Telcordia Technologies to Otto Kaufmann Senior Center

BE IT RESOLVED That the Montgomery Township Committee hereby accepts a donation by Telcordia Technologies of twelve (12) chairs for the Otto Kaufmann Senior Center.

E. **RESOLUTION #08-5-117 - ACCEPTANCE OF DONATIONS** - Daniel Dunzik and Environmental Liability Management, Inc.

BE IT RESOLVED That the Montgomery Township Committee hereby accepts the following donations for the Earth Day Fair '08.

| <u>Name</u> | <u>Amount</u> | <u>Check #</u> |
|--|---------------|----------------|
| Daniel Dunzik | \$ 50.00 | 3557 |
| Environmental Liability Management, Inc. | \$200.00 | 32943 |

F. **RESOLUTION #08-5-118 - APPROVAL OF FIRE HYDRANTS** - Tapestry at Montgomery - Phases 1, 1B-1, 1B-2, 1B-3, and 1B-4

BE IT RESOLVED By the Township Committee of the Township of Montgomery that authorization be given to New Jersey American Water Company to install fire hydrants at the following locations in Tapestry at Montgomery - all of Phase 1, Phase 1B-1, Phase 1B-2, Phase 1B-3 and Phase 1B-4, Ref.# 2006375.

Hydrant #1 - To be installed on Hartwick Drive, 600 feet from existing hydrant on Research Road.

Hydrant #2 - To be installed at corner of Acadia Lane and Bedford Drive, 750 feet from Hydrant #1.

Hydrant #3 - To be installed on Bedford Drive, 600 feet from Hydrant #2.

Hydrant #4 - To be installed on Acadia Lane, 600 feet from Hydrant #2.

Hydrant #5 - To be installed on Milford Place, 600 feet from Hydrant #4.

Hydrant #6 - To be installed on Newbury Street, 600 feet from Hydrant #4.

Hydrant #7 - To be installed on Portland Drive, 600 feet from Hydrant #4.

Hydrant #8 - To be installed on Bedford Drive, 950 feet from Hydrant #3 and 500 feet from Hydrant #7.

Hydrant #9 - To be installed at corner of Acadia Lane and Bristol Court, 600 feet from Hydrant #4.

All locations are shown on attached sketch. The above locations are in accordance with recommendations of the Montgomery Township Fire Marshal.

G. **RESOLUTION #08-5-119 - EXTENSION OF TIME TO COMPLETE PUBLIC IMPROVEMENTS** - Tapestry at Montgomery - Charles Terrace - Sharbell Plainsboro, Inc.

WHEREAS, Gail Smith, Township Engineer, has certified on April 18, 2008 that adequate funds remain in the posted guarantee to cover the remaining public improvements at Tapestry at Montgomery - Charles Terrace and therefore recommends a time extension to April 19, 2009 to complete said improvements.

H. **RESOLUTION #08-5-120 - DENYING RELEASE OF PERFORMANCE GUARANTEE** - Pike Run Phase VII

WHEREAS, On March 25, 2008, Pike Run LLC requested release of the posted Performance Guarantee; and

WHEREAS, On April 22, 2008, Gail Smith, Township Engineer, recommended the release be denied because all the required improvements are not complete.

NOW, THEREFORE, BE IT RESOLVED That the Township Committee hereby denies the developer's request to release the posted performance guarantee.

(CONSENT AGENDA Cont.)

I. **RESOLUTION #08-5-121 - RELEASE OF PERFORMANCE GUARANTEE - Sappington - Street Opening Permit 06-R-47**

WHEREAS, On April 16, 2008, Gail Smith, Township Engineer, recommended the release of the cash Performance Guarantee to Bill and Sonya Sappington because all work has been satisfactorily completed with respect to Bedens Brook Road street opening permit.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the cash Performance Guarantee in the amount of \$27,163.92 be released to Bill and Sonya Sappington, 308 Bedens Brook Road, Skillman, NJ 08558.

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

J. **RESOLUTION #08-5-122 - RELEASE OF MAINTENANCE GUARANTEE - Fox and Kaytmaz Sanitary Sewer**

WHEREAS, Gail Smith, Township Engineer, has certified on April 16, 2008, that all deficiencies in a project known as Fox and Kaytmaz Sanitary Sewer have been corrected and therefore recommends the release of the posted maintenance guarantee.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the cash Maintenance Guarantee in the amount of \$2,036.80 be released to Ellie and Logan Fox, c/o Haveson & Otis, 194 Nassau Street, Princeton, NJ 08542.

K. **RESOLUTION #08-5-123 - AUTHORIZATION TO EXECUTE TREATMENT WORKS APPROVAL PERMIT APPLICATION (TWA-1) - Block 26001, Lots 31 and 32 (Blawenburg Dutch Reformed Church)**

BE IT RESOLVED By the Montgomery Township Committee that Donato Nieman, Township Administrator, is hereby authorized to execute a sewer extension application to the New Jersey Department of Environmental Protection related to sewer capacity in the Cherry Valley Sewage Treatment Plant for Block 26001, Lots 31 and 32.

L. **RESOLUTION #08-5-124 - APPROVAL OF SEWER PARTICIPATION AGREEMENT FOR ADDITIONAL CAPACITY - Karen Zimmerman (Block 37004, Lot 6.90)**

BE IT RESOLVED By the Montgomery Township Committee that the Mayor and Clerk are hereby authorized to execute a Sewer Participation Agreement with Karen Zimmerman related to additional capacity in the Stage II Sewage Treatment Plant for Block 37004, Lot 6.80.

M. **RESOLUTION #08-5-125 - AMENDING RESOLUTION #08-3-68, A RESOLUTION AWARDED A PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING SERVICES IN CONNECTION WITH UPGRADING THE NPDC WASTEWATER TREATMENT PLANT**

BE IT RESOLVED by the Township Committee of the Township of Montgomery that Resolution #08-3-68 is hereby amended to reflect that the professional services contract for engineering services awarded to Omni Environmental, LLC, is for an amount not to exceed thirty-nine thousand three hundred dollars (\$39,300.00), rather than thirty-nine thousand dollars (\$39,000.00).

N. **RESOLUTION #08-5-126 - AUTHORIZING SUBMISSION OF THE YEAR 2008 MUNICIPAL ALLIANCE GRANT UPDATE**

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

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 By the Township of Montgomery, County of Somerset, State of New Jersey hereby recognizes the following:

1. The Township Committee does hereby authorize submission of an application for the Montgomery Township Municipal Alliance grant for calendar year 2008 in the amount of \$19,318.00.
2. The Township Committee acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

(CONSENT AGENDA Cont.)

O. **RESOLUTION #08-5-127 - AUTHORIZING CHANGE ORDER #1 - Spring Hill Road Reconstruction Project - Malick & Scherer**

WHEREAS, On February 17, 2005, a contract for the Spring Hill Road Reconstruction Project was awarded to Malick & Scherer for \$173,100.00; and

WHEREAS, The Township Engineer has requested the Committee's approval of a change order in connection with completion of the above project; and

WHEREAS, The work comprising Change Order No. 1 will result in a net increase in the original contract amount by \$43,950.00; and

WHEREAS, The changes outlined in Change Order No. 1 are due to a number of tasks that were or will be performed beyond what was originally proposed in the scope of the work; and

WHEREAS, The Township Administrator has recommended approval of the change order; and

WHEREAS, A copy of the proposed change order is annexed hereto.

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

1. The attached Change Order No. 1 is hereby approved.
2. This Resolution, when counter-signed by Malick & Scherer, shall serve as a contract amendment to the original contract for the purpose of increasing the total contract price by \$43,950.00 for a total contract amount of \$217,050.00.
3. Form and content are subject to the review and approval of the Township Attorney.

P. **RESOLUTION #08-5-128 - AUTHORIZING TEMPORARY EMERGENCY APPROPRIATIONS**

WHEREAS, The 2008 Municipal Budget has not been adopted and there is a need to increase the Temporary Budget prior to the 2008 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:

| | |
|--------------------------------|------------|
| Electricity | |
| Other Expenses | 67,000.00 |
| Telephone | |
| Other Expenses | 38,000.00 |
| Water | |
| Other Expenses | 4,000.00 |
| Natural Gas/Heating | |
| Other Expenses | 27,000.00 |
| Gasoline | |
| Other Expenses | 104,500.00 |
| Street Lighting | |
| Other Expenses | 14,500.00 |
| Workers Compensation Insurance | |
| Other Expenses | 20,700.00 |

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

ROLL CALL: Ayes - Caliguire, Joye, Wilson, Fay
Nays - None
Absent - Birge

13. **RESOLUTION #08-5-129 - TO REAPPOINT TEMPORARY CHIEF FINANCIAL OFFICER**

BE IT RESOLVED That Walter Sheppard is hereby reappointed Temporary Chief Financial Officer, subject to the approval of the Director of the Division of Local Government Services.

13-1. Committeewoman Wilson moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Caliguire and carried on the following:

ROLL CALL: Ayes - Caliguire, Joye, Wilson, Fay
Nays - None
Absent - Birge

14. **RESOLUTION #08-5-130 - ABATING AND CORRECTING THE 2005 ASSESSMENT FOR CERTAIN REAL PROPERTY AND WITHDRAWING THE TOWNSHIP'S TAX COURT COMPLAINT; N.J.S.A. 54:4-99, -100 (BLOCK 22001, LOT 021; ESTATE OF DUNCAN CAMPBELL; RIVER ROAD)**

WHEREAS, N.J.S.A. 54:4-99 and 54:4-100 provide that the governing body of a municipality may make such abatements, revision, alteration, adjustment and settlement of the principal sum of any past due taxes or assessments, both of principal and interest and penalties thereon, as it shall deem equitable and just, and in the best interest of the municipality; and

WHEREAS, N.J.S.A. 54:4-100 specifically provides that no abatement of a principal sum or any such taxes, assessment or other municipal charges shall be made unless the governing body shall, among other reasons, be satisfied that the imposition of the subject taxes, assessments or other municipal charges result in the market value of the subject property being less than the taxes or assessment in question; and

WHEREAS, certain real property in the Township known as Block 22001, Lot 021, owned by the Estate of Duncan Campbell, as located on River Road ("the Property") possesses significant agricultural, watershed wetlands, natural habitats, and conservation value; and

WHEREAS, the Township purchased conservation, agricultural and public pathway easements from the owners of the Property by deed dated May 6, 1997 as recorded in the Somerset County Clerk's office in Deed Book 2112 at Page 1; and

WHEREAS, said easements were mistakenly not recorded on the records in the Township's Tax Assessor's office; and

WHEREAS, the 2005 assessment of the Property by the Tax Assessor understandably did not recognize the Township's purchase of the agricultural and conservation rights for the Property, resulting in an assessment of the land for tax year 2005 (\$2,437,600.00) which exceeded the Property's true value; and

WHEREAS, the Township had filed a Correction of Errors in the New Jersey Tax Court in an effort to correct the assessment for the Property, Township of Montgomery v. Estate of Campbell, Tax Court Docket No. 007290-2005; and

WHEREAS, the Township's Tax Assessor, having learned of the Township's acquisition of the agricultural and conservation easement in 1997, has arrived at a corrected assessed value for the land for 2005 (\$1,262,500.000), which has been reviewed and accepted by the Property's owners; and

WHEREAS, the Township's Tax Assessor has signed a Certification setting forth the underlying issues which resulted in the assessment for calendar year 2005, a true copy of which is attached hereto and made a part hereof as Exhibit A; and

WHEREAS, it is equitable and just, and in the best interest of the citizens of the municipality, to abate the assessment figure for the land for 2005, and replace it with the corrected figure;

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 financial records of the municipality may be amended to reflect that the assessed value on the 2005 tax book for Block 22001, Lot 21 shall be the corrected assessed total value of \$1,466,100.00 (\$203,600.00 for the improvement, \$1,262,500.00 for the land); and

BE IT FURTHER RESOLVED that the mistaken total assessment of \$2,437,600.00 be and hereby is removed from the 2005 tax book and is of no further effect thereon; and

BE IT FURTHER RESOLVED that no additional taxes shall be due and owing to the Township, nor shall any refund or credit be due and owing to the Property's owner as the result of this action taken by the governing body concerning tax year 2005; and

BE IT FURTHER RESOLVED that the Township's attorney be and hereby is authorized to withdraw the Tax Court Complaint concerning the 2005 taxes and assessment for the Property, upon the receipt of the withdrawal of the Property owner's Counterclaim in the identified Tax Court matter.

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

ROLL CALL: Ayes - Caliguire, Joye, Wilson, Fay
Nays - None
Absent - Birge

15. **RESOLUTION #08-5-131 - AUTHORIZING THE SALE OF A PLENARY RETAIL CONSUMPTION LICENSE**

WHEREAS, *N.J.S.A. 33:1-12.14* provides that no new Plenary Retail Consumption License shall be issued in a municipality unless and until the number of such licenses existing in the municipality is fewer than one for each 3,000 of its population as shown on the last preceding Federal Census; and

WHEREAS, the 2000 Federal Census determined that the population of the Township of Montgomery ("Township") exceeds 17,000 persons; and

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

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

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

1. The Township hereby determines that it will sell at public sale one Plenary Retail Consumption License for the sale of alcoholic beverages, in accordance with the procedures set forth in *N.J.S.A. 33:1-19.3 et seq.*
2. The Township Clerk shall publish a notice of the public sale and an invitation to bid in the official newspaper of the Township at least two times, the notices to be published at least one week apart, the second of which shall be published at least thirty days prior to the date after which no further applications shall be accepted. Nothing herein shall preclude the Township Clerk from publishing additional newspaper or alternative notices, provided the publication requirements set forth above are satisfied.
3. The following conditions shall apply to the award and issuance of each license:
 - a. Each license shall be used in conjunction with a restaurant, which is defined by the Alcoholic Beverage Control Act, *N.J.S.A. 33:1-1(t)* as "an establishment regularly and principally used for the purposes of providing meals to the public, having an adequate kitchen and dining room equipped for preparing, cooking and serving of food for its customers and in which no other business, except such as incidental to such establishment, is conducted." Said restaurant shall have seating for a minimum of one hundred (100) persons.
 - b. The premises on which the licensee operates may be (1) an existing restaurant, (2) an existing building in which such use is a permitted use, or (3) a site which has or may receive preliminary and final site plan approval (within the time period required for license issuance set forth in paragraph 10 below) from the Township Planning Board.
 - c. The premises on which the licensee operates must comply with all Township zoning regulations and New Jersey Municipal Land Use Law, *N.J.S.A. 40:55D-1 et seq.*
 - d. The minimum bid that shall be considered for the license shall be \$750,000.00.
 - e. Prospective bidders must be pre-qualified, and only the bids of qualified bidders will be opened
 - f. To pre-qualify, a prospective bidder must submit the following to the Township Clerk at the Township Municipal Building at 2261 Van Horne Road, Belle Mead, New Jersey 08502, on or before 10:00 a.m. on June 20, 2008:
 - (1) A full and complete twelve-page Alcoholic Beverage Control Application form.
 - (2) A separate certification of proof of compliance by the applicant that it meets any and all conditions or requirements contained in this resolution, including that the license will be used in conjunction with a restaurant having seating for a minimum of one hundred (100) persons, and knows of no other reason why he or she would be disqualified from having an interest in a Retail Liquor License in the State of New Jersey under the standards set forth in the Alcoholic Beverage Control Act and the rules and regulations promulgated thereunder.
 - (3) The remittance of a deposit in the amount of \$75,000.00 (10% of minimum bid amount) by certified check, made payable to the "Township of Montgomery."
 - (4) A separately sealed opaque envelope containing the bid amount, the outside of which shall state "2008 Retail Consumption Liquor License Bid" and the name of the bidder.

(Item #15 Cont.)

4. At 10:00 a.m. on June 27, 2008, the Township Clerk shall publicly announce those prospective bidders who have pre-qualified for bidding in compliance with the Alcoholic Beverage Control Act, and the rules and regulations promulgated thereunder, Township ordinances, the conditions set forth in the published notices, and other applicable law. A list of such pre-qualified bidders shall be posted on the public announcements bulletin board in the Township Municipal Building 2261 Van Horne Road, Belle Mead, New Jersey 08502.
 5. The Township Clerk shall open the bids of the pre-qualified bidders at 10:00 a.m. on July 7, 2008 at the Township Municipal Building, 2261 Van Horne Road, Belle Mead, New Jersey 08502. Immediately after opening the sealed bids of the pre-qualified bidders, the Township Clerk shall publicly announce the amount of each bid and the name of each bidder.
 6. The Township Committee, by written resolution, adopted at the public meeting on July 17, 2008 shall award the license to the highest bidder, if the Township does not reject all bids. If the award is made to the highest qualified bidder, the ultimate issuance of the license shall be subject to each of the following:
 - a. Payment of the balance of the bid for the license by certified check made payable to the "Township of Montgomery" within five days of the date of the resolution of the Township Committee awarding the license. Failure to make timely payment of the balance shall, at the option of the Township, result in voiding of the license award and forfeiture of the successful bidder's deposit whereupon the Township may award the license to the next highest qualified bidder or take no further action.
 - b. Payment by the successful bidder of the New Jersey State License Application Fee.
 - c. Payment of the Annual Municipal Retail License Fee.
 - d. Satisfactory outcome of further municipal background checks to investigate the source of funds used to purchase the license.
 - e. Receipt of favorable State and/or federal criminal background checks for each prospective licensee.
 - f. Compliance with publication, hearing and resolution requirements under *N.J.A.C. 13:2-2.1 et seq.*
 7. The deposit of all unsuccessful bidder(s) shall be returned within ten days of the date of the award of the license(s).
 8. The Township reserves the right to reject all bids where the highest qualified bid is not accepted.
 9. The sale may be postponed or cancelled at any time prior to the opening of the bids.
 10. If the license has not been issued pursuant to this resolution by December 20, 2008, no license shall thereafter be issued without further resolution by the Township Committee, determining to issue a new license.
 11. The successful bidder shall comply with all other provisions of *N.J.A.C.13:2-2.1 et seq.*, including, but not limited to, publication of notice of application.
- 15-1. Committeewoman Wilson moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Caliguire and carried on the following:

ROLL CALL: Ayes - Caliguire, Joye, Wilson, Fay
Nays - None
Absent - Birge

16. **RESOLUTION #08-5-132 - AUTHORIZING THE SALE OF A PLENARY RETAIL DISTRIBUTION LICENSE**

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

WHEREAS, the 2000 Federal Census determined that the population of the Township of Montgomery ("Township") exceeds 17,000 persons; and

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

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

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

1. The Township hereby determines that it will sell at public sale one Plenary Retail Distribution License for the sale of alcoholic beverages, in accordance with the procedures set forth in *N.J.S.A. 33:1-19.3 et seq.*
2. The Township Clerk shall publish a notice of the public sale and an invitation to bid in the official newspaper of the Township at least two times, the notices to be published at least one week apart, the second of which shall be published at least thirty days prior to the date after which no further applications shall be accepted. Nothing herein shall preclude the Township Clerk from publishing additional newspaper or alternative notices, provided the publication requirements set forth above are satisfied.
3. The following conditions shall apply to the award and issuance of each license:
 - a. The premises on which the licensee operates may be (1) an existing building in which such use is a permitted use or (2) a site which has or may receive preliminary and final site plan approval (within the time period required for license issuance set forth in paragraph 10 below) from the Township Planning Board.
 - b. The premises on which the licensee operates must comply with all Township zoning regulations and New Jersey Municipal Land Use Law, *N.J.S.A. 40:55D-1 et seq.*
 - c. The minimum bid that shall be considered for the license shall be \$300,000.00.
 - d. Prospective bidders must be pre-qualified, and only the bids of qualified bidders will be opened.
 - e. To pre-qualify, a prospective bidder must submit the following to the Township Clerk at the Township Municipal Building at 2261 Van Horne Road, Belle Mead, New Jersey 08502, on or before 10:00 a.m. on June 20, 2008:
 - (1) A full and complete twelve-page Alcoholic Beverage Control Application form.
 - (2) A separate certification of proof of compliance by the applicant that it meets any and all conditions or requirements contained in this resolution and knows of no other reason why he or she would be disqualified from having an interest in a Retail Liquor License in the State of New Jersey under the standards set forth in the Alcoholic Beverage Control Act and the rules and regulations promulgated thereunder.
 - (3) The remittance of a deposit in the amount of \$30,000.00 (10% of minimum bid amount) by certified check, made payable to the "Township of Montgomery."
 - (4) A separately sealed opaque envelope containing the bid amount, the outside of which shall state "2008 Retail Distribution Liquor License Bid" and the name of the bidder.
4. At 10:00 a.m. on June 27, 2008, the Township Clerk shall publicly announce those prospective bidders who have pre-qualified for bidding in compliance with the Alcoholic Beverage Control Act, and the rules and regulations promulgated thereunder, Township ordinances, the conditions set forth in the published notices, and other applicable law. A list of such pre-qualified bidders shall be posted on the public announcements bulletin board in the Township Municipal Building 2261 Van Horne Road, Belle Mead, New Jersey 08502.

(Item #16 Cont.)

5. The Township Clerk shall open the bids of the pre-qualified bidders at 10:00 a.m. on July 7, 2008 at the Township Municipal Building, 2261 Van Horne Road, Belle Mead, New Jersey 08502. Immediately after opening the sealed bids of the pre-qualified bidders, the Township Clerk shall publicly announce the amount of each bid and the name of each bidder.
 6. The Township Committee, by written resolution, adopted at the public meeting on July 17, 2008 shall award the license to the highest bidder, if the Township does not reject all bids. If the award is made to the highest qualified bidder, the ultimate issuance of the license shall be subject to each of the following:
 - a. Payment of the balance of the bid for the license by certified check made payable to the "Township of Montgomery" within five days of the date of the resolution of the Township Committee awarding the license. Failure to make timely payment of the balance shall, at the option of the Township, result in voiding of the license award and forfeiture of the successful bidder's deposit whereupon the Township may award the license to the next highest qualified bidder or take no further action.
 - b. Payment by the successful bidder of the New Jersey State License Application Fee.
 - c. Payment of the Annual Municipal Retail License Fee.
 - d. Satisfactory outcome of further municipal background checks to investigate the source of funds used to purchase the license.
 - e. Receipt of favorable State and/or federal criminal background checks for each prospective licensee.
 - f. Compliance with publication, hearing and resolution requirements under *N.J.A.C. 13:2-2.1 et seq.*
 7. The deposit of all unsuccessful bidder(s) shall be returned within ten days of the date of the award of the license(s).
 8. The Township reserves the right to reject all bids where the highest qualified bid is not accepted.
 9. The sale may be postponed or cancelled at any time prior to the opening of the bids.
 10. If the license has not been issued pursuant to this resolution by December 20, 2008, no license shall thereafter be issued without further resolution by the Township Committee, determining to issue a new license.
 11. The successful bidder shall comply with all other provisions of *N.J.A.C.13:2-2.1 et seq.*, including, but not limited to, publication of notice of application.
- 16-1. Committeeman Caliguire moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Wilson and carried on the following:

ROLL CALL: Ayes - Caliguire, Joye, Wilson, Fay
Nays - None
Absent - Birge

17. **ORDINANCE #08-1282 - To Exceed Index Rate - Introduction**

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

AN ORDINANCE PROVIDING FOR A 3.5% "CAP" FOR THE 2008
BUDGET PURSUANT TO NJSA 40A:4-45.14

- 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 May 15, 2008 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

- 17-1. Committeewoman Wilson moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Joye and carried on the following:

ROLL CALL: Ayes - Caliguire, Joye, Wilson, Fay
Nays - None
Absent - Birge

18. **ORDINANCE #08-1285 - Animal Control - Introduction**

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

AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER V OF THE CODE OF THE TOWNSHIP OF
MONTGOMERY (1984) REGARDING ANIMAL CONTROL.

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 May 15, 2008 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

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

ROLL CALL: Ayes - Caliguire, Joye, Wilson, Fay
Nays - None
Absent - Birge

19. **PAYMENT OF BILLS**

WHEREAS, The Township Committee of the Township of Montgomery has received bills to be paid as listed; and

WHEREAS, The Temporary Chief Financial 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. Committeeman Caliguire moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Wilson and carried on the following:

ROLL CALL: Ayes - Caliguire, Joye, Wilson, Fay
Nays - None
Absent - Birge

20. **EMPLOYEE EFFICIENCY SUGGESTIONS**

Stephanie Carey, Employee Efficiency Incentive Program member, asked for Township Committee guidance on the following items:

a. Newsletter Services to Rocky Hill

Ms. Carey stated that it cost the Township approximately \$3,000.00 per year (on a 10 Newsletter per year cycle) to provide a paper copy of the Township's Newsletter to the residents of Rocky Hill Borough and no charge to Rocky Hill. That figure includes approximately \$200.00 per issue for printing and approximately \$85.00 per issue for postage.

It was the consensus of the Committee that the Administrator should notify Rocky Hill that they will have to pay approximately \$1,500.00 if they want the Newsletter mailed.

b. Health Insurance Opt-Out Incentives

Administrator Nieman suggested that a dollar figure be discussed for the Health Insurance Opt-Out. After some discussion, it was decided that the incentive would be a one time payment of \$2,000.00 and an ordinance would be drafted.

There will be more discussion in the future.

21. **SIDEWALK AND DRIVEWAY ORDINANCE CHANGES**

Administrator Nieman explained that the current ordinance is silent to who was responsible for the repair of sidewalks. The proposed changes to the Sidewalk and Driveway Ordinance were that the homeowner was responsible for the repair of existing sidewalks and the allowing of Belgian Block or fancy pavers on the driveway apron was also the homeowner's responsibility.

It was the consensus of the Township Committee that an ordinance be drafted to reflect the changes.

22. **SPORT LEAGUE FEES**

Administrator Nieman explained that Temporary Chief Financial Officer Walter Sheppard and Recreation Director Karen Zimmerman had been working on raising the fees for the sports leagues as a way to cover the cost of maintaining the parks. He felt it was appropriate to work on developing a fee structure that requires the leagues to contribute towards the maintenance of the fields on which they play.

Mr. Sheppard and Ms. Zimmerman will do an analysis and bring it back to the Governing Body for further consideration.

23. **ROTARY CLUB**

Committeewoman Wilson stated that the Rotary Club had been extraordinarily generous with the Food Pantry and she suggested that a proclamation be passed to reflect this.

Motion #08-5-2 - Committeewoman Wilson moved the following resolution. The motion was seconded by Committeeman Joye and carried unanimously:

BE IT RESOLVED, The Township Committee thanks the members of the Montgomery/Rocky Hill Rotary Club for their time, skill and resources that have been so generously donated to the Montgomery Food Pantry; and

BE IT FURTHER RESOLVED That the Township Committee congratulate and commend Montgomery/Rocky Hill Rotary Club for year after year of fine work for sustaining the community tradition that is now the "Run With Rotary" and in general for setting and meeting the highest standard of community service for the benefit of the most vulnerable among us.

24. **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 Gallup/Nawn Application.
3. It is unknown precisely when, if ever, the matters discussed in this session may be disclosed to the public. Approval of agreements and acquisition of land shall only be authorized by the Township Committee in a public session.

24-1. Committeeman Joye moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Wilson and carried unanimously.

25. The meeting reconvened in Open Session.

26. **GALLUP/NAWN PROPERTY**

Motion #08-5-3 - Committeeman Caliguire moved that the Township Attorney be instructed to draft a letter to the County Agriculture Board expressing the Township's concerns about the Nawn application for the Gallop Farm and concerns about whether their intended and stated uses actually fall within the restrictions imposed upon the parcel in the easement from 1994 when it was put into farmland preservation.

Deputy Mayor Fay asked that it be added that the Township Committee was concerned they provide some strong enforcement measure to ensure that any stated agricultural uses they are committed to will actually be fulfilled.

Committeeman Caliguire asked that it also be added that as the application exists we are currently opposed to it for those reasons.

Deputy Mayor Fay stated that unless the application is made to conform, we would have to oppose.

Committeewoman Wilson pointed out that if the farm plan fails to indicate whether the horses to be bred, trained, and used for therapeutic riding will be ultimately marketed and sold. Unless the farm plan is specific on that point we can't support the application.

Committeeman Caliguire added that he would also like to express the Township's public policy concern about ridiculous liberal interpretations about easements like this. The taxpayers of Montgomery and other interested parties spend valuable dollars to see valuable properties put into farmland preservation and have a reasonable expectation that they will be used for agricultural uses under reasonable interpretations.

Committeewoman Wilson added that the Township needed to be cautious about reasonable interpretations of agricultural uses. In reasonable expectations, the deed would be honored in its letter and its spirit.

(Item #26 Cont.)

Deputy Mayor Fay stated that in the event the board does approve the application, not withstanding these concerns, we urge that the driveway be aligned with the current farm road.

Committeewoman Wilson added that the Township express the concern about the driveway meeting Great Road at the location opposite Inverness Drive where the farm road currently enters Great Road.

Committeeman Joye stated that he would like to add the following sentence because it doesn't go into the detail about marketing. "In our opinion the current farm plan concerning therapeutic riding does not qualify as a common farm site activity. Therefore we wish to express our concerns about...what was said previously." This is a flat statement about what our opinion is. It's correct and in line with our memo.

The motion was seconded by Committeewoman Wilson carried unanimously.

ADJOURNMENT was at 9:30 p.m. on a motion by Committeeman Caliguire, seconded by Committeewoman Wilson and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk