

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
October 21, 2010

1. Montgomery Township Committee met at the Municipal Building, 2261 Van Horne Road, Belle Mead, NJ at 7:00 p.m. on the above date. Those present were:

TOWNSHIP COMMITTEE: Mayor Caliguire, Deputy Mayor Dyer, Committeemembers Wilson, Fay and Carter

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. **RESOLUTION #10-10-261 - RESOLUTION AUTHORIZING APPROVAL AND EXECUTION OF AGREEMENT FOR THE SALE OF SKILLMAN VILLAGE TO SOMERSET COUNTY**

BE IT RESOLVED By the Township Committee of the Township of Montgomery in Somerset County as follows:

1. A certain "Agreement of Sale" between the Township of Montgomery and County of Somerset providing for the sale of property known as Block 26001, Lot 1 located between Burnt Hill Road and County Route 601, commonly known as "Skillman Village," is hereby approved. Said agreement provides for, among other things, (a) a gross purchase price of \$64,438.00 per acre, (b) a continuing obligation on the part of the Township to pay up to \$10.40 per square foot for the demolition of the remaining abandoned buildings on the site, said cost to be taken out of the gross purchase price, (c) a continuing obligation on the part of the Township to pay for disposal of the landfill material related to the former power house located on the site, said cost to be taken out of the gross purchase price, (d) the exclusion of the Maplewood and Pine Knoll sites, Burnt Hill Road right-of-way, and up to one-half acre for reconfiguration of the Village Elementary School driveway from the sale, and (e) the assignment of a certain Guaranteed Fixed Price Environmental Liability Transfer Agreement for environmental remediation, including dam restoration, to the County. A true copy of said Agreement of Sale shall be maintained on file in the office of the Township Clerk.

2. The Mayor and Clerk are hereby authorized to execute said Agreement of Sale on behalf of Montgomery Township.

- 4-1. Dave Bekus, Hunt Lane, stated that he was happy to see that this was happening. He asked about the sale price being stated as \$14⁺ million instead of the \$64,438.00 per acre.

Attorney Hadinger explained that the \$64,438.00 was the per acre value. She stated that the unknown was the Township will remain responsible for the cost associated with demolition of the remaining building and the removal of the coal ash, up to a certain point. Those costs, until they are bid, are not determined. It is a \$64,438.00 per acre minus what those costs will be.

- 4-2. Valerie Smith, Kemper Lakes Court, stated that she was so happy to see this. She always thought that there would be some kind of development there when this first came about, but the more she thought about the traffic, the better she thought this idea was.

- 4-3. Donald Matthews, Rutland Road, stated that it was a pleasure for him to be present tonight for this approval as he was a member of the Township Committee when this all started. He also would like to be a part of any committee set up to design and create the new county park that is to be located at that site.

- 4-4. Committeeman Carter moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Wilson and carried on the following:

ROLL CALL - Ayes - Wilson, Fay, Carter, Dyer, Caliguire
Nays - None

5. **ORDINANCE #10-1373 - Authorizing Sale of Skillman Village - Introduction**

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

AN ORDINANCE AUTHORIZING THE SALE OF BLOCK 26001, LOT 1
LOCATED BETWEEN COUNTY ROUTE 601 & BURNT HILL ROAD,
COMMONLY KNOWN AS "SKILLMAN VILLAGE" BY THE TOWNSHIP OF
MONTGOMERY TO SOMERSET COUNTY.

- 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 November 4, 2010 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

- 5-1. Committeeman Carter moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Wilson and carried on the following:

ROLL CALL - Ayes - Wilson, Fay, Carter, Dyer, Caliguire
Nays - None

(Item #5 Cont.)

- 5-2. Committeewoman Wilson stated that she was very happy about this and she appreciated everyone who worked on this over the years and looked forward to the upcoming events.
- 5-2. Mayor Caliguire stated that there would be discussions and meetings with the County regarding the use for the property. The County has, in the past, hired professional park planners and they will probably do the same for this.

6. **PUBLIC COMMENT**

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

7. **POLICE REPORT**

Police Director Palmer reported on the following activities of the Police Department for the month of September, 2010:

-- 42 motor vehicle accidents;
-- 25 arrests;
-- 12 thefts;
-- 4 burglaries;
-- 4 domestic violence;
-- 3 criminal mischief.

Director Palmer stated that on March 2 he came before this Governing Body and asked for an endorsement to send Lieutenant Curry to the FBI National Academy. Lieutenant Curry has now graduated from the Academy, very successfully. He asked if Lieutenant Curry could explain his experiences and answer any questions the Township Committee might have.

Lieutenant Curry reported that on September 17, 2010 he was honored to graduate with the 247th class at the FBI National Academy along with 271 law enforcement leaders from around the world. The class was represented with officers from 49 States and 28 international students from 26 different countries, as well as representatives from the different branches of the military. He thanked the Governing Body for allowing him to attend and Captain Palmer for his support in every aspect. He reported about the speakers, many very famous people; the courses and the time spent there.

8. **VETERAN'S MEMORIAL COMMITTEE PRESENTATION**

Hugh Dyer, Chairman, updated the Township Committee on the Veteran's Memorial. He requested permission to designate the northern most corner of Montgomery Park as the new official site of the Veteran's Memorial. He stated that the original site was at the southern tip of Montgomery Park, what is now the Arboretum. The cost estimate for constructing the Memorial at that southern site was too high. The next site designated for the Memorial was at the Skillman Village property. Now that the County is buying the Skillman Village, they are asking to locate the Memorial to the northern most corner of Montgomery Park. He described the site they are proposing and why it would be perfect for the Memorial.

Attorney Hadinger stated that she thought the legalities could definitely be worked out. It is a Green Acres piece of property, so the Township does need to deal with that with the people in Trenton.

Committeeman Fay stated that he was in favor of placing the Memorial at Montgomery Park, and asked if anyone had looked closely at the traffic sight lines around the corner and what the impact of the project would be on that. Mr. Dyer stated that this had been looked at and there would be no problem.

There was discussion about the cost of the Memorial and the fundraising that has gone on. The Veteran's Memorial Committee figures they could start construction of this Memorial as soon as they have a firm site. They are of the mind-set that they could have this Memorial ready for use in the summer of 2011.

Committeewoman Wilson stated that she would like to recognize Hugh Dyer for his hard work and dedication to this project throughout the years.

- 8-1. **Motion #10-10-1** - Committeewoman Wilson moved to approve this proposed location for the Veteran's Memorial, knowing that at some future date the Township Committee needs to be specific about the space needs, the pathway connection and the short extension of electricity into the site. The motion was seconded by Committeeman Carter and carried on the following:

ROLL CALL - Ayes - Wilson, Fay, Carter, Caliguire
Nays - None
Abstain - Dyer

9. **HEALTH BENEFITS PRESENTATION**

Mayor Caliguire stated that the Township was looking to save money by opting out of the State Health Benefits Plan and enrolling in the Joint Insurance Fund.

Randy Barber, Conner Strong, gave a background of the company. He stated they had four primary funds that they manage throughout the State. They cover over 10,000 members in their funds, which represents employees and their families. The particular fund they proposed for Montgomery was their Central Fund. They were able to bring down the increase to the Township from the State's increase of about 12.5% to their increase of 6.5%. This is an annual saving of approximately \$125,000.00. He briefly went over the Health Benefits that they would provide. He explained that the State was offering two Horizon plans, an Aetna plan and a Cigna plan. Their company would provide an equal to or better letter which guarantees that the benefits will be duplicated with the existing program now, there would be no change in benefits. The State plan uses Medco for the Pharmacy plan, their company would be Express Scripts. The all pretty much use the same pharmacies. Another feature of their program is that the Township now owns the program. In the future, there will be flexibility for changes.

Administrator Nieman stated that there had been meetings with the Conner Strong representatives and the representatives of the different bargaining units and the non-union employees. The major concern of these people were that the benefits be equal to or better than the existing ones.

10. **RESOLUTION #10-10-262 - TO TERMINATE PARTICIPATION UNDER THE NEW JERSEY STATE HEALTH BENEFITS PROGRAM (which includes Prescription Drug Program and/or Dental Plan coverage)**

BE IT RESOLVED By the Township Committee of the Township of Montgomery in Somerset County as follows:

1. The Township Committee of the Township of Montgomery, County of Somerset hereby resolves to terminate its participation in the program (including Prescription Drug and/or Dental Plan) thereby canceling coverage provided by the New Jersey State Health Benefits Program (N.J.S.A. 52:14-17.25 et seq.) for all its active and retired employees.
2. We shall notify all active employees of the date of their termination of coverage under the program.
3. We understand that the Division of Pensions and Benefits will notify retired employees of the cancellation of their coverage.
4. We understand that all COBRA participants will be notified by the Division of Pensions and Benefits and advised to contact our office concerning a possible alternative health, prescription drug, and dental insurance program.
5. We understand that this resolution shall take effect the first of the month following a 60-day period beginning with the receipt of the resolution by the State Health Benefits Commission.

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

ROLL CALL - Ayes - Wilson, Fay, Carter, Dyer, Caliguire
Nays - None

11. **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 #10-10-263 - REFUND OVERPAID 2010 TAXES**

BE IT RESOLVED That a refund in the amount of \$277.24 be given to Foundation Title, LLC, 3673 Quakerbridge Road, Mercerville, NJ 08619 for the overpayment of 2010 taxes on Block 34023, Lot 58.

B. **RESOLUTION #10-10-264 - REFUND OVERPAID 2010 SEWER CHARGES**

BE IT RESOLVED That a refund in the amount of \$420.50 be given to Gao, Hong & Pan, Weitao, 15 North Lakeside Drive, Ledyard, CT 06339 for the overpayment of 2010 sewer charges on Block 5011, Lot 1.

C. **RESOLUTION #10-10-265 - APPROVAL OF FIRE HYDRANTS** - Pike Brook Sewer Treatment Plant

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 in the following locations at the Pike Brook Sewer Treatment Plant.

Hydrant #1 - To be installed at corner of Harlingen Road and new road that leads to sewer treatment plant.

Hydrant #2 - To be installed at end of 8 inch pipe to sewer treatment plant.

All locations are shown on filed map in Fire Marshall's office. All locations are in accordance with the recommendations made by the Montgomery Township Fire Marshall.

(CONSENT AGENDA Cont.)

D. RESOLUTION #10-10-266 - APPROVAL OF OUTDOOR ASSEMBLY - MYFCA

BE IT RESOLVED By the Montgomery Township Committee as follows:

1. The MYFCA has requested approval of the Township Committee to conduct an Outdoor Assembly at the Van Horne Park on November 6, 2010 (raindate - November 7, 2010) from 1:00 p.m. to 5:00 p.m.
2. The Township Committee has considered the application and hereby grants the same subject to the following conditions:
 - (a) This approval is for the period specified and is not to be considered approval to conduct similar events without Committee approval.
 - (b) This event shall be held subject to the provisions of the Montgomery Township Code, Outdoor Assembly, Chapter 4-2.1.
3. The Montgomery Township Police Department has reviewed and approved the application.
4. The organizers have obtained the required health certificates from the Township Health Officer, Stephanie Carey.

E. RESOLUTION #10-10-267 - APPROVAL OF OUTDOOR ASSEMBLY - Canibeat.com

BE IT RESOLVED By the Montgomery Township Committee as follows:

2. David Tormey of canibeat.com has requested approval of the Township Committee to conduct an Outdoor Assembly/Car Show at the Princeton Airport on October 30, 2010 from 11:00 a.m. to 6:00 p.m.
3. The Township Committee has considered the application and hereby grants the same subject to the following conditions:
 - (a) This approval is for the period specified and is not to be considered approval to conduct similar events without Committee approval.
 - (b) This event shall be held subject to the provisions of the Montgomery Township Code, Outdoor Assembly, Chapter 4-2.1.
3. The organizers will obtain the required approval from the Police Department regarding parking facilities, traffic plan and safety considerations.
4. The organizers will obtain the required health certificates from the Township Health Department.

F. RESOLUTION #10-10-268 - RELEASE OF CASH PERFORMANCE GUARANTEE - Richard Mercurio - Landscaping Extension (Block 19001, Lot 16.01)

WHEREAS, George Remboske, Assistant to the Township Engineer, recommended the release of the cash Performance Guarantee to Richard Mercurio because all work has been satisfactorily completed with respect to the Landscaping Extension at Block 19001, Lot 16.01 (220 Orchard Road).

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the cash Performance Guarantee in the amount of \$3,500.00 be released to Richard Mercurio, 220 Orchard Road, Skillman, NJ 08558.

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

G. RESOLUTION #10-10-269 - APPROVAL OF SEWER PARTICIPATION AGREEMENT FOR ADDITIONAL SEWER CAPACITY - American Realty Associates (Tiger's Tale) (Block 28001, Lots 61 & 62)

BE IT RESOLVED By the Montgomery Township Committee that the Mayor and Clerk are hereby authorized to execute a Sewer Participation Agreement with American Realty Associates (Tiger's Tale) related to additional capacity in the Stage II Sewage Treatment Plant for Block 28001, Lots 61 & 62.

H. RESOLUTION #10-10-270 - WAIVER OF CONSTRUCTION SEQUENCE AGREEMENT - Bedens Brook Club, Application #BA-01-10

WHEREAS, The Bedens' Brook Club is planning improvement to its maintenance area, including an addition to the on-site caretaker's house, the construction barn, a gravel parking area and landscaping; and

WHEREAS, The attorney for Bedens' Brook Club requested that the Township Committee waive the requirement for a construction sequence agreement and the Township Engineer, Gail Smith, has recommended that the requirement (16-9.2c) for a construction sequence be waived, per her memo dated October 13, 2010.

NOW, THEREFORE BE IT RESOLVED That the Montgomery Township Committee hereby waives the construction sequence agreement provided that all other requirements in sections 16-9.2c, d, e, and f of the Code are followed.

(CONSENT AGENDA Cont.)

I. **RESOLUTION # 10-10-271 - PURSUANT TO N.J.S.A. 40A:4-87** (Chapter 159, P.L. 1948) -
Body Armor Replacement Fund Program

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special items of revenue in the budget of any County or Municipality when such item shall have been made by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, Said Director may also approve the insertion of any item of appropriation for an equal amount

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery hereby requests the Director of the Division of Local Government Services to approve the insertion of items of revenue in the budget of the year 2010, in the amounts listed below, which item is now available as a revenue from the New Jersey Division of Criminal Justice - Law and Public Safety ;

Body Armor Replacement Fund Program 2010	\$2,865.41
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BE IT FURTHER RESOLVED That a like sum, be, and the same, hereby is appropriated under the above appropriation titles.

BE IT FURTHER RESOLVED That two copies of this document with handwritten ink signature of the Clerk on certification be forwarded to the Division of Local Government Services.

11-1. 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 - Wilson, Fay, Carter, Dyer, Caliguire
Nays - None

12. **MAYORAL APPOINTMENT** - Budget and Finance Advisory Committee

BE IT RESOLVED That Jurij Mykolajtchuk be hereby appointed Budget and Finance Advisory Committee Regular Member.

13. **ORDINANCE #10-1369** - Administration-Copying Fees - Public Hearing

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY CONCERNING COPYING FEES FOR GOVERNMENT RECORDS AND AMENDING CHAPTER II OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984).

B. Mayor Caliguire opened the hearing to the public. There being no comment, Committeeman Carter moved that the public hearing be closed. The motion was seconded by Deputy Mayor Dyer and carried unanimously.

C. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 21st day of October, 2010 and that notice thereof be published in an official newspaper as required by law.

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

ROLL CALL - Ayes - Wilson, Fay, Carter, Dyer, Caliguire
Nays - None

14. **ORDINANCE #10-1371** - Opatut Land Locked Tract Acquisition - Public Hearing

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

ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY, PROVIDING FOR THE ACQUISITION OF LOT 36 IN BLOCK 34001, "OPATUT LAND LOCKED TRACT," IN THE TOWNSHIP OF MONTGOMERY.

B. Mayor Caliguire opened the hearing to the public. There being no comment, Deputy Mayor Dyer moved that the public hearing be closed. The motion was seconded by Committeeman Carter and carried unanimously.

C. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 21st day of October, 2010 and that notice thereof be published in an official newspaper as required by law.

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

ROLL CALL - Ayes - Wilson, Fay, Carter, Dyer, Caliguire
Nays - None

15. ORDINANCE #10-1372 - Smoking on Township Property - Public Hearing - DIED

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

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF
MONTGOMERY, IN THE COUNTY OF SOMERSET, NEW JERSEY (1984)
TO ESTABLISH A NEW SECTION, 3-18 "SMOKING PROHIBITED ON
TOWNSHIP PROPERTY."

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

B-2. Mayor Caliguire explained that this ordinance was suggested because he found there were employees who smoke and take breaks every hour or two. He felt this was not fair to other employees who do not smoke. He was a little concerned that this ordinance, as written, is too broad, given what the initial goal was.

B-4. Eric Weitze, Viburnum Drive, stated that this was just one more point of governmental control. He felt that it was going overboard not to allow smoking in public, open air places.

B-5. Donald Matthews, Rutland Road, stated that he felt this was overdoing it. The Governing Body should look at other options.

B-6. Deputy Mayor Dyer moved that the public hearing be closed. The motion was seconded by Committeeman Carter and carried unanimously.

C. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 21st day of October, 2010 and that notice thereof be published in an official newspaper as required by law.

15-1. Committeeman Carter moved the adoption of the foregoing resolution. The ordinance died from lack of a second.

16. APPROVAL OF MINUTES

16-1. Committeeman Fay moved the adoption of the Regular Session minutes of September 16, 2010. The motion was seconded by Committeeman Carter and carried unanimously.

16-2. Committeeman Fay moved the adoption of the Regular Session minutes of October 7, 2010. The motion was seconded by Deputy Mayor Dyer and carried on the following:

ROLL CALL - Ayes - Wilson, Fay, Dyer, Caliguire
Nays - None
Abstain - Carter

17. 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.

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

ROLL CALL - Ayes - Wilson, Fay, Carter, Dyer, Caliguire
Nays - None

18. MONTGOMERY/ROCKY HILL MUNICIPAL ALLIANCE & YOUTH SERVICES COMMITTEE 2ND ANNUAL CONFERENCE

Mayor Caliguire reviewed the flyer that had been emailed to each of the Township Committee. He stated that he was planning on attending. Deputy Mayor Dyer stated that she had planned on attending also.

Committeeman Carter stressed, on behalf of the Municipal Alliance and Youth Services Committee, the importance of these activities. He explained that they worked very hard to try to develop outreach programs for the youth of the Township.

19. SOMERSET COUNTY'S CAPITAL IMPROVEMENT PROGRAM

Committeewoman Wilson spoke about the County's Capital Improvement Program. She asked if Administrator Nieman knew whether or not the Bedens Brook Bridge was still in the plan. Administrator Nieman stated that he believed it was still there.

20. 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 COAH litigation and substantive certification.
3. It is unknown precisely when, if ever, the matters will be disclosed to the public. Matters concerning litigation may be announced upon the conclusion of any trial or settlement of the litigation.

20-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Carter and carried unanimously.

21. Meeting reconvened in Open Session and ADJOURNMENT was at 8:50 p.m. on a motion by Committeeman Carter. The motion was seconded by Committeeman Fay and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk