

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
November 14, 2011

1. Montgomery Township Committee met at the Municipal Building, 2261 Van Horne Road, Belle Mead, NJ at 8:00 a.m. on the above date. Those present were:

TOWNSHIP COMMITTEE: Mayor Caliguire, Deputy Mayor Dyer, Committeemembers Graham, Trzaska and Conforti

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

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. **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 #11-11-270 - REFUND OVERPAID 2011 TAXES**

BE IT RESOLVED That a refund in the amount of \$529.32 be given to Winseman, Eric, 1256 Parkwood Lane, Binghamton, NY 13903 for the overpayment of 2011 taxes on Block 33001 Lot 19.

B. **RESOLUTION 11-11-271 - CANCEL CHECKS FROM PAYROLL ACCOUNT**

WHEREAS, There exists outstanding unpaid checks on the books of the payroll account; and

WHEREAS, The checks are all over one year old and should be cancelled.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the following checks be cancelled from the payroll account:

31329	\$539.98
36168	\$ 39.13
36751	\$ 47.37
36672	\$126.62
36759	\$ 53.51
38292	\$ 82.73
38393	\$ 73.59
38395	\$867.68
38763	\$ 55.16
38853	\$ 49.62
38940	\$101.25
39169	\$ 34.21
39225	\$161.97
39772	\$ 44.74
40024	\$341.09
40137	\$269.30
40316	\$299.60
40553	\$ 32.74
40843	\$ 41.27
41109	\$324.14
41161	\$ 77.88
41211	\$828.40
41300	\$ 41.36
41312	\$ 19.79
41824	\$ 36.75
42340	\$278.36
10000	\$ 42.01
10085	\$ 21.07
10216	\$ 36.36
10286	\$ 21.07
11194	\$109.82
11215	\$ 74.09
11440	\$ 33.88
11503	\$ 53.74
11916	\$ 22.03
12146	\$168.60
12784	\$ 80.40
13290	\$ 75.85

(CONSENT AGENDA Cont.)

C. **RESOLUTION #11-11-272 - 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 2011, 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	\$3,056.22
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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.

D. **RESOLUTION #11-11-273 - TO SUPPORT IN CONCEPT THE SUSTAINABLE RARITAN RIVER INITIATIVE**

WHEREAS, The Raritan River is an asset to the region and to Montgomery and it would benefit the community to increase awareness and use of the River via local access points and trails; and

WHEREAS, Upgrades to current river access points are desirable and the need for ongoing plans for development of future recreational uses are of value to Montgomery; and

WHEREAS, Protection and preservation of habitat and biodiversity in our river ecosystem will provide recreational and natural assets to Montgomery; and

WHEREAS, The goals of restoration, rehabilitation and regeneration of compromised areas of lands in public ownership will benefit present and future residents; and

WHEREAS, Best management practices for habitat enhancement in the maintenance and management of open space are available and when applied would benefit various departments of Montgomery's government, and the quality of life to all Montgomery residents; and

WHEREAS, Properties that are deemed as brownfields because they are contaminated, abandoned or underutilized, detract from the economic vitality of active businesses, and need attention to be remediated and returned to valued uses; and

WHEREAS, Practices to prevent future pollution are known and could be applied for the benefit of Montgomery's management operations, and the residents of the County; and

WHEREAS, Stormwater runoff is a significant contribution to flooding, solid waste and streets in Montgomery, and further damages the Raritan River, and the Raritan River Action Plan (Reclaiming the Raritan: a Restoration and Sustainable Reuse Plan) encourages improvements in this area; and

WHEREAS, The overall restoration and protection of the watershed area that provides water to Montgomery's residents and the Raritan River should be promoted; and

WHEREAS, Redevelopment needs to provide economic benefits without further damaging, and ideally restoring, the ecology of the Raritan River and Montgomery.

NOW, THEREFORE, BE IT RESOLVED That the Montgomery Township Committee does support in concept the Sustainable Raritan River Initiative, and will work as an active member of the Raritan River Collaborative to promote efforts to restore and protect the River in accordance with the goals as outlined in the Sustainable Raritan River Action Plan.

4-1. Deputy Mayor Dyer moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeeman Trzaska and carried on the following:

ROLL CALL - Ayes - Conforti, Trzaska, Graham, Dyer, Caliguire
Nays - None

5. **RESOLUTION #11-11-274 - AUTHORIZING A SHARED SERVICES AGREEMENT FOR A SHARED MUNICIPAL COURT BETWEEN THE TOWNSHIPS OF MONTGOMERY & HILLSBOROUGH**

WHEREAS, The Townships of Montgomery and Hillsborough are interested in creating tax savings through the implementation of a Shared Municipal Court; and

WHEREAS, An agreement to enter into a shared service for municipalities is permitted under N.J.S.A. 40A:65-1 *et seq.*, the "Uniform Shared Services and Consolidation Act"; and

WHEREAS, N.J.S.A. 2B:12-1.c allows for the establishment of Shared Municipal Courts and provides that: two or more municipalities, by ordinance or resolution, may agree to provide jointly for courtrooms, chambers, equipment, supplies and employees for their municipal courts, and agree to appoint judges and administrators without establishing a joint municipal court. Where municipal courts share facilities in this manner, the identities of the individual courts shall continue to be expressed in the captions of orders and process; and

WHEREAS, The Townships received approval for the Shared Municipal Court pursuant to *New Jersey Court Rule 1:33-4(a)* which provides that "the Assignment Judge shall be the chief judicial officer within the vicinage and shall have plenary responsibility for the administration of all courts therein"; and

WHEREAS, The Townships will take those required steps to implement a Shared Municipal Court including complying with the requirements of the Assignment Judge and Municipal Court Services, including any checklist for the establishment of a Shared Municipal Court; and

WHEREAS, The Township of Montgomery has elected not to appoint its own Municipal Court Judge, Court Administrator, Prosecutor or Public Defender pursuant to N.J.S.A. 2B:12-1.c; and

WHEREAS, The Shared Services Agreement shall be for five (5) years and may be terminated by either party by providing written notice of termination no later than July 1 of the calendar year in which the Shared Services Agreement will terminate; and

WHEREAS, The Township of Montgomery shall pay the Township of Hillsborough thirty (30%) percent of the Township of Hillsborough's expenses to operate the Shared Municipal Court; and

WHEREAS, In the event that the case load of the Township of Montgomery Municipal Court increases more than thirty (30%) percent over the prior year's case load utilizing Shared Municipal Court statistics issued by the Administrative Office of the Courts, then the Townships shall negotiate an additional Service Charge to address any increase in costs directly attributable to the increased Township of Montgomery case load; and

WHEREAS, The Townships desire to enter into that certain "Shared Services Agreement for a Shared Municipal Court between the Township of Hillsborough and the Township of Montgomery" substantially in the form on file in the Office of the Township Clerk, subject to finalization by the respective Township Administrators and Attorneys in order that the Shared Municipal Court becomes operational on January 1, 2012.

NOW, THEREFORE, BE IT RESOLVED That the Mayor and Clerk are hereby authorized to sign the afore-referenced Shared Services Agreement for a Shared Municipal Court between the Townships of Hillsborough and Montgomery substantially in the form on file in the Office of the Township Clerk subject to finalization by the respective Township Administrators and Attorneys in order that the Shared Municipal Court becomes operational on January 1, 2012; and

BE IT FURTHER RESOLVED That this Resolution shall take effect immediately.

5-1. Administrator Nieman explained that this would be considered a shared Municipal Court which is different than a merged Municipal Court. A shared Court is going to allow Montgomery to share the staff of Hillsborough and eliminate the costs associated with personnel that would operate a Court in Montgomery. The estimated savings will be between \$70,000.00 and \$80,000.00. There will be no impact on the Township's revenue from traffic tickets and there will be separate Montgomery bookkeeping. This move did require discussion and approval with the Administrative Office of the Courts and that approval was recently granted by the Administrative Office of the Courts. The consolidation was set for January 1, 2012.

5-2. Committeewoman Graham inquired if there was going to be separate Hillsborough and Montgomery court hearings or were they all going to be one. She also asked if the same Judge was going to hear both Townships' cases.

Attorney Hadinger stated that at the present time the plan was to have a Montgomery session and a Hillsborough session, however as the Court evolved there might be some mixing. She explained that both Montgomery and Hillsborough would be appointing the same Judge to hear cases.

5-3. Mayor Caliguire explained that this was a move to make sure that the Township stays within the 2% CAP, and does everything possible to keep taxes and spending stable.

(Item #5 Cont.)

- 5-4. Mark Petrakse, Opossum Road, stated that at the conclusion of the independent study it seems to indicate that the Township would suffer a \$20,000.00 loss versus a gain in doing this consolidation. When you get into the final table in that study the projected revenues is actually about \$34,000.00 short. At the end of the internal study the numbers for the proposed merged Court systems is actually lower than what the independent study found. Instead of being 75/25%, it went up to 70/30%.

Administrator Nieman stated that the Township was not satisfied with the recommendations made in the Jersey Professional Management report. They were talking about a Court that would have, in part of their recommendations, maintained some of the staff. In the end, the Township did not think that this was the method to choose, so the Township went its own way. The Township Finance Officer, Administrator, the Hillsborough Finance Officer and Administrator met on a frequent basis to arrive at the best way to operate a Shared Court. He further explained that there would be staff let go in accordance with the agreement that Montgomery and Hillsborough came up with. He explained that the Police Officers would be going to Hillsborough on overtime, to secure the building and attend Court cases. Hillsborough shows their Police overtime for Court in the Court budget, whereas Montgomery shows all Police overtime in the Police budget. He stated that there would no longer be the need for a Judge, Prosecutor, or Court Administrator. He explained that the Deputy Court Administrator would be moving to Hillsborough, due to an opening they had in their Court. He stated there was a statutory reason for the timing. Under New Jersey State law, if you were to merge the Court before the Judge's term expires, you would have to allow your Judge to continue to sit. Judge Perkins' term expires December 31, 2011.

- 5-5. Robert Kress, Meadow Run Drive, asked what the savings would be. Administrator Nieman stated that there would be a savings of between \$70,000.00 to \$80,000.00.

Mr. Kress spoke about the adding of 2,873 more cases to the Hillsborough Court Docket. Administrator Nieman explained that Hillsborough was increasing their Court session to accommodate Montgomery. The Judge would get a raise in pay, but it would not be anywhere near what Montgomery's Judge was earning. It was explained that it was roughly a percentage split based upon activity. Montgomery has approximately 1/3 of the activity that Hillsborough has.

- 5-6. Committeeman Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Graham and carried on the following:

ROLL CALL - Ayes - Conforti, Trzaska, Graham, Dyer, Caliguire
Nays - None

6. **RESOLUTION #11-11-276 - ABC LICENSE #1813-33-011-001 - MTC Restaurant II, LLC**

WHEREAS, Based on the following information regarding the renewal of ABC License #1813-33-011-001 for MTC Restaurant II, LLC:

- a. The submitted application form is complete in all aspects.
- b. The applicant is qualified to be licensed according to all standards established by the New Jersey Alcoholic Beverage Control Act, the regulations promulgated thereunder, as well as any pertinent local ordinances or division-approved conditions.
- c. The applicant previously disclosed and the Township Committee from the authority previously reviewed the source of funds used in connection with the initial purchase of the license and licensed business and additional financing obtained in connection with the licensed business.
- d. No reports of violations have been filed by the Health Officer, Police Department and Fire Prevention Official.
- e. The applicant applied for and received a special ruling to permit the renewal of an inactive license, pursuant to N.J.S.A. 33:1-12.39.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery that a renewal of Alcoholic Beverage Control License #1813-33-011-001 is hereby granted for the year 2011-2012.

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

ROLL CALL - Ayes - Conforti, Trzaska, Graham, Dyer, Caliguire
Nays - None

7. **RESOLUTION #11-11-277 - ABC LICENSE #1813-33-012-001 - MTC Restaurant III, LLC**

WHEREAS, Based on the following information regarding the renewal of ABC License #1813-33-012-001 for MTC Restaurant III, LLC:

- a. The submitted application form is complete in all aspects.
- b. The applicant is qualified to be licensed according to all standards established by the New Jersey Alcoholic Beverage Control Act, the regulations promulgated thereunder, as well as any pertinent local ordinances or division-approved conditions.
- c. The applicant previously disclosed and the Township Committee from the authority previously reviewed the source of funds used in connection with the initial purchase of the license and licensed business and additional financing obtained in connection with the licensed business.
- d. No reports of violations have been filed by the Health Officer, Police Department and Fire Prevention Official.
- e. The applicant applied for and received a special ruling to permit the renewal of an inactive license, pursuant to N.J.S.A. 33:1-12.39.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery that a renewal of Alcoholic Beverage Control License #1813-33-012-001 is hereby granted for the year 2011-2012.

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

ROLL CALL - Ayes - Conforti, Trzaska, Graham, Dyer, Caliguire
Nays - None

8. **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.

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

ROLL CALL - Ayes - Conforti, Trzaska, Graham, Dyer, Caliguire
Nays - None

9. **ENVIRONMENTAL COMMISSION**

Committeewoman Graham spoke about a meeting the Environmental Commission was holding on November 22, 2011 at the Mary Jacobs Library at 6:00 p.m. She stated that at 7:00 p.m. that same evening there will be an event on the use of plastics and ways to minimize that usage. There will be a movie and a presentation by Princeton and Montgomery BYO Bag Campaign.

10. **VETERANS MEMORIAL**

Deputy Mayor Dyer reported on the Veterans Memorial dedication on November 11. She stated it was a very successful day.

Mayor Caliguire inquired about the flag and the letter from the Governor. He thought it would be nice is the Township could get a case for the flag with the letter and display it in the Municipal Building.

11. **GREEN ACRES**

Attorney Hadinger spoke about how the Open Space Coordinator was continuously applying and renewing the Green Acres Applications and the Township was awarded \$450,000.00 in the last round. She stated that the Township needed to accept that money and amend the ongoing project agreement by adopting the following resolution.

11-1. **RESOLUTION #11-11-278 - AUTHORIZING AMENDMENT TO PROJECT AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION GREEN ACRES PROGRAM**

WHEREAS, The New Jersey Department of Environmental Protection, Green Acres Program ("State"), provides loans and/or grants to municipal and county governments and grants to nonprofit organizations for assistance in the acquisition and development of lands for outdoor recreation and conservation purposes; and

WHEREAS, The Township of Montgomery desires to further the public interest by obtaining a loan of \$0 and a grant of \$5,450,000.00 from the State to fund the following projects: The acquisition of open space in Montgomery Township as identified in the Montgomery Township Open Space Conservation Plan or amendments thereto.

NOW, THEREFORE, The Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey that Donato Nieman or the successor to the office of Township Administrator is hereby authorized to:

- (a) Make application for such loan and/or such a grant.
- (b) Provide additional application information and furnish such documents as may be required.
- (c) Act as the authorized correspondent of the above named applicant; and

WHEREAS, The State shall determine if the application is complete and in conformance with the scope and intent of the Green Acres Program, and notify the applicant of the amount of the funding award; and

WHEREAS, The applicant is willing to use the State's funds in accordance with such rules, regulations and applicable statutes, and is willing to enter into an agreement with the State for the above-named project.

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

1. That the Township Administrator of the above named body or board is hereby authorized to execute an agreement and any amendment thereto with the state known as Open Space Acquisition 5/ 1813-96-004; and
2. That the applicant has its matching share of the project, if a match is required, in the amount of \$5,450,000.00; and
3. That, in the event the State's funds are less than the total project cost specified above, the applicant has the balance of funding necessary to complete the project; and
4. The applicant agrees to comply with all applicable federal, state, and local laws, rules, and regulations in its performance of the project; and
5. That this resolution shall take effect immediately.

11-2. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Trzaska and carried on the following:

ROLL CALL - Ayes - Conforti, Trzaska, Graham, Dyer, Caliguire
Nays - None

12. **POLICE REPORT**

Police Director Palmer reported on the following activities of the Police Department for the month of October, 2011:

- 74 motor vehicle accidents;
- 20 arrests;
- 10 thefts;
- 2 burglaries;
- 3 domestic violence.

ADJOURNMENT was at 9:05 a.m. on a motion by Committeeman Trzaska. The motion was seconded by Committeewoman Graham and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk

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5. That this resolution shall take effect immediately.