

AGENDA FOR  
MONTGOMERY TOWNSHIP COMMITTEE MEETING  
October 26, 2022  
7:00 p.m.

**It is the Township Committee's intention to conclude this meeting no later than 11:00 p.m.**

**ROLL CALL** - Keenan ( ), Bell ( ), Schuldiner ( ), Singh ( ), Barragan ( )

**ALSO PRESENT** - Rubinstein-Quiroga ( ), Savron ( ), Gravatt ( )

**MAYOR'S STATEMENT** - 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.

**SALUTE TO THE FLAG**

1. **DIWALI PROCLAMATION**

WHEREAS, Diwali, the "Festival of Lights", symbolizes the victory of good over evil, and is one of the most celebrated festivals of Hindu, Sikhs, Buddhists and Jain; and

WHEREAS, the US Senate and House of Representatives have officially passed resolutions since 2007 recognizing the religious and historic significance of Diwali; and

WHEREAS, Diwali, falls during the new moon and the darkest night in the lunar calendar and is symbolic of the victory of light over darkness, good over evil, compassion over despair, and knowledge and peace; and

WHEREAS, Diwali celebrants light "diyas," small oil lamps, and place them around the home, and pray for health, knowledge over ignorance; and

WHEREAS, celebrants of Diwali believe that rows of lamps symbolize the light within the individual that rids the soul of darkness and ignorance; and

WHEREAS, Diwali is a reminder we must commit to lift each other up together to brighter future;

NOW THEREFORE, I, Neena Singh on behalf of Mayor Devra Keenan, and the Montgomery Township Committee, County of Somerset and the State of New Jersey, do hereby recognize the religious and historical significance of Diwali, and Diwali's message of tolerance, compassion and the victory of good over evil which resonates with the American spirit; and

BE IT FURTHER PROCLAIMED, that the Township of Montgomery recognizes October 24, 2022 as "Diwali 2022" and calls upon its residents to observe and celebrate Diwali with various activities and programs to learn about its religious and historical significance.

2. **DEVELOPMENT PRESENTATION**

3. **PUBLIC COMMENT**

We respectfully ask members of the public to limit your comments to approximately five (5) spoken minutes. Additionally, if your comments are similar to comments already made, instead of repeating them at length, we ask that you instead indicate that you join in or support those comments previously made.

Any questions posed to the Township Committee will be answered after the closure of public comment. Any question requiring research or additional information will be answered at a subsequent Township Committee meeting.

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

A. **RESOLUTION #22-10-217 - REFUND OVERPAID TAX**

| <u>Name</u>       | <u>Year</u> | <u>Block/Lot</u> | <u>Amount</u> |
|-------------------|-------------|------------------|---------------|
| Ngoc Nguyen       | 2020        | 32001/9          | \$1,584.00    |
| Allied Title, LLC | 2021        | 5024/20.03 Condo | \$2,550.46    |
| Ngoc Nguyen       | 2021        | 32001/9          | \$1,597.50    |

B. **RESOLUTION #22-10-218 - TO AUTHORIZE AN AUCTION OF USED TOWNSHIP EQUIPMENT**

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

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

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

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

| <u>Vehicle #</u> | <u>Make</u> | <u>Model</u> | <u>Yr</u> | <u>Description</u>                       | <u>Plate #</u> | <u>Vin#</u>        |
|------------------|-------------|--------------|-----------|--|----------------|--------------------|
| 510-T            | Spalding    | RMV          |           | Hot patcher                              | MG29894        |                    |
| 514-T            | 0           |              | 1983      | 20' 20' Ton Hudson<br>Equipment Trailer  | MG29AD         | HHTB182D1000B      |
| 583              | INTHR       | Hydro 84     | 1984      | Tractor (red)                            | N/A            | 8600209B008224-X   |
| 445              | Car Mate    | Dbl Ax       | 1995      | Trailer 22' for<br>580-D's Hauling (red) | MG22395        | 4PKU820D0SL003431  |
| 548              | INTH        | 2654         | 2001      | Diesel w/plow,sander                     | MG45119        | 1HTGMAAR01H368965  |
| 510              | Ford        | 250          | 2008      | Diesel w/snow plow                       | MG76789        | 1FTSX21R48EC87466  |
| 303              | Dodge       | Durango      | 2004      | LT 4x4 Dodge 4x4<br>GUV6 A4              | MG59014        | 1D4HB38N84F199299  |
| 914              | Dodge       | Ram P/U      | 2011      | Pickup                                   | MG90563        | 3D6WZ4CT3BG628348  |
| 502-M            | 552         | Harpper      | 2009      | 72LC Basin mower<br>Auto level           |                |                    |
| 504-T            | AMER        | CB Clean     | 1996      | Tow behind catch<br>Basin vac., diesel   | MG79091        | 1A95SA1217TM274010 |

C. **RESOLUTION #22-10-219 - PURSUANT TO N.J.S.A. 40A:4-87** (Chapter 159, P.L. 1948) - Annual Youth Service Grant

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 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 2022, in the amounts listed below, which item is now available as a revenue form the County of Somerset;

2022 Youth Service Annual Grant \$5,000.00

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 the Chief Financial Officer shall file an electronic Special Item of Revenue resolution submittal form to the Division of Local Government Services.

D. **RESOLUTION #22-10-220 - SHARED SERVICES AGREEMENT FOR A SHARED MUNICIPAL COURT BETWEEN THE TOWNSHIP OF HILLSBOROUGH AND THE TOWNSHIP OF MONTGOMERY**

WHEREAS, The Townships of Hillsborough and Montgomery currently have a Shared Services Agreement for a Shared Municipal Court that expired on December 31, 2022; and

WHEREAS, The Shared Services Agreement is authorized under N.J.S.A. 40A:65-1 et seq., the "Uniform Shared Services and Consolidation Act", and N.J.S.A. 2B:12-1.c which allows for the establishment of Shared Municipal Courts; and

WHEREAS, The Townships received approval for the shared Municipal Court pursuant to New Jersey Court Rule 1:33-4(a) which provides that "[t]he 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 now wish to renew the Shared Services Agreement for the Shared Municipal Court pursuant to the terms and conditions set forth in a Shared Services Agreement for a Shared Municipal Court between the Township of Hillsborough and the Township of Montgomery.

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

1. The Mayor and Township Clerk are hereby authorized to sign the Shared Services Agreement for a Shared Municipal Court between the Township of Hillsborough and the Township of Montgomery for the period January 1, 2023 to December 31, 2027 upon the terms and conditions set forth in same.
2. The Township Clerk is directed to forward a signed copy to the Township Clerk of the Township of Hillsborough.

E. **RESOLUTION #22-10-221 - AUTHORIZING EXECUTION OF A GRANT AGREEMENT TO THE TOWNSHIP OF MONTGOMERY FROM THE SOMERSET COUNTY OPEN SPACE TRUST FOR THE DEVELOPMENT OF AN ALL-INCLUSIVE PLAYGROUND AT THE TOWNSHIP'S MUNICIPAL COMPLEX**

BE IT RESOLVED that the Mayor and Clerk are hereby authorized to execute a grant agreement with Somerset County for the development of an All-Inclusive Playground and that their signature constitutes acceptance of the terms and conditions of the agreement.

F. **RESOLUTION #22-10-222 - AUTHORIZING MONTGOMERY CROSSING, PHASE 1 PERFORMANCE GUARANTEE REDUCTION NO.**

WHEREAS, Mark Herrmann, Township Engineer, has certified on October 12, 2022 that a performance guarantee posted for Montgomery Crossing Phase 1 (formerly Block 28005, Lot 66) may be reduced; and

WHEREAS, the remaining and partially completed improvements will be adequately covered by a performance guarantee as specified in the Township Engineer's estimate dated October 12, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that a reduced performance guarantee amounting to \$645,152.34 reduced from \$710,037.06, be posted as follows:

|  |              |
|--|--------------|
| 10% cash                                   | \$ 64,515.23 |
| 90% cash, Letter of Credit, or Surety Bond | \$580,637.11 |

There is sufficient escrow remaining for inspections.

G. **RESOLUTION #22-10-223 - AUTHORIZING MONTGOMERY CROSSING, PHASE 1 SAFETY AND STABILIZATION GUARANTEE REDUCTION NO. 2**

WHEREAS, Mark Herrmann, Township Engineer, has certified on October 12, 2022 that a safety and stabilization guarantee posted for Montgomery Crossing Phase 1 (formerly Block 28005, Lot 66) may be reduced; and

WHEREAS, the remaining and partially completed improvements will be adequately covered by a safety and stabilization guarantee as specified in the Township Engineer's estimate dated October 12, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that a reduced safety and stabilization guarantee amounting to \$29,528.76, reduced from \$32,709.86, be posted as follows:

|  |             |
|--|-------------|
| 10% cash                                   | \$ 2,952.88 |
| 90% cash, Letter of Credit, or Surety Bond | \$26,575.88 |

There is sufficient escrow remaining for inspections.

H. **RESOLUTION #22-10-224 - AUTHORIZING MONTGOMERY CROSSING, PHASE 2 PERFORMANCE GUARANTEE REDUCTION NO. 1 AND REJECTION OF GUARANTEE RELEASE REQUEST**

WHEREAS, Sharbell Building Company, LLC has requested the release of a performance guarantee for Montgomery Crossing, Phase 2; and

WHEREAS, the Engineering Department has determined that there is still work to be completed; and

WHEREAS, Mark Herrmann, Township Engineer, has certified on October 12, 2022 that a performance guarantee posted for Montgomery Crossing, Phase 2 (formerly Block 28005, Lot 66) may be reduced; and

WHEREAS, the remaining and partially completed improvements will be adequately covered by a performance guarantee as specified in the Township Engineer's estimate dated October 12, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that a reduced performance guarantee amounting to \$6,928.20, reduced from \$23,094.00, be posted as follows

|  |            |
|--|------------|
| 10% cash                                   | \$ 692.82  |
| 90% cash, Letter of Credit, or Surety Bond | \$6,235.38 |

I. **RESOLUTION #22-10-225 - AUTHORIZING MONTGOMERY CROSSING, PHASE 2 SAFETY AND STABILIZATION GUARANTEE REDUCTION NO. 1**

WHEREAS, Mark Herrmann, Township Engineer, has certified on October 12, 2022 that a safety and stabilization guarantee posted for Montgomery Crossing at Montgomery Phase 2 (formerly Block 28005, Lot 66) may be reduced; and

WHEREAS, the remaining and partially completed improvements will be adequately covered by a safety and stabilization guarantee as specified in the Township Engineer's estimate dated October 12, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that a reduced safety and stabilization guarantee amounting to \$14,249.70, reduced from \$24,616.45, be posted as follows:

|  |             |
|--|-------------|
| 10% cash                                   | \$ 1,424.97 |
| 90% cash, Letter of Credit, or Surety Bond | \$12,824.73 |

There is sufficient escrow remaining for inspections.

J. **RESOLUTION #22-10-226 - AUTHORIZING MONTGOMERY CROSSING, PHASE 3 PERFORMANCE GUARANTEE REDUCTION NO. 1**

WHEREAS, Mark Herrmann, Township Engineer, has certified on October 12, 2022 that a performance guarantee posted for Montgomery Crossing Phase 3 (formerly Block 28005, Lot 66) may be reduced; and

WHEREAS, the remaining and partially completed improvements will be adequately covered by a performance guarantee as specified in the Township Engineer's estimate dated October 12, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that a reduced performance guarantee amounting to \$113,276.64 reduced from \$315,070.80 be posted as follows:

|  |              |
|--|--------------|
| 10% cash                                   | \$ 11,327.66 |
| 90% cash, Letter of Credit, or Surety Bond | \$101,948.98 |

There is sufficient escrow remaining for inspections.

K. **RESOLUTION #22-10-227 - AUTHORIZING MONTGOMERY CROSSING, PHASE 3 SAFETY AND STABILIZATION GUARANTEE REDUCTION NO. 1**

WHEREAS, Mark Herrmann, Township Engineer, has certified on October 12, 2022 that a safety and stabilization guarantee posted for Montgomery Crossing at Montgomery Phase 3 (formerly Block 28005, Lot 66) may be reduced; and

WHEREAS, the remaining and partially completed improvements will be adequately covered by a safety and stabilization guarantee as specified in the Township Engineer's estimate dated October 12, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that a reduced safety and stabilization guarantee amounting to \$16,168.60, reduced from \$29,114.09, be posted as follows:

|  |             |
|--|-------------|
| 10% cash                                   | \$ 1,616.86 |
| 90% cash, Letter of Credit, or Surety Bond | \$14,551.74 |

There is sufficient escrow remaining for inspections.

L. **RESOLUTION 22-10-228 - AUTHORIZING GUARANTEE EXTENSIONS FOR THE COMPLETION OF IMPROVEMENTS VARIOUS PROJECTS)**

WHEREAS, the period for the completion of improvements on the following projects have recently expired or will expire soon. The developers for the projects below are working on completing the guaranteed improvements or are working on punch lists.

WHEREAS, Mark Herrmann, Township Engineer, has recommended that the Township Committee consider extending the time for completion of bonded improvements as follows:

| <u>Development</u>   | <u>New Completion Date</u> |
|--|----------------------------|
| 165 Willow Road, B. 7001, L. 5 Performance Guarantee for Restoration - Road Opening Moratorium | 10/22/2023                 |
| 71 Colfax Road Safety and Stabilization Guarantee  | 11/05/2023                 |
| Rollins-Western Real Estate Holdings Performance Guarantee                                     | 11/07/2023                 |
| 71 Colfax Road Landscaping Buffer Guarantee  | 11/12/2023                 |
| 71 Colfax Road Performance Guarantee   | 11/13/2023                 |
| Montgomery Ridge Phase 2 Townhouse Site Work   | 12/03/2023                 |
| Montgomery Ridge Phase 3 Townhouses and 17 Additional Parking Spaces                           | 12/03/2023                 |
| 65 Belle Mead Griggstown Road, B. 6001 L. 4, TCO Guarantee                                     | 06/07/2023                 |

M. **RESOLUTION #22-10-229 - OF THE MONTGOMERY TOWNSHIP COMMITTEE AUTHORIZING THE RETENTION, TRANSFER AND USAGE OF POSTED PERFORMANCE GUARANTY TO ALLOW FOR CONSTRUCTION OF SIDEWALKS ALONG ROUTE 206**

WHEREAS, JER/Herring Orchard, LLC (the "developer") received preliminary and final major site plan and minor subdivision and use variance approval from the Zoning Board of Adjustment of the Township of Montgomery for Case BA-07-09; and

WHEREAS, the developer is responsible for all site work improvements approved by Case BA-07-09 including a stretch of sidewalk to be constructed along Route 206 at the southwestern side of the signalized intersection with Orchard Road to facilitate pedestrian access to a NJ Transit bus stop; and

WHEREAS, Gail Smith, former Township Engineer, certified on June 3, 2014 that all public improvements in a project known as JER/Herring Office Building Lot were completed in accordance with the approved plans and the Code of the Township of Montgomery except for the construction of sidewalks along Route 206 near its intersection with Orchard Road; and

WHEREAS, by Resolution #14-6-134, the Montgomery Township Committee authorized release of the Performance Guarantee (LOC #18120304-00-000) conditioned upon, *inter alia*, the developer posting a \$5,000.00 Performance Bond to guaranty construction of the sidewalk along Route 206 near its intersection with Orchard Road; and

WHEREAS, on June 9, 2014 the developer posted \$5,000.00 cash in lieu of Performance Bond with the Township to guaranty future construction of the referenced sidewalks; all other performance and/or maintenance guarantees have since been released back to the developer; and

WHEREAS, Mark Herrmann, Township Engineer, certified on October 21, 2022 that developer has not constructed the referenced sidewalks such that the Township would itself undertake such construction, funding same utilizing the posted security, subject to this Committee's prior authorization and approval.

N. **RESOLUTION #22-10-230 - RELEASE OF LANDSCAPING BUFFER MAINTENANCE GUARANTEE - 159 DUTCHTOWN HARLINGEN ROAD, BLOCK 15015, LOT 8**

WHEREAS, Mark Herrmann, Township Engineer, has recommended that the Township Committee consider the release of the posted Maintenance Guarantee. The project was inspected in anticipation of the maintenance guarantee expiration. No apparent deficiencies were found during inspections conducted by the Engineering Department.

NOW, THEREFORE, BE IT RESOLVED by the Township committee that Maintenance Bond and posted inspection escrow fees be released to Paulina Dabek.

**ROLL CALL VOTE:**

| COMMITTEE MEMBER | YES | NO | ABSTAIN | ABSENT |
|------------------|-----|----|---------|--------|
| Barragan         |     |    |         |        |
| Singh            |     |    |         |        |
| Schuldiner       |     |    |         |        |
| Bell             |     |    |         |        |
| Keenan           |     |    |         |        |

5. **ORDINANCE #22-1690** - Amending Chapter 3-5.4 - Alcohol Beverage Permit - Public Hearing

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- A. Title: AN ORDINANCE AMENDING SECTION 3-5.1 "CONSUMPTION IN PUBLIC PLACES", OF THE TOWNSHIP OF MONTGOMERY MUNICIPAL CODE
- B. Public Hearing. Motion to close \_\_\_\_\_ Second \_\_\_\_\_ Favor \_\_\_\_\_ Opposed \_\_\_\_\_
- C. BE IT RESOLVED by the Township Committee of the Township of Montgomery that the foregoing ordinance, as amended on October 6, 2022 be adopted this 26th day of October, 2022 and that a notice thereof be published in an official newspaper as required by law.

Motion \_\_\_\_\_ Second \_\_\_\_\_

**ROLL CALL VOTE:**

| COMMITTEE MEMBER | YES | NO | ABSTAIN | ABSENT |
|------------------|-----|----|---------|--------|
| Barragan         |     |    |         |        |
| Singh            |     |    |         |        |
| Schuldiner       |     |    |         |        |
| Bell             |     |    |         |        |
| Keenan           |     |    |         |        |

6. **ORDINANCE #22-1691 - BOND ORDINANCE** - Amending in its Entirety Bond Ordinance 22-1684 for the Stage II Flood Protection Project - Public Hearing

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- A. Title: BOND ORDINANCE AMENDING IN ITS ENTIRETY BOND ORDINANCE 22-1684 FOR THE STAGE II FLOOD PROTECTION PROJECT
- B. Public Hearing. Motion to close \_\_\_\_\_ Second \_\_\_\_\_ Favor \_\_\_\_\_ Opposed \_\_\_\_\_
- C. BE IT RESOLVED by the Township Committee of the Township of Montgomery that the foregoing ordinance be adopted this 26th day of October 2022 and that a notice thereof be published in an official newspaper as required by law.

**ROLL CALL VOTE:**

| COMMITTEE MEMBER | YES | NO | ABSTAIN | ABSENT |
|------------------|-----|----|---------|--------|
| Barragan         |     |    |         |        |
| Singh            |     |    |         |        |
| Schuldiner       |     |    |         |        |
| Bell             |     |    |         |        |
| Keenan           |     |    |         |        |

Motion \_\_\_\_\_ Second \_\_\_\_\_ Favor \_\_\_\_\_ Opposed \_\_\_\_\_ Abstain \_\_\_\_\_

7. **PAYMENT OF BILLS - Posted**

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

WHEREAS, the 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.

Motion \_\_\_\_\_ Second \_\_\_\_\_

**ROLL CALL VOTE:**

| COMMITTEE MEMBER | YES | NO | ABSTAIN | ABSENT |
|------------------|-----|----|---------|--------|
| Barragan         |     |    |         |        |
| Singh            |     |    |         |        |
| Schuldiner       |     |    |         |        |
| Bell             |     |    |         |        |
| Keenan           |     |    |         |        |

**COMMITTEE CORRESPONDENCE**

**NEW & UNFINISHED BUSINESS**

**ADMINISTRATOR'S REPORT**

**COMMITTEE REPORTS**

**UPCOMING MEETINGS**

**8. 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 subject to be discussed in this session is as follows:
  - Police Candidate Interviews
3. It is unknown precisely when the matter discussed in this session will be disclosed to the public. No appointments shall be made except by action of the Township Committee in a public session.

Motion \_\_\_\_\_ Second \_\_\_\_\_ Favor \_\_\_\_\_ Opposed \_\_\_\_\_ Abstain \_\_\_\_\_

**8-1. MOTION TO REOPEN THE MEETING TO THE PUBLIC**

Motion \_\_\_\_\_ Second \_\_\_\_\_ Favor \_\_\_\_\_ Opposed \_\_\_\_\_ Abstain \_\_\_\_\_

**ADJOURNMENT** at \_\_\_\_\_ p.m. Motion \_\_\_\_\_ Second \_\_\_\_\_ Favor \_\_\_\_\_ Opposed \_\_\_\_\_