

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE
May 18th, 2023
7:00 p.m.

1. Montgomery Township Committee met at 7:00 pm on the above date at the Municipal Complex, 100 Community Drive, Skillman, NJ. Those present were:

TOWNSHIP COMMITTEE: Mayor Keenan, Deputy Mayor Singh
Committee Members Ahn, Barragan and Todd

Also present were:

ADMINISTRATOR - Lori Savron

TOWNSHIP ATTORNEY - Wendy Rubinstein-Quiroga

TOWNSHIP CLERK - Donna Kukla, Lisa Fania

SENIOR FINANCIAL ANALYST - Olu Ochei

2. Mayor Keenan 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 Keenan led the salute to the flag.

4. RECOGNIZING DONNA KUKLA FOR HER EXEMPLARY SERVICE TO THE TOWNSHIP OF MONTGOMERY

WHEREAS, Donna Kukla, Township Clerk, is retiring May 31, 2023; and

WHEREAS, the Township of Montgomery wishes to express its appreciation to Donna Kukla and to honor her for her twenty-nine plus years of dedicated service; and

WHEREAS, Donna began her career as Secretary I in the Township Clerk's Office on October 25, 1993 and was promoted to Secretary II in the Township Clerk's Office October 24, 1994; and

WHEREAS, Donna achieved her Registered Municipal Clerk certification January 7, 1997; and

WHEREAS, Donna was appointed Deputy Township Clerk effective January 1, 1998; Acting Township Clerk June 1, 1998; and Township Clerk August 19, 1998; and

WHEREAS, Donna attained the Qualified Purchasing Agent (QPA) certification December 8, 2015 and was appointed Township QPA February 1, 2017; and

WHEREAS, throughout her career, Donna's expansive knowledge has benefitted the residents and business owners of the Township as well as Municipal Clerks from other municipalities; and

WHEREAS, Donna's integral role in Township operations makes her a sought-after source of guidance by fellow staff; and

WHEREAS, Donna's work with the Wildlife Management Committee over her career has made the program a tremendous success and a model for other municipalities; and

WHEREAS, Donna has dedicated herself to continuing education related to all aspects of her position through various organizations such as the Municipal Clerks Association of New Jersey, Municipal Clerks Association of Somerset County, Governmental Purchasing Association of New Jersey and National Institute of Governmental Purchasing.

NOW, THEREFORE, BE IT RESOLVED that we, the Township Committee of the Township of Montgomery, on behalf of the residents and staff of Montgomery Township, hereby express heartfelt gratitude and appreciation to Donna Kukla for the years of dedicated service and contributions to the community and extend sincere best wishes and happiness in her new journey on this eighteenth day of May two-thousand twenty-three.

5. EAGLE SCOUT PROJECT PRESENTATION - Lucas Clark

Lucas Clark, Life Scout, Troop 850, presented his Eagle Scout Project Proposal for Sustainable Flag Retirement that included the following:

- Eagle Scout Project Requirements;
- Project Description and Benefits;
- Proposed Flag Retirement Drop Box Design and Location;
- Timeline for Completion;
- Costs and Fundraising Initiative

During the presentation, Committee Members inquired about details of the flag retirement ceremony and the collection process.

Committee Members commended Mr. Clark for his efforts and voiced support for the project.

6. BOY SCOUT TROOP 46 STRAWBERRY FESTIVAL PRESENTATION

Vedant Mital, Boy Scout, Troop 46, provided background on Troop 46 and spoke of the importance of the Strawberry Festival to the Troop and encouraged support of community members. Scout Mital announced the date of the Festival, Sunday, June 4, 2023 1:00 p.m. to 5:00 p.m. at Montgomery Township Lower Middle School.

7. CELL TOWER DISCUSSION

Administrator, Lori Savron, explained that the purpose of tonight's presentation is to provide an overview of a proposed wireless communication tower concept to be located on the Municipal Complex property. Ms. Savron presented slides depicting the visual impact at seven locations at heights of 135 feet and 150 feet. Ms. Savron continued that the next step is to proceed with the bid process.

Committee Members inquired about the impact at difference heights; range of service provided; and if there are any other towers in the municipality.

Ms. Savron explained that the greater height allows for additional carriers to co-locate as there are distance requirements between carriers on the tower and would provide a greater range of service.

Mayor Keenan recommended outreach to residents for input and concern prior to the bid process.

8. PUBLIC COMMENT

Each speaker will have a maximum of five (5) minutes to speak and should limit comments to matters pertaining to the Township. 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. Groups are asked to select a spokesperson to speak on their behalf.

8-1. Anand Shah, 33 Honeysuckle Court, expressed support for pickleball courts in the community.

8-2. Bill Forbes, 434 Griggstown Road, spoke in favor of the proposed cell tower.

8-3. Mayor Keenan advised that discussions are in process with the School District and the Township regarding the installation of pickleball courts.

8-4. Committee Member Barragan also spoke in favor of pickleball courts and encouraged interested parties to contact members of the School District.

8-5. There being no further comment, Mayor Keenan closed public comment.

9. 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. APPOINTMENT OF TOWNSHIP CLERK - Lisa Fania

BE IT RESOLVED by the Montgomery Township Committee that Lisa Fania is hereby appointed Township Clerk effective June 1, 2023, three-year term expiring May 31, 2026.

B. APPOINTMENT OF TAX SEARCH OFFICIAL - Lisa Fania

BE IT RESOLVED by the Montgomery Township Committee that Lisa Fania is hereby appointed Assessment Search Official, one-year unexpired term expiring December 31, 2023.

C. APPOINTMENT OF QUALIFIED PURCHASING AGENT - Michael Pitts

BE IT RESOLVED by the Montgomery Township Committee that Michael Pitts is hereby appointed Qualified Purchasing Agent effective June 1, 2023.

D. RESOLUTION #23-5-139 - APPOINTING PUBLIC AGENCY COMPLIANCE OFFICER PURSUANT TO PUBLIC LAW 1975, CHAPTER 127 - Michael Pitts

WHEREAS, New Jersey Public Law 1975, Chapter 127, Section 1, et seq., requires that a municipality annually designate an officer or employee as the Public Agency Compliance Officer in accordance with the aforesaid Statute to facilitate the implementation and compliance with the Affirmative Action requirements of the State of New Jersey.

NOW, THEREFORE, BE IT RESOLVED that Michael Pitts is hereby appointed as Public Agency Compliance Officer for the Township of Montgomery for the calendar year 2023 and that a certified copy of this resolution be filed with the appropriate agency as required by law.

E. RESOLUTION #23-5-140 - REFUND OVERPAID 2021 TAXES

BE IT RESOLVED that a refund in the amount of \$1,000.00 be given to John & Julia Fuller, 15 Hoffman Place, Belle Mead, NJ 08502 for the overpayment of 2021 taxes on Block 18018 Lot 20.

F. **RESOLUTION #23-5-141 - PURSUANT TO N.J.S.A. 40A:4-87 (Chapter 159, P.L. 1948) - Stormwater Assistance 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 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 2023, in the amounts listed below, which item is now available as a revenue from NJ DEP:

Stormwater Assistance Grant	\$25,000.00
-----------------------------	-------------

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.

G. **RESOLUTION #23-5-142 - DECLARING CERTAIN GENERAL EQUIPMENT AS SALVAGE FOR DISPOSAL**

WHEREAS, the Director of Wastewater Operations desires to declare certain Sewer Utility equipment as salvage to be disposed of.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee does hereby authorize the disposal of the following items:

- 2 Flygt Pumps 10HP Model 3127.185-1540 discarded from Shopping Center Pump Station Overhaul
- 1 Flygt Decant Pump
- 1 Discarded Control Cabinet from Shopping Center Pump Station Overhaul
- 12 filling cabinets
- Various Assortment of pipes, conduits and valve assemblies

H. **RESOLUTION #23-5-143 - RESCINDING RESOLUTION #23-5-128 - AUTHORIZING ACCESS AND USE AGREEMENT BETWEEN THE TOWNSHIP OF MONTGOMERY AND MONTGOMERY TOWNSHIP BOARD OF EDUCATION - Swimming Pool**

WHEREAS, the Township Committee adopted Resolution #23-5-128 on May 4, 2023 authorizing an Access and Use Agreement between the Township of Montgomery and the Montgomery Township Board of Education for use of their swimming pool; and

WHEREAS, Resolution #23-5-128 was premature procedurally.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Montgomery, County of Somerset, New Jersey that Resolution #23-5-128 is hereby rescinded.

I. **RESOLUTION #23-5-144 - AUTHORIZING GUARANTEE EXTENSIONS FOR THE COMPLETION OF IMPROVEMENTS OF 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; and

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

NOW, THEREFORE, BE IT RESOLVED that the Montgomery Township Committee approves the guarantee extensions for the completion of improvements of the following projects:

Development	New Completion Date
65 Belle Mead Griggstown Road Block 6001, Lot 4 TCO Meadows at Montgomery Active Adult Community Performance Guarantee	12/07/2023
Meadows at Montgomery Active Adult Community Safety & Stabilization	06/11/2024
Meadows at Montgomery Active Adult Community Route 206 & CSX Landscape Buffer	06/11/2024
Meadows at Montgomery Active Adult Community Country Club Meadows Phase 3 Landscape Buffer	06/11/2024
1377 Route 206 Performance Guarantee	06/14/2024
1377 Route 206 Safety & Stabilization	06/14/2024
1377 Route 206 Landscape Buffer	06/14/2024
1377 Route 206 Portion of Montgomery Shopping Center Pump Station Upgrades Performance Guarantee	06/14/2024
Country Club Meadows, Area 1, Outstanding Site Work for Area 3 Performance Guarantee	06/14/2024
Montgomery Crossing Phase 1 Performance Guarantee	07/01/2024
Montgomery Crossing Phase 1 Safety & Stabilization	07/01/2024
Montgomery Crossing Phase 1 Landscape Buffer	07/01/2024
Montgomery Crossing Phase 1A Safety & Stabilization	07/01/2024
Montgomery Crossing Brecknell Way Performance Guarantee	07/01/2024

Montgomery Crossing Phase 2 Safety & Stabilization
Montgomery Crossing Phase 3 Safety & Stabilization

07/31/2024
07/31/2024

J. **RESOLUTION 23-5-145 - AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE FOR ROAD OPENING PERMIT 21-R-31 - 34 Van Aken Road - BLOCK 4021, LOT 3**

WHEREAS, Mark Herrmann, Township Engineer, has recommended the release of a cash performance guarantee to Deepak Bahl because all work has been satisfactorily completed with respect to Street Opening Permit 21-R-31 at Block 4021, Lot 3 (34 Van Aken Road).

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that the cash performance guarantee in the amount of \$705.00 be released to Deepak Bahl, 34 Van Aken Road, Belle Mead, NJ 08502.

K. **RESOLUTION 23-5-146 - AUTHORIZING RELEASE OF MAINTENANCE GUARANTEE FOR APARTMENTS AT MONTGOMERY CROSSING - PIRHL (ON-SITE AND OFF-SITE IMPROVEMENTS)**

WHEREAS, the above referenced project was inspected for maintenance guarantee release and all punch list work was completed by the developer, PIRHL Acquisitions, LLC. No apparent deficiencies were found during inspections conducted by the Engineering Department or Township Landscape Architect; and

WHEREAS, the Township Engineer is herein recommending that the Township Committee consider the release of the posted On-site and Off-site Improvements Maintenance Guarantee.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that inspection escrow funds in account PB-03-18 and the Maintenance Guarantee in the amount of \$21,735.00 (Bond #45BCSIE4377) be released to PIRHL Contractors, LLC.

L. **RESOLUTION 23-5-147 - AUTHORIZING RELEASE OF MAINTENANCE GUARANTEE FOR APARTMENTS AT MONTGOMERY CROSSING - PIRHL (SAFETY AND STABILIZATION)**

WHEREAS, the above referenced project was inspected for maintenance guarantee release and all punch list work was completed by the developer, PIRHL Acquisitions, LLC. No apparent deficiencies were found during inspections conducted by the Engineering Department or Township Landscape Architect; and

WHEREAS, the Township Engineer is herein recommending that the Township Committee consider the release of the posted Safety & Stabilization Maintenance Guarantee.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that inspection escrow funds in account PB-03-18 and the Maintenance Guarantee in the amount of \$12,607.50 (Bond #45BCSIE4377) be released to PIRHL Contractors, LLC.

M. **RESOLUTION 23-5-148 - AUTHORIZING RELEASE OF MAINTENANCE GUARANTEE FOR APARTMENTS AT MONTGOMERY CROSSING - PIRHL (TCO)**

WHEREAS, the above referenced project was inspected for maintenance guarantee release and all punch list work was completed by the developer, PIRHL Acquisitions, LLC. No apparent deficiencies were found during inspections conducted by the Engineering Department or Township Landscape Architect; and

WHEREAS, the Township Engineer is herein recommending that the Township Committee consider the release of the posted TCO Maintenance Guarantee.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that inspection escrow funds in account PB-03-18 and the Maintenance Guarantee in the amount of \$9,622.50 (Bond #45BCSIQ4128) be released to PIRHL Contractors, LLC.

N. **RESOLUTION 23-5-149 - AUTHORIZING RELEASE OF SAFETY AND STABILIZATION GUARANTEE FOR 71 COLFAX ROAD - BLOCK 31003, LOT 22 - WOLFSON**

WHEREAS, the above referenced project was inspected for the release of the Safety and Stabilization guarantee and no apparent deficiencies were found during inspections conducted by the Engineering Department; and

WHEREAS, the Township Engineer is herein recommending that the Township Committee consider the release of the posted Guarantee. The inspection escrow account BA-03-20 must remain open at this time since there are Maintenance Guarantees in place originating from the project Performance Guarantee and Landscape Buffer Guarantee.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that the Safety and Stabilization Guarantee in the amount of \$5,000 (cash) be released to Alexander and Natasha Wolfson.

BE IT FURTHER RESOLVED that the Township will not accept any improvements and no Maintenance Guarantee is required as part of this guarantee release.

O. **RESOLUTION 23-5-150 - AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE FOR MONTGOMERY RIDGE - APARTMENTS PHASE 1**

WHEREAS, improvements for the above referenced project have been completed by the developer K. Hovnanian at Montgomery, LLC. The completed improvements are acceptable to the Township Engineer who is recommending that the Township Committee consider the release of the posted performance guarantee in the amount of \$542,802.00; and

WHEREAS, it is recommended that the Performance Guarantee release include the following conditions:

1. K. Hovnanian at Montgomery, LLC shall post a 2-year maintenance guarantee in the amount of 15% of the original cost of installation for the following private site improvements: landscaping buffers, stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any, in accordance with Township Code Section 16-9.2d2.(e)(2). The original cost of these specific improvements is \$10,425.00, therefore, the required 15% amount is:

Maintenance Guarantee = \$1,563.75

2. K. Hovnanian at Montgomery, LLC shall post adequate escrow funds.
3. K. Hovnanian at Montgomery, LLC shall submit a certification of ADA compliance, prepared, signed, and sealed by a NJ Licensed Professional Engineer.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that the Performance Guarantee (BOND #1026113 and Cash) be released to K. Hovnanian at Montgomery, LLC.

BE IT FURTHER RESOLVED that the Township will not accept any improvements as part of this guarantee release.

P. **RESOLUTION 23-5-151 - AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE FOR MONTGOMERY RIDGE - TOWNHOUSES PHASE 1**

WHEREAS, the developer, K. Hovnanian at Montgomery, LLC, posted a \$1,890,331.20 performance guarantee (corrected from \$1,968,451.20), which has subsequently been subject to several reductions. Certain sanitary sewage improvements in this phase were separated from this guarantee by Resolution 20-12-231 on December 3, 2020, and released from guarantee by Resolution 22-10-211 on October 6, 2022. The developer has completed the improvements and punch list work pertaining to the performance guarantee for the above referenced project Phase. The improvements are acceptable to the Township Engineer who is recommending that the Township Committee consider the release of the performance guarantee.

WHEREAS, it is recommended that the Performance Guarantee release include the following conditions:

1. K. Hovnanian at Montgomery, LLC shall post a 2-year maintenance guarantee in the amount of 15% of the original cost of installation for the following private site improvements: landscaping buffers, stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any, in accordance with Township Code Section 16-9.2d2. (e)(2). The original cost of these specific improvements is \$258,995.00, therefore, the required 15% amount is:

Maintenance Guarantee = \$38,849.25

2. K. Hovnanian at Montgomery, LLC shall post adequate escrow funds.
3. K. Hovnanian at Montgomery, LLC shall submit a certification of ADA compliance, prepared, signed, and sealed by a NJ Licensed Professional Engineer.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that the Performance Guarantee (BOND #1026112 and Cash) be released to K. Hovnanian at Montgomery, LLC.

BE IT FURTHER RESOLVED that upon satisfactory completion of these conditions, it is recommended that the Township accept the following:

Right-of-Way - Block 28001, Lot 5.119 was dedicated to Montgomery Township as part of the development approvals, as shown on Reference A and described in Reference B below. an Ordinance will be required.

Easements - Conservation and Emergency Access easements shown or described in the references below.

Reference A: Map entitled, "Final Plat - Phase 1 prepared for Lot 5.01 in Block 28001, situated in Montgomery Township, Somerset County, New Jersey", prepared by Van Cleef Engineering Associates, dated November 15, 2012, last revised February 25, 2013, said map also known as DEED BK. 6700, PG. 2350-2351, Instrument #2014005407, filed in the Somerset County Clerk's Office.

Reference B: Deed of Dedication for Block 28001, Lot 5.119, filed in the Somerset County Clerk's Office in DEED BK. 6693, PG. 788-795, as Instrument #2013067805.

Reference C: Emergency Access Easement filed in the Somerset County Clerk's Office in DEED BK. 6692, PG. 471-476, as Instrument #2013067092.

Reference D: Emergency Access Easement filed in the Somerset County Clerk's Office in DEED BK. 6692, PG. 477-482, as Instrument #2013067093.

MONTGOMERY TOWNSHIP COMMITTEE
May 18, 2023

Reference E: Conservation and Pedestrian - Bikeway Path Easement (also known as Southerly Conservation Easement), filed in the Somerset County Clerk's Office in DEED BK. 6692, PG. 523-531, as Instrument #2013067097.

Reference F: Conservation Easement (also known as Northerly Conservation Easement), filed in the Somerset County Clerk's Office in DEED BK. 6692, PG. 532-540, as Instrument #2013067098.

Roadway Improvements - Improvements to Orchard Road.

The following improvements will not be accepted by the Township and will be owned and maintained by the Homeowner's Association:

Stormwater Management Facilities (e.g. detention basins) - Stormwater Management Facilities in the Montgomery Ridge Development are owned and maintained by the Homeowner's Association.

Storm sewer collection lines - storm drainage collection lines from lands, roads, or right-of-way. This includes collection lines that run through private lands and connect to structures to be accepted by the Township.

Roadway Improvements - Autumn Lane, Braeburn Drive, Portland Drive, Cortland Place, and parking lots.

Private Easements - Including any other easements other than those listed above to be accepted.

Common Open Space areas - are the responsibility of the Homeowner's Association.

Other Improvements - any other improvement not listed to be accepted or previously accepted by the Township shall be considered privately owned and maintained.

Q. RESOLUTION 23-5-152 - AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE FOR MONTGOMERY RIDGE - TOWNHOUSES PHASE 2

WHEREAS, the developer, K. Hovnanian at Montgomery, LLC, posted a \$858,736.20 performance guarantee on December 23, 2014, which has subsequently been subject to several reductions. Certain sanitary sewage improvements in this phase were separated from this guarantee by Resolution 20-12-232 on December 3, 2020, and released from guarantee by Resolution 22-10-212 on October 6, 2022. The developer has completed the improvements and punch list work pertaining to the performance guarantee for the above referenced project Phase. The improvements are acceptable to the Township Engineer who is recommending that the Township Committee consider the release of the performance guarantee.

WHEREAS, it is recommended that the release include the following conditions:

1. K. Hovnanian at Montgomery, LLC shall post a 2-year maintenance guarantee in the amount of 15% of the original cost of installation for the following private site improvements: landscaping buffers, stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any, in accordance with Township Code Section 16-9.2d2.(e)(2). The original cost of these specific improvements is \$9,815.00, therefore, the required 15% amount, which is:

Maintenance Guarantee = \$1,472.25

2. K. Hovnanian at Montgomery, LLC shall post adequate escrow funds.

3. K. Hovnanian at Montgomery, LLC shall submit a certification of ADA compliance, prepared, signed, and sealed by a NJ Licensed Professional Engineer.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that the Performance Guarantee (BOND #1026127 and Cash) be released to K. Hovnanian at Montgomery, LLC.

BE IT FURTHER RESOLVED that the Township will not accept any improvements as part of this guarantee release.

R. RESOLUTION 23-5-153 - AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE FOR MONTGOMERY RIDGE - TOWNHOUSES PHASE 3 & 17 ADDITIONAL PARKING SPACES

WHEREAS, the developer, K. Hovnanian at Montgomery, LLC, posted a \$533,614.80 performance guarantee for the Townhouses on December 23, 2014, and increased the performance guarantee by \$33,362.40 for 17 Additional Parking Spaces on October 8, 2015, totaling \$566,977.20. The performance guarantee has subsequently been subject to several reductions. Certain sanitary sewage improvements in this phase were separated from this guarantee by Resolution 20-12-233 on December 3, 2020, and released from guarantee by Resolution 22-10-213 on October 6, 2022. The developer has completed the improvements and punch list work pertaining to the Performance for the above referenced project Phase. The improvements are acceptable to the Township Engineer who is recommending that the Township Committee consider the release of the performance guarantee.

WHEREAS, it is recommended that the Performance Guarantee release include the following conditions:

1. K. Hovnanian at Montgomery, LLC shall post adequate escrow funds.
2. K. Hovnanian at Montgomery, LLC shall submit a certification of ADA compliance, prepared, signed, and sealed by a NJ Licensed Professional Engineer.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that the Performance Guarantee (BOND #1026128 and Cash) be released to K. Hovnanian at Montgomery, LLC.

BE IT FURTHER RESOLVED that the Township will not accept any improvements as part of this guarantee release.

A Maintenance Guarantee is not required pursuant to Township Code Section 16-9.2d2. (e).

S. RESOLUTION 23-5-154 - AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE FOR MONTGOMERY RIDGE - RESIDENTIAL PARCEL & LANDSCAPING

WHEREAS, the developer, K. Hovnanian Companies, LLC, posted a \$226,289.28 performance guarantee for the Residential Parcel & Landscaping portion of the project on October 1, 2013, which has subsequently been subject to several reductions. The developer has completed the improvements and punch list work pertaining to the Performance Guarantee for the above referenced portion of the project. The improvements are acceptable to the Township Engineer who is recommending that the Township Committee consider the release of the Performance Guarantee.

WHEREAS, it is recommended that the release include the following conditions:

1. K. Hovnanian Companies, LLC shall post a 2-year maintenance guarantee in the amount of 15% of the original cost of installation for the following private site improvements: stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any, in accordance with Township Code Section 16-9.2d2. (e) (2). The original cost of these specific improvements is \$23,390.00, therefore, the required 15% amount is:

Maintenance Guarantee = \$3,508.50

2. K. Hovnanian at Montgomery, LLC shall post adequate escrow funds.

3. K. Hovnanian at Montgomery, LLC shall submit a certification of ADA compliance, prepared, signed, and sealed by a NJ Licensed Professional Engineer.

NOW, THEREFORE, BE IT RESOLVED by the Montgomery Township Committee that the Performance Guarantee (BOND #1103244 and Cash) be released to K. Hovnanian at Montgomery, LLC.

BE IT FURTHER RESOLVED that the Township will not accept any improvements as part of this guarantee release.

- 9-1. Deputy Mayor Singh moved to adopt CONSENT AGENDA. The motion was seconded by Committee Member Barragan who abstained from Resolutions #23-5-150 to #23-5-154 and carried on the following:

ROLL CALL - Ayes - Ahn, Todd, Barragan, Singh, Keenan
Nays - None
Abstain - Barragan (Resolutions #23-5-150 to #23-5-154)

10. MAYORAL APPOINTMENT - Landmarks

BE IT RESOLVED that Runette Parker is hereby appointed Alternate II to the Landmarks Commission, one-year unexpired term expiring December 31, 2023.

11. RESOLUTION #23-5-155 - RESOLUTION ACCEPTING BID OF Village Walk 1320, LLC FOR PLENARY RETAIL CONSUMPTION LICENSE TO BE ISSUED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTGOMERY

WHEREAS, by Resolution #23-3-96 adopted on March 16, 2023, the Township Committee of the Township of Montgomery ("Township") in the County of Somerset, State of New Jersey, authorized the sale of a Plenary Retail Consumption License pursuant to the New Jersey Alcoholic Beverage Control Act, *N.J.S.A. 33:1-1.1 et seq.*; and

WHEREAS, Village Walk 1320, LLC satisfied all conditions for pre-qualification as set forth in Resolution #23-3-96 and submitted a bid in the amount of \$425,000.00.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Montgomery, County of Somerset, New Jersey that it hereby accepts the bid of Village Walk 1320, LLC, in the amount of \$425,000.00, under the following conditions:

1. Payment of the balance of the bid amount by certified check made payable to the "Township of Montgomery" within five days of the date of this resolution. 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 bidder's deposit.

- 2. Payment of the New Jersey State License Application fee.
- 3. Payment of the Annual Municipal Retail License fee.
- 4. Satisfactory outcome of municipal background checks, including those to investigate the source of funds used to purchase the license.
- 5. Compliance by Village Walk 1320, LLC with publication, hearing and resolution requirements under N.J.A.C. 13:2-2.1 et seq.
- 6. Pursuant to N.J.S.A. 33:1-19.2, if the license has not been issued pursuant to this resolution by December 18, 2023, the license shall not be issued.

BE IT FURTHER RESOLVED that a copy of this resolution, certified by the Township Clerk to be a true copy, shall be forwarded to Village Walk 1320, LLC.

- 11-1. Deputy Mayor Singh moved the adoption of the foregoing resolution. The motion was seconded by Committee Member Barragan and carried on the following:

ROLL CALL - Ayes - Ahn, Todd, Barragan, Singh, Keenan
Nays - None

- 12. RESOLUTION #23-5-156 - A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTGOMERY AUTHORIZING THE SETTLEMENT OF A RESIDENTIAL TAX APPEAL (Mazer V. TOWNSHIP OF MONTGOMERY; BLOCK 31003, LOT 35 (56 High Ridge Road))

WHEREAS, David and Natalie Mazer, the owners of 56 High Ridge Road, Block 31003, Lot 35 in the Township of Montgomery ("the Property") have filed an appeal of their 2019 and 2022 real property taxes in the New Jersey Tax Court, Mazer v. Township of Montgomery; and

WHEREAS, the parties have reached a settlement of the tax appeal, subject to approval by the Township's Governing Body, as follows:

CURRENT ASSESSMENT (2022)		REQUESTED ASSESSMENT (2022)	
LAND	\$ 350,000	LAND	\$ 350,000
IMPROVEMENT	\$ 662,000	IMPROVEMENT	\$ 610,000
TOTAL	\$1,012,000	TOTAL	\$ 960,000

WHEREAS, the Township's Tax Assessor has reviewed the proposed terms of settlement, and finds that same will result in the assessment of the Property at the fair assessable value consistent with assessing practices generally applicable in the taxing district as required by law; and

WHEREAS, it is equitable and just, and in the best interest of the citizens of the Township, to authorize the settlement of the tax appeal.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee of the Township of Montgomery, in Somerset County, in the State of New Jersey, that the Township's Attorney be and hereby is authorized to formalize the settlement of the subject tax appeal pursuant to the parties' agreed terms, and execute and file with the Tax Court any and all documents necessary to accomplish said settlement.

- 12-1. Deputy Mayor Singh moved the adoption of the foregoing resolution. The motion was seconded by Committee Member Barragan and carried on the following:

ROLL CALL - Ayes - Ahn, Todd, Barragan, Singh, Keenan
Nays - None

- 13. RESOLUTION #23-5-157 - RESOLUTION CONSENTING TO THE ASSIGNMENT OF THE AGREEMENT FOR PAYMENTS IN LIEU OF TAXES AND AFFORDABLE HOUSING AGREEMENT TO MONTGOMERY LIHTC LLC FOR THE DEVELOPMENT OF AFFORDABLE HOUSING ON BLOCK 28004, LOT 7

WHEREAS, the Township of Montgomery (the "Municipality") and PIRHL Acquisitions, LLC ("Assignor") executed a certain Agreement for Payments in Lieu of Taxes (the "Financial Agreement") on April 16, 2018 pursuant to the New Jersey Housing and Mortgage Finance Agency Law of 1983, N.J.S.A. 55:14K-1 et seq. (the "HMFA Law") for the development of a 100% affordable housing development with approximately eighty-six (86) affordable family residential units on property identified as Lot 7 in Block 28004 (the "Project"); and

WHEREAS, the Municipality, Assignor and Montgomery LIHTC LLC ("Assignee") executed a certain Affordable Housing Agreement dated April 4, 2019 (the "Affordable Housing Agreement") for the Project; and

WHEREAS, Assignor intends to assign the Financial Agreement and Affordable Housing Agreement and all rights to the Project to the Assignee in contemplation of the future sale of managing member interests in the Assignee to a third-party redeveloper; and

WHEREAS, Section 7(b) of the Financial Agreement permits the Project to be sold or all of or substantially all of the assets of Assignor to be transferred with the prior written consent of the Municipality, which consent shall not be unreasonably withheld, if transferee has sufficient experience or net worth to operate the Project in a manner satisfactory to the Municipality and that in the event of such transfer, the transferee agrees to keep all covenants and agreements contained in the Financial Agreement subject to all statutory and regulatory requirements and conditions applicable to the Project; and

WHEREAS, the Municipality, the Assignor and the Assignee acknowledge and agree that Annual Service Charge payments for the First and Second Quarters of the 2023 Tax Year remain overdue and outstanding; and

WHEREAS, Section 7(b) further requires that the successor entity must also assume the Agency Mortgage, or the mortgage encumbering the Property in favor of the New Jersey Housing and Mortgage Finance Agency ("the "Agency Mortgage"), and also qualify for tax exemption under HMFA Law; and

WHEREAS, Section 4.4 of the Affordable Housing Agreement provides that the Municipality shall not unreasonably withhold consent to such a transfer if the transferee has sufficient experience or net worth to operate the Project in a manner satisfactory to the Municipality and that in the event of such transfer, the transferee agrees to keep all covenants and agreements contained in the Affordable Housing Agreement; and

WHEREAS, Section 7.9 of the Affordable Housing Agreement further provides that, "[u]pon the Township's designation of Montgomery LIHTC as redeveloper of the Property, or assignment of PIRHL's redeveloper designation to Montgomery LIHTC, PIRHL will have no liability for future performance and no liability with respect to the acts of Montgomery LIHTC pursuant to this Agreement. Upon such assignment or designation of Montgomery LIHTC as redeveloper, all provisions of this Agreement shall solely apply to Montgomery LIHTC. Montgomery LIHTC shall not assign or transfer this Agreement without the prior written consent of the Township, except as provided in this Agreement . . ."; and

WHEREAS, the Assignor intends to assign the Financial Agreement and Affordable Housing Agreement and all rights to develop the Project to the Assignee; and

WHEREAS, the Assignee has sufficient experience and net worth to operate the Project in a manner satisfactory to the Municipality; and

WHEREAS, it is in the best interests of the Municipality if it receives the respective Annual Service Charge payments for the First and Second Quarters of the 2023 Tax Year prior to the closing date for the transfer of the Project; and

WHEREAS, as such the Municipality's approval and consent of the proposed transfer of the Project shall be held in escrow until such time as the Assignee and/or Assignor pay and satisfy the outstanding First and Second Quarterly Annual Service Charge payments; and

WHEREAS, the Parties agree that this provision shall survive any closing of title on this Project; and

WHEREAS, Assignor and Assignee acknowledge and agree that the Assignee will assume all conditions in the Financial Agreement and Affordable Housing Agreement, the rights and obligations of Assignor thereunder, and be subject to all covenants and agreements contained therein; and

WHEREAS, upon the completion of the closing, the Assignee shall submit to the Municipality an updated Estimated Annual Service Charge list in satisfaction of Paragraph 4(c) of the Financial Agreement

WHEREAS, the Assignor and Assignee acknowledge and agree that the Assignee is already a party to and the borrower under the Agency Mortgage and further represents Assignee qualifies under HMFA Law for the tax exemption provided by the Financial Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Montgomery in the County of Somerset, State of New Jersey that:

1. The Municipality hereby acknowledges and consents to the assignment of the Financial Agreement and Affordable Housing Agreement to Montgomery LIHTC LLC, with Montgomery LIHTC LLC assuming all conditions in the Financial Agreement and Affordable Housing Agreement and the rights and obligations thereunder and agreeing to be subject to all covenants and agreements contained therein.
2. The Municipality's approval and consent of the proposed Transfer shall be held in escrow with no effect until such time as the Assignor and/or Assignee makes payments of the Annual Service Charges for the First and Second Quarters of the 2023 Tax Year.
3. Upon the closing of the title of the Project, the Assignee shall provide the Municipality an Estimated Annual Service Charge list as set forth in Paragraph 4(c) of the Financial Agreement.
4. This Resolution shall become effective immediately pursuant to law.
5. A notice of this action shall be published in the official newspaper as required by law.

13-1. Deputy Mayor Singh moved the adoption of the foregoing resolution. The motion was seconded by Committee Member Barragan and carried on the following:

ROLL CALL - Ayes - Ahn, Todd, Barragan, Singh, Keenan
Nays - None

14. RESOLUTION #23-5-158 - RESOLUTION CONCERNING THE TRANSFER OF THE MANAGING MEMBER INTERESTS IN MONTGOMERY LIHTC LLC TO CONIFER REALTY, LLC FOR THE DEVELOPMENT OF AFFORDABLE HOUSING ON BLOCK 28004, LOT 7

WHEREAS, the Township of Montgomery (the "Municipality") and PIRHL Acquisitions, LLC ("PIRHL") executed a certain Agreement for Payments in Lieu of Taxes (the "Financial Agreement") on April 16, 2018 pursuant to the New Jersey Housing and Mortgage Finance Agency Law of 1983, N.J.S.A. 55:14K-1 et seq. (the "HMFA Law") for the development of a 100% affordable housing development with approximately eighty-six (86) affordable family residential units on property identified as Lot 7 in Block 28004 (the "Project"); and

WHEREAS, the Municipality, PIRHL and Montgomery LIHTC LLC ("Developer") executed a certain Affordable Housing Agreement dated April 4, 2019 (the "Affordable Housing Agreement") for the Project; and

WHEREAS, by Resolution No. 23-5-156, the Municipality approved of the assignment of the Financial Agreement and Affordable Housing Agreement and all rights to the Project to the Developer in contemplation of the future sale of managing member interests to a third party redeveloper; and

WHEREAS, PIRHL Montgomery LIHTC GP, LLC ("PIRHL LIHTC") is the managing member of Developer and holds a 0.0049% interest in Developer and HELP Montgomery LLC ("HELP") is the administrative member and holds .0051% interest in the Developer; and

WHEREAS, the remaining 99.99% interest in the Developer is held by other entities; and

WHEREAS, PIRHL LIHTC wishes to transfer its managing interests in the Developer to Conifer Realty, LLC, its affiliate, Conifer Montgomery Crossing Managing Member, LLC, or a project-specific, wholly-owned subsidiary thereof (as applicable, "Conifer"); and

WHEREAS, the remaining 99.99% interest in Developer held by other entities, and the .0051% interest in Developer held by HELP, will remain unchanged by the proposed transfer to Conifer; and

WHEREAS, PIRHL LIHTC has provided correspondence notifying the Municipality of the transfer of its interests in the Developer to Conifer; and

WHEREAS, Section 7(b) of the Financial Agreement permits the Project to be sold or all of or substantially all of the assets of Assignor to be transferred with the prior written consent of the Municipality, which consent shall not be unreasonably withheld, if transferee has sufficient experience or net worth to operate the Project in a manner satisfactory to the Municipality and that in the event of such transfer, the transferee agrees to keep all covenants and agreements contained in the Financial Agreement subject to all statutory and regulatory requirements and conditions applicable to the Project; and

WHEREAS, Section 4.4 of the Affordable Housing Agreement provides that the Municipality shall not unreasonably withhold consent to such a transfer if the transferee has sufficient experience or net worth to operate the Project in a manner satisfactory to the Municipality and that in the event of such transfer, the transferee agrees to keep all covenants and agreements contained in the Affordable Housing Agreement; and

WHEREAS, Developer has, and shall continue to have following the Transfer, sufficient experience and net worth to operate the Project in a manner satisfactory to the Municipality; and

WHEREAS, Conifer acknowledges and agrees that Developer remains subject to all conditions and covenants of the Agreements; and

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Township of Montgomery in the County of Somerset, State of New Jersey that:

1. The Municipality hereby acknowledges and consents to the transfer of PIRHL Montgomery LIHTC GP, LLC's managing member interests in Developer to Conifer (the "Transfer"). Notwithstanding the foregoing, this Resolution does not obligate PIRHL LIHTC, PIRHL, Conifer, or any other party to execute the Transfer.
2. Until the effective date of Transfer, the current ownership of Developer remains approved by the Municipality and following the effectuation of the Transfer, the ownership of Developer, after giving effect to the applicable Transfer, is approved by the Municipality.
3. All conditions, covenants and agreements of the Financial Agreement and Affordable Housing Agreement remain in full force and effect, and should the Transfer occur, such conditions, covenants, and agreements shall remain in full and effect.
4. This resolution shall take effect immediately.
5. A notice of this action shall be published in the official newspaper as required by law.

14-1. Deputy Mayor Singh moved the adoption of the foregoing resolution. The motion was seconded by Committee Member Barragan and carried on the following:

ROLL CALL - Ayes - Ahn, Todd, Barragan, Singh, Keenan
Nays - None

15. **ORDINANCE #23-1701** - Montgomery Ridge Phase 1 - Master Plan Road ROW Acceptance of Dedication Introduction
- A. Title: AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY PROVIDING FOR THE ACCEPTANCE OF DEDICATION OF BLOCK 28001, LOT 5.119, IN MONTGOMERY RIDGE, FOR ROAD AND RIGHT-OF-WAY PURPOSES
- 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 June 15, 2023 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.
- 15-1. Deputy Mayor Singh moved the adoption of the foregoing resolution. The motion was seconded by Committee Member Barragan and carried on the following:
- ROLL CALL** - Ayes - Ahn, Todd, Singh, Keenan
Nays - None
Abstain - Barragan
16. **APPROVAL OF MINUTES**
- If there are no corrections, the Regular Session minutes for May 4, 2023 stand approved.
- If there are no corrections, the following 2023 Executive Session minutes stand approved for Content and Form only: January 19, February 2 and 16, March 2 and 16, April 6 and 20.
17. **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.
- 17-1. Deputy Mayor Singh moved the adoption of the foregoing resolution. The motion was seconded by Committee person Barragan and carried on the following:
- ROLL CALL** - Ayes - Ahn, Todd, Barragan, Singh, Keenan
Nays - None
18. **COMMITTEE CORRESPONDENCE**
- There was no correspondence.
19. **NEW & UNFINISHED BUSINESS**
- Electric Vehicle Ordinance - Ms. Rubenstein-Quiroga explained that the proposed ordinance is in review with the Ordinance Subcommittee and Open Space Coordinator.
20. **ADMINISTRATOR'S REPORT**
- Ms. Savron advised that the Orchard Road Sidewalk project is underway; that the water line project at the Otto Kaufmann Community Center will commence on or about June 12 upon delivery of the piping with an estimated completion time of six weeks; and announced that registration is open for summer camps.
21. **COMMITTEE REPORTS**
- 21-1. Committee Member Ahn gave an update on the following:
- Economic Development Commission
- Arts and Crafts Fair - May 21
- 21-2. Committee Member Todd gave an update on the following:
- Inclusion and Equity Committee
- Juneteenth Celebration hosted by Stoutsburg Sourland African American Museum - June 17
 - Next meeting - June 7

Landmarks Commission

- Commission Members and staff completed a review of the Harlingen Historic District and the seven-page memo has been posted;
- Commission Members Sydney Reisen and Dawn Hammell have completed the Historic Preserving the Suburbs Course at Rutgers;
- Committee Chairperson Rikki Massand attended the Stormwater Infrastructure Mapping & MS4 Regulations Program at the Waterfront Institute;
- Next meeting May 24;
- HPC Virtual Panel - May 25

21-3. Committee Member Barragan gave an update on the following:

Veteran's Committee

- Memorial Day Ceremony - May 29 - Veterans Memorial Park;
- Trails Day - June 3

21-4. Deputy Mayor Singh gave an update on the following: Happy AAPI month acknowledged

Recreation Committee

- Spring Fling Recap

Municipal Alliance

- Mental Health Matters Presentation about mental health, especially youth, youth group involvement in discussion

21-5. Mayor Keenan gave an update on the following:

- 295 pounds of prescription drugs collected in the Police Drug Drop Box;
- Community Picnic celebrating emergency medical services personnel and the two fire companies to be held June 2;
- Fireworks sponsorships are now open;
- Township Committee June 1 meeting cancelled due to Early Voting and Primary Election Day

At this time, the Clerk's office announced Early Voting will be held Friday, June 2, 10:00 a.m. to 8:00 p.m.; Saturday, June 3, 10:00 a.m. to 8:00 p.m., and Sunday, June 4, 10:00 a.m. to 6:00 p.m.

22. UPCOMING MEETINGS

June 15

- Somerset County Economic Development Commission Presentation
- Ord. #23-1701 - Montgomery Ridge Phase 1 - Master Plan Road ROW Acceptance - Public Hearing
- BYOB for recreational facilities

23. 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 are as follows:
 - Potential acquisition of property for open space, conservation, recreation and/or municipal purposes: Block 8001 Lots 5, 7.01 & 8 ("Staats"); Block 11001 Lot 12 ("Weber"); Block 11001 Lot 35 ("Hunt"); Block 15015, various lots ("Leoni"); Block 17001 17.01 ("Hardesty"); Block 15001 lots 33, 33.01, 33.03, 33.08, 33.09 ("Dorell");
 - Advice of Counsel with respect to potential litigation;
 - Advice of Counsel with respect to litigation.
3. It is unknown precisely when the matter discussed in this session will be disclosed to the public. Acquisition of property and settlement of litigation shall only be approved by the Township Committee in a public session.

23-1. Deputy Mayor Singh moved to close the meeting to the public. The motion was seconded by Committee Member Barragan and carried unanimously.

24. MOTION TO REOPEN THE MEETING IN PUBLIC SESSION

Deputy Mayor Singh moved to reopen the meeting to the public. The motion was seconded by Committee Member Barragan and carried unanimously.

ADJOURNMENT was at 9:10 p.m. on a motion by Deputy Mayor Singh. The motion was seconded by Committee Member Barragan and carried unanimously.

Date of Approval: June 15, 2023



Lisa Fania, Township Clerk