

**MONTVILLE TOWNSHIP COMMITTEE
REGULAR MEETING MINUTES—March 12, 2019**

Montville Township Committee Regular Meeting
Tuesday, March 12, 2019, 6:30 p.m.
Montville Township Municipal Building, 195 Changebridge Road, Montville, New Jersey

Statement of Open Public Meetings Act Compliance read by Township Clerk Leena Abaza.

Roll Call Township Committee:

Present: Committeeman Matthew S. Kayne
 Committeewoman June Witty
 Committeeman Richard Cook
 Deputy Mayor Frank W. Cooney
 Chairman Richard D. Conklin

Also present: Victor Canning, Township Administrator
 June Hercek, Assistant Township Administrator
 Leena Abaza, Township Clerk
 Fred Semrau, Esq., Township Attorney

Resolution authorizing Closed Executive Session to discuss matters as permitted pursuant to N.J.S.A. 10:4-12:

Motion by Cook second by Cooney to go into Closed Executive Session. All in favor. Motion adopted.

1. Contract Negotiations: Montville Township Policemen's Benevolent Association PBA #140; Dr. Golloub/RT 202 Property
2. Litigation: Affordable Housing; Police
3. Potential Litigation: Parsippany Sewer Contract
4. Personnel: Finance; Land Use; Health; Construction; Court and Police
5. Discussion: Water/Sewer Bills

Motion by Cook second by Cooney to close Executive Session and reopen Public Session. All in favor. Resolution adopted.

At 6:30 p.m. – Closed Session.

8:00 p.m. - Public Session

Statement of Open Public Meetings Act Compliance read by Township Clerk Leena Abaza.

Roll Call

Prayer and Pledge of Allegiance

Chairman Conklin opened the meeting by welcoming members of the public and stating that some may have been misinformed via an email that the Township Committee would be discussing a major townhouse development at Jean Drive off of Old Lane. Chairman Conklin stated that no development was being contemplated at this point but that Open Space would be discussed.

Presentation

The Township Committee presented a plaque recognizing Bradley Botelho for his service on the Historic Preservation Review Committee from 2008-2019.

Approval of Meeting Minutes

July 17, 2018 Township Committee Regular Meeting Minutes

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Motion by Kayne second by Witty to approve July 17, 2018 Regular Meeting Minutes. All in favor. Minutes approved.

August 21, 2018 Township Committee Regular Meeting Minutes

Motion by Witty second by Cooney to approve August 21, 2018 Regular Meeting Minutes. All in favor. Minutes approved.

November 12, 2018 Township Committee Regular Meeting Minutes

Motion by Cook second by Cooney to approve November 12, 2018 Regular Meeting Minutes. All in favor. Minutes approved.

November 27, 2018 Township Committee Regular Meeting Minutes

Motion by Kayne second by Witty to approve November 27, 2018 Regular Meeting Minutes. All in favor. Minutes approved.

December 11, 2018 Township Committee Regular Meeting Minutes

Motion by Cooney second by Kayne to approve December 11, 2018 Regular Meeting Minutes. All in favor. Minutes approved.

Public Hearings on Ordinances for Final Adoption:

Ordinance #2019-05 Ordinance of the Township of Montville, Morris County, New Jersey, authorizing a Capital Expenditure from the Open Space Dedicated Trust Fund in the amount of \$450,000.

Motion by Cook second by Witty to open public hearing. All in favor. Motion adopted.

John Rosellini, 5 Matilda Terrace, Towaco: Mr. Rosellini spoke about Open Space under past Township Committees, whether the true intent of Open Space is for acquisition of land or additional purposes, the urgency of Open Space in light of development coming out of Affordable Housing and other development pressures, the impact on schools and the prime aquifer by development and urged that if not being used to acquire land, the Township Committee should reduce or do away with the tax.

Marc Newman, 11 Stafford Place: Mr. Newman asked what the number of units in the Affordable Housing settlement had to do with this Ordinance.

Richard Moore, 105 Stony Brook Road. Mr. More spoke in support of Open Space, but was not in support of Open Space funds being used on lighting for parks. He asked for the plan for the use of Open Space funds.

Marc Newman, 11 Stafford Place: Mr. Newman spoke in opposition to the expenditure of funds while residents of Old Lane do not have public sewer service.

Mike O'Brien, 92 Pine Brook Road, Towaco: Mr. O'Brien opposed the expenditure of Open Space funds for playground maintenance when the need to expand Open Space in the Township is urgent.

Margie West, 11 Constitution Court: Ms. West asked for an update on the parcel on Changebridge Road owned by the Archdiocese of Paterson.

Walter Zurawell, 43 Rockledge Road. Mr. Zurawell asked about matching funds from the County and State and whether using Township Open Space funds for anything other than acquiring land would reduce potential amounts that could be available for land purchases. He stated the amount of Open Space tax he has personally paid since Open Space tax was initiated and asked that if the Township was not using the money to acquire Open Space, that the residents would no longer be charged the tax and that the unused portion would be returned.

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Anthony Angiolini, 38 Virginia Road: Mr. Angiolini stated that the Open Space information on the website dates to 2011, asked about expenditures from the Open Space fund for The Land Conservancy and noted that he had reviewed the Open Space expenditures and saw that they were used for maintenance as well as acquisition. He stated that if there are no further parcels to acquire that the tax should discontinue and maintenance should come out of the operating budget. He asked where the Township was at in updating the Open Space plan and whether the Township was looking at additional parcels. He urged the importance of having a plan and executing it.

Mike O'Brien, 92 Pine Brook Road: Mr. O'Brien asked whether there was an Open Space Committee and if the Ordinance was recommended by them.

Motion by Cook second by Kayne to close public hearing on Ordinance #2019-05. All in favor. Motion adopted.

Chairman Conklin affirmed the Township Committee's commitment to Open Space both as elected officials and life-long residents of Montville. He responded to the public comments.

Fair Share Housing Settlement - The projects included in the Fair Share Housing Settlement are not relevant to Open Space. He summarized the litigation brought against the Township by Fair Share Housing with three of a larger group of developers permitted in the case by the Court as intervenors. The settlement has significantly reduced the number of units in the current Affordable Housing obligation, but the Township does not get to pick which projects. He emphasized that the settlement does not guarantee development, only that zoning has been put into place that includes zoning for low and moderate income units. The developers in the settlement are still subject Township procedures. Potentially, the developers might determine conditions on the properties are a deterrent to development. Development is not guaranteed.

Potential impact of Fair Share Housing Settlement on school system - Montville Township has had a decrease in student population necessitating the layoff of many teachers over the last 3-4 years. Most of the new units are single bedroom with some two bedroom. If the units actually get built and are filled, there would still be a shortfall in replacing the student population lost in the last few years.

Maintenance of Open Space properties - the Open Space Ordinance permits that the money in Open Space can be used for purchase of Open Space as well as maintenance of Open Space. When a property enters the Open Space inventory, the Township no longer receives tax revenue from it but there are still costs associated with maintaining it such as labor, utilities, supplies and equipment. Some small portion to maintain the property is not unreasonable. The pavilion is an expenditure that would enhance Open Space use while preserving passive use.

Acquiring More Open Space - Open Space fund is still being used to retire debt on previously purchased Open Space with some surplus being accumulated in recent years as the debt has been paid down. He gave examples of properties considered and negotiated upon (Camp Aheka, Twaits Road, Tipcor) and what had transpired to date to prevent acquiring the pieces.

Function of the Open Space Committee - The Open Space Committee functions either to make recommendations to the Township Committee or to evaluate recommendations from the Township Committee.

The Land Conservancy Payment of \$1,000 - The Land Conservancy acts as a consultant on Open Space matters. They rent the Hierwarter property for their offices. The Township pays a consulting fee of \$1,000 per year.

Open Space Inventory - The Township's Open Space inventory has increased by about 40 acres in the last year through other means without outlay from the Open Space Trust Fund.

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Chairman Conklin concluded with remarks on the projects included in Ordinance #2019-05 as being in character with passive Open Space use (pavilion) or related to the maintenance expenses (lighting project). He asked other Township Committee members for comments.

Deputy Mayor Cooney stated that the Ordinance open for consideration does not take away any buying power for Open Space. He confirmed there is County money and State money to assist with Open Space purchases. He acknowledged the amount sought in the Ordinance is more than done in the past, but the underlying projects were necessary. He stated that the Capital Budget is money the Township pays interest on whereas money in the Open Space Fund has already been approved by taxpayers to utilize for this. He commented on the need to replace the playground at the Community Center which was outdated. The project was done over several years and not from all Open Space money. Some was Township money that was reserved. No money was bonded.

Chairman Conklin added that the playground was an insurance liability and needed to be made compliant based on current safety standards.

Deputy Mayor Cooney concluded by stating that the Ordinance under consideration does not prevent the Township from continuing to acquire open space. He stated that during his service on the Open Space Committee, it was actively seeking eligible properties. In some instances, land being negotiated either was sold to a higher offer or the seller withdrew the sale. This Committee is actively still looking at Open Space.

Committeewoman Witty reported that the 2014 Pubic Question that included use of Open Space funds for maintenance and enhancement of Open Space passed 2,644 to 1,699 in favor.

Committeeman Cook stated that the 2014 Public Question also lowered the Open Space tax. He repeated Chairman Conklin's point that money in Open Space has been servicing Open Space debt of approximately \$1.6 million per year. He mentioned property that had been added to Open Space without expenditure of Open Space funds: in Lake Valhalla, Pyramid Mountain, Turkey Mountain, behind John Henry, on Peace Valley Road. He proposed that some Open Space money be used to have the Nature Conservancy evaluate the Township's Open Space, make recommendations and rank properties in order of preference. Having a neutral third party avoids charges of bias in decisions going forward. This would create a plan for future action. He mentioned the reduction of Open Space debt and money available from Morris County to promote Open Space acquisition.

Committeeman Cook also commented on the lighting project under the proposed Ordinance. The age of the lights and the cost savings of the proposed LED lights are factors. Neighboring properties would benefit from the containment of the light spill which is currently a nuisance. LED lights will contribute to lowering the Township's carbon footprint and be an energy savings.

Committeeman Kayne thanked Chairman Conklin for his comments and affirmed the work of the Township Committee in preserving Open Space. There's over 25% Open Space in the Township. He stated that the Referendum from 2014, passed by the taxpayers, has been the rule and principle upon which the Township Committee has been guided for projects and expenditures. He also commented on the Affordable Housing Settlement Plan and the impact upon schools, as a Board of Education member for nine years. He explained that the Township Committee looked at the data from these types of developments to see how many school children they have spawned in other towns. The Township Committee was very deliberate in every aspect of the COAH/Fair Share Housing deal in particular with considering the amount of students that would be coming from these particular developments based upon data that could be found and supported.

Chairman Conklin and the Township Committee permitted additional public comment.

Marc Newman, 11 Stafford Place. Mr. Newman asked whether the Open Space money that the taxpayers voted on (including the \$450,000 on the Ordinance under consideration) can only be used for Open Space.

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Committeeman Cook and Chairman Conklin responded also to maintain Open Space, not just to purchase.

Township Administrator Victor Canning clarified by reading the ballot of the 2014 Referendum, adding explanatory comments:

“Shall the Township Committee of Montville adopt an Ordinance amending the Open Space Trust Fund which shall have the following provisions:

1. The Open Space Trust Fund shall be funded through the collection of local property taxes in the amount of up to \$0.037 per \$100 of assessed value.”

Township Administrator Canning stated that in 1989, the Open Space Referendum was passed at \$.07, almost a penny on every assessed dollar, went to Open Space. The Governing Body in the 2014 Referendum, reduced it to a third of a penny to \$.037, a reduction of almost two-thirds.

The second part of the Referendum says,

“2. The funds shall be designated solely for the following purposes:

- a. Purchase of property within the Township of Montville for active and passive recreation; and
- b. To establish, maintain and improve a system of public recreation including parks, open space and playgrounds.”

Township Administrator Canning pointed out there was no intent to limit funds just for purchase of a property. Mr. Canning stated that for 19 years, from 2003 through 2020 next year, on average, the Township paid over one million dollars of debt service annually, on property bought in the past. Most of the money collected on the levy, the \$.037, is still going towards the debt from prior years. Mr. Canning responded to Mr. Newman, through the Chairman, that this Ordinance is required by State statute to authorize the appropriation: \$200,000 for a pavilion and \$250,000 to install lights at the Community fields, which will also be supplemented from the capital ordinances. Mr. Canning stated for the benefit of the public in attendance that an Open Space Trust limits what can be done with fund balance. The money for Open Space can only be used for those purposes. Township Administrator Canning stated that the Township pays interest for funding improvements through the capital budget which is not sound fiscal management practice in light of funds available in the Open Space fund designated by Ordinance, approved by voters in the 2014 Referendum, to be used for such improvements. He stated that the Township has maintained AAA Bond Rating for the past 10 years due to its sound fiscal practices.

Marc Newman, 11 Stafford Place: Mr. Newman repeated his question whether the \$450,000 that was voted for Open Space is specifically dedicated for the purchase of Open Space land. He stated that he was informally representing 98 homeowners at Old Lane. He objected to lights and other expenditures when “we still don’t have sewers.”

Committeeman Cook and Township Administrator Canning responded in the negative and explained again the permissible uses of Open Space funds and the purpose of the Ordinance being considered.

Chairman Conklin stated that the Old Lane Sewer Project was a different subject from the Ordinance under consideration. Chairman Conklin and Committeeman Cook affirmed the Township Committee’s awareness of the concerns of the Old Lane residents requesting sewers, that the sewer question did not affect consideration of this Ordinance, and that the sewers were still moving forward.

Chairman Conklin and the Township Committee consented to allow one additional public comment of 30 seconds.

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Dan Grant, 109 Revere Court. Mr. Grant spoke to clarify the history of the Open Space tax which he felt had been misstated. The Open Space Tax Levy was initially a two cent Open Space tax. On two separate occasions, people voted to increase that up to \$.07, overwhelmingly. He felt that the vote in 2014 was confusing and that voters thought a “yes” vote was for Open Space tax.

Chairman Conklin responded that the Township Administrator had not intended to give a comprehensive history of the Open Space tax, only what was in effect currently.

Committeeman Cook advised that with completion of projects, the Recreation Commission was in good shape and use of any more money out of Open Space is going to be limited. The playground and other things had to be done.

Chairman Conklin concluded by stating, “We work for you. We’re elected by you.” He reaffirmed that the Township Committee, as residents as well as elected officials, is committed to buying Open Space. He expressed appreciation for the public in attendance and urged continued future participation at Township Committee meetings. He stated that the Township Committee debates the expenditure of money for where proposed projects may cross the line. He defended the pavilion as promoting passive use of Open Space. He invited the public to continue to offer feedback.

Motion by Cook second by Witty to adopt Ordinance #2019-05.

Roll Call:

Yes: Kayne, Witty, Cook, Cooney, Conklin

No: -0-

Ordinance #2019-06: Bond Ordinance providing for various capital improvements in and by the Township of Montville, in the County of Morris, New Jersey, appropriating \$1,585,150 therefor and authorizing the issuance of \$1,509,000 bonds or notes of the Township to finance part of the cost thereof.

Motion by Kayne second by Cook to open public hearing on Ordinance #2019-06. All in favor. Motion approved.

Administrator Victor Canning gave a summary of the Ordinance which is about the Capital Budget involving borrowing money and paying interest on it.

- A. \$27,650 – acquisition of computer software and computer products
- B. \$1,467,500 – road resurfacing improvements which consist of curbs, drainage outlets, traffic signalizations where required, and all the necessary material and work
- C. \$90,000 – to supplement what we’re utilizing out of Open Space account for light improvements, Community Park Fields 1 & 2

The total comes to \$1,585,150.

Marc Newman, 11 Stafford Place: Mr. Newman asked why is there no amount of funding in here for the OLSE (Old Lane Sewer Extension).

Township Administrator Victor Canning responded that would be out of the utilities funding. Whatever is borrowed, depending on what the ultimate agreement is, would be bonded out of the utility. He stated for the public’s information that there are four main categories of debt service or debt: Capital General Operating, Water Utility, Sewer Utility, and Open Space.

Marc Newman, 11 Stafford Place: Mr. Newman asked at what point down the road could we possibly expect a bonding for the OLSE (Old Lane Sewer Expansion). He followed with comments that homeowners for the sewer project had been pursuing the project for a period of seven years. He

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expressed concern for the \$1.5 million in the Ordinance under consideration with no funding for the sewer project. He pressed for a response on “how long this thing is going to roll on for us.”

Chairman Conklin responded that engineering had been completed and funding approved for planning.

Township Administrator Canning was prevented from responding by comments from the speaker.

Committeeman Cook advised that the current Township Committee has been instrumental in moving forward on the project and listed some of the considerations such as engineering, DEP permits, sewage capacity, Highlands issues and other bureaucratic hurdles that needed to be cleared. All Committee members confirmed that the Township is moving on the project and is likewise frustrated at times.

Chairman Conklin stated that some pieces are not for public knowledge at this point.

Motion by Kayne second by Witty to close public hearing on Bond Ordinance #2019-06. All in favor. Motion adopted.

Motion by Cook second by Kayne to adopt Bond Ordinance #2019-06.

Roll Call:

Yes: Kayne, Witty, Cook, Cooney, Conklin

No: -0-

Ordinance #2019-07 Calendar Year 2019 Ordinance to establish and preserve a Cap Bank (N.J.S.A. 40A: 4-45.14)

Motion by Kayne second by Witty to open public hearing on Ordinance #2019-07. All in favor. Motion adopted.

Township Administrator Victor Canning summarized the Ordinance. Without this Ordinance, the Cap Bank can only be increased by 2.5%, the amount of \$522,000. The 3.5% Ordinance increases that to \$731,000, an increase of approximately \$208,000. It gives the extra money should it be needed. This is just a measure. It has not been resorted to in the past seven years.

Public Comments: None.

Motion by Kayne second by Witty to close public hearing on Ordinance #2019-07. All in favor. Motion adopted.

Motion by Cook second by Witty to adopt Ordinance #2019-07.

Roll Call:

Yes: Kayne, Witty, Cook, Cooney, Conklin

No: -0-

Reports:

1. ADMINISTRATOR

- Personnel Issues from Closed Executive Session - the Assistant Administrator and I will follow up with you to give you answers.
- 2019 Budget – Nearly done for presentation to the Township Committee.
- Safewise 2019 Report on 100 Safest American Cities - Montville was ranked 26th safest city in America by this review. That’s an honor for the Township and something to be proud of.

2. TOWNSHIP ATTORNEY

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- For next meeting Closed Executive Session, some long-standing commercial tax appeals to update the Governing Body.
- Demolition by Neglect Ordinance will be ready for discussion at the next meeting. Attorneys have met with Administration for a walkthrough of how that Ordinance would be enforced. Mr. Semrau explained for the public's benefit that the Ordinance relates to historical structures which become in disrepair or are neglected for their upkeep. The Construction Office and Planning Departments also gave input along with comments previously provided from the Governing Body. The attorney hopes the Committee will consider calling it "Preservation of Historical Structures" instead of "Demolition by Neglect." Requested for that to be a discussion item at the next meeting to walk through the various aspects including enforcement of the Ordinance.

Chairman Conklin asked whether he should direct questions and comments to Township Attorney Semrau via email prior to the next meeting. Township Attorney Fred Semrau said any Committee members should direct their questions through the Administration in advance of the next meeting.

3. TOWNSHIP COMMITTEE LIAISON REPORTS AND COMMENTS

Committeeman Cook:

- Recreation Meeting tomorrow at 7:30.
- Historical Preservation Review Committee, Monday at the end of the month. He suggested that the Ordinance be provided to the Historic Preservation Review Commission (HPRC) so they can review it.

Deputy Mayor Cooney: No report.

Committeeman Kayne:

- Environmental Commission: He welcomed Dr. Kornreich, Chair of the Environmental Commission. Environmental Commission met on February 27. Dr. Bansari Shah is going to be giving a presentation this evening. There have been some movies in the upcoming months: *A Plastic Ocean* is going to be on April 10. Arbor Day is April 26. Plans are ongoing with regard to that. John Perry is going to be coming to the next Environmental Commission meeting to talk about a few items.
- Board of Health met last night. There was a hearing on the Wawa potential development. In the public health area, it was approved by the Board of Health.
- Long Term Financial Planning Committee is going to meet in 10-15 days and they're wondering if they're going to be getting some notes so they can have a meeting.

Township Administrator Canning responded that it was packaged today for final review before sending.

- Chamber of Commerce Annual Awards Dinner (March 9) was a tremendous event. Town-wide awards were given out to some citizens who volunteer their time in some very great ways. Congratulations to everyone who won those awards and to the Chamber of Commerce for putting on such a wonderful event.

Committeewoman Witty:

- Drug Awareness Municipal Alliance Council (DAC) meets tomorrow. Social Services said they will attend the meeting. She is still waiting to review the survey that was supposed to come from the Youth Center regarding parents and students, and what their desires would be for the Youth Center. The goal certainly is to increase attendance at the Youth Center. Programs at the Youth Center will be delayed; however the programs at the elementary level will begin. Footprints, and Woodmont School. Tonight DAC co-sponsored *Angst*. They also showed it today to the Lazar

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students and had support staff available. April 30 will be Human Trafficking. DAC along with The Montville Township Women's Club will be sponsoring. That's going to be at the Senior House. They wanted me to mention that the final deal on NJ Marijuana law is taking place and will probably be March 25. Retailers are going to receive 3% tax in their jurisdiction – 2% from the cultivator/manufacturers and 1% from the wholesaler. DAC firmly believes that any amount of tax collected would not be worth it.

- VFW will be selling poppies. Be on the lookout for sales around town starting March 23rd. They re-upped their Color Guard and they were at the Chamber of Commerce dinner. They did a fantastic job.
- Open Space Committee will meet on March 21. There's a workshop scheduled for the 28th.
- Rockaway River Watershed Cabinet Representatives will be meeting on March 20.
- Reminder that the Town Recycle Day will be in April 6.
- Relay for Life is still looking for teams to sign up. You can go online or reach out to me and I will direct you in the right direction.

Chairman Conklin asked about the Youth Center survey. Committeewoman Witty answered that it's a survey that the Youth Center was drafting to see what the students and parents are looking for in the Youth Center. Chairman Conklin asked if the survey had already been sent or whether the Township Committee would review it first to approve it. Committeewoman Witty confirmed that the Youth Center was drafting the survey and the Township Committee would review it for approval before it was sent out.

Chairman Conklin:

- The Library Board met last night. There are some issues with the buildings and grounds. They requested a meeting with Township Administrator Canning and Assistant Administrator Hercek to resolve. Township Administrator Canning stated that his office had reached out to set up a meeting and Chairman Conklin asked to be included.

Public Portion

Motion by Kayne second by Cook to open Public Portion of Meeting. All in favor. Motion approved.

Bansari Shah, 98 Windsor Drive. Dr. Shah, a member of the Environmental Commission and founding member of Montville's Green Team, gave a presentation accompanied by handout in which she urged the Township to adopt ordinances banning polystyrene (Styrofoam) and the use of glyphosate (Round Up) on public property. The presentation encompassed the contribution of both to global warming, environmental collapse, contamination of the human food chain and water supply. She cited other nations and over 200 U.S. cities, including some in New Jersey, that have enacted such bans in recent years.

Chairman Conklin thanked Dr. Shah for her presentation. He said the Township Committee discussed recycling Styrofoam but could not find a recycler to take it. He affirmed the Township Committee's concern for environmental issues and that there would be continued discussions to address them.

John Rosellini, 5 Matilda Terrace, Towaco. Regarding Open Space, he stated that Open Space bonds would have been paid off but in 2010 the Township refinanced all those bonds and stretched them out another ten years. Regarding the 2014 Referendum, "Vote Yes for Open Space," was actually reducing the Open Space tax by \$.02. He said playgrounds and other improvements on Open Space property were always allowed in the Ordinance; however, it was a policy of the Township Committee not to use the funds for that because there was so much development at that time. Regarding the Open Space Committee, he advised we had an active Open Space Committee for years that always ranked property in our community. Regarding the Morris Land Conservancy, he stated that the last report they did for us was on nothing but trails in 2011. Regarding an Open Space Plan as put forward by Committeeman Cook, he urged the importance of a plan that ranks properties and moves forward and understands its goals. Regarding the impact of the Fair Share Housing Settlement on schools, he commented on the expense of replacing teachers that were laid off. He stated that a measure of what the impact of apartments on the

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GI Auto site would be is Rachel Gardens, all one and two bedroom units as well. There are school buses in there every day. Similarly, with Longview.

Regarding the Open Space Fund, he stated that the amount in the fund as well as what is collected has not been clearly disclosed as requested by multiple residents. He suggested a dedicated night to address Open Space questions. He recommended a referendum be placed on the November 2019 ballot asking “would you like your Open Space tax used strictly for purchase of property or for improvements on the property as well as the purchasing of land,” to clarify it once and for all. He felt the 2014 Referendum was misleading in that by voting yes, “you were actually voting down Open Space.” He asked for full disclosure of the Open Space Fund – “what’s in the account, what it’s going for, when the bonds are due, because we’ve heard 10 different stories.”

He stated that the question Margie West raised earlier in the meeting had not been answered.

Regarding snow storm of February 28, he complained Montville’s were the only schools that were closed in Morris County, because the roads were not done. This Sunday morning was the same thing. People couldn’t get up my street. I think it was around 9:30 AM or after I sent some emails.

Mr. Rosellini concluded his comments by stating his long-term residency in Montville in common with Committee members as strong rationale for buying land under Open Space.

Chairman Conklin asked about the information on the Open Space Fund and whether it was available for the public. Township Administrator Victor Canning stated that it is published on the website every year. Township Clerk Leena Abaza responded that it is part of the budget. When the budget goes up, you can see it too. Township Administrator Victor Canning expanded on the response that the Division of Community Affairs Local Government Services, requires by law that the Township to post the last three years of the operating budget on its website, including the Capital and Open Space funding. While it is posted on the website, he offered to send a copy to anyone and shared his contact information.

Chairman Conklin referred to Township Attorney Fred Semrau for comments.

Township Attorney Fred Semrau addressed the comment by Mr. Rosellini saying that the Open Space tax was reduced in 2014. In 2014, the Township was coming off a revaluation. In a revaluation, the tax rate goes down and values go up. But the Open Space rate was fixed. What would have happened without the Referendum, everyone’s Open Space tax would have doubled. You had a Referendum question so that the Governing Body had the ability to sustain a very similar type of Open Space tax but not have it double or increase. It wasn’t voted down. It was to maintain it at a particular level or at least that availability.

Chairman Conklin thanked Township Attorney Fred Semrau and concluded by saying the Township Committee has reached out to the Open Space Committee with some items and instructed them to do their own due diligence and provide their impartial feedback on several questions.

Margie West, 11 Constitution Court. Ms. West asked for an update on Changebridge Road, space 205, 207 with the Archdiocese.

Township Attorney Fred Semrau stated that the Governing Body has discussed it and at this point is just weighing various options.

Chairman Conklin stated awareness of many people being concerned about it but could not comment further.

Mike O’Brien, 92 Pine Brook Road. Mr. O’Brien expressed appreciation for the value of the meeting and hearing the Township Committee’s rationales on the different discussion areas. He feels motivated to be more involved in Township Open Space actions.

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Anthony Angiolini, 38 Virginia Road. Mr. Angiolini expressed support for the Township Committee in the Affordable Housing settlement. He asked when the Open Space Plan was going to be updated.

Township Committee members responded that the Open/Vacant Land Assessment had just been completed within the past month.

Anthony Angiolini, 38 Virginia Road: The updated assessment is not on the website.

Committeeman Cook repeated the plan to go to the Nature Conservancy to have everything evaluated and take all the politics out of it, have it done the right way, what should be preserved based on sound facts.

Anthony Angiolini 38 Virginia Road: He asked if there was a plan to repave sections of road with sunken surfaces created by the gas company laying gas pipes. Patched trenched areas are sinking. Complained of traffic hazards created by drivers trying to avoid sunken spots in the road.

Chairman Conklin asked whether there was a bond on the project.

Deputy Mayor Cooney stated that he thought that road was just repaved four years ago.

Anthony Angiolini, 38 Virginia Road Mr. Angiolini confirmed that the road was just paved and residents were dismayed to have the recent work ripped up again. It has been patched a few times.

Chairman Conklin deferred to Township Administrator Victor Canning.

Mr. Canning stated that the Township is aware of the situation and has encountered this problem with the gas company such as digging up a portion of Changebridge Road recently paved by the County. This is a particular issue with the gas company, in spite of the Township asking in advance for work planned by the utilities, so roads are not paved only to be dug up later. Administration and Engineering are considering asking the Governing Body to pass a Road Closing Moratorium of five years after paving, such as other towns have. However, the utilities can claim a safety issue in which case the municipal moratorium is ignored. The Township can ask them to laser cut and to call them back to repair problems as often as it takes to correct them.

Anthony Angiolini 38 Virginia Road: He asked what recourse there was in this case – bonding or otherwise.

Township Administrator Victor Canning responded that in some cases, an emergency such as a water main break cannot be anticipated or avoided. This happened on River Road, which had been newly paved. However, we can require them to laser cut and we can make them come back repeatedly so that the road is repaired to our satisfaction. Then we can restrict them from coming back a certain number of years. That's something the Governing Body's going to consider shortly. We are working on that.

Anthony Angiolini, 38 Virginia Road: I saw on Vista Road they did that. They cut up the road. They laid the pipes and they actually paved half of the road going up, which would have been great if they had done the same thing.

Committeeman Cook said that sometimes they wait for first paving to settle. They wait a year and then come back. They paved Taylortown Road just recently the same way. We can look and see if that's what their plan is.

Township Administrator Victor Canning used a section of Horseneck Road as an example of how persistent follow up by the Township resulted in an acceptable patch job by the gas company where they had opened the pavement. The patch was level with the road surface.

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Anthony Angiolini, 38 Virginia Road: He asked for similar diligence on Virginia Road. He asked whether the remainder of Waughaw Road is on the paving list.

Township Administrator Victor Canning confirmed Waughaw Road on the roadway improvement list.

Chairman Conklin stated that the Township is trying to be more aggressive in expanding improvements.

Township Administrator Victor Canning advised that there will be projects presented to the Governing Body in the capital budget including a recommendation that the road improvement budget of \$1.5 million be increased by \$350,000 previously authorized to move the gas pumps away from the Rockaway River (delayed due to lack of agreement for a new site for the pumps).

Motion by Kayne second by Witty to close public session. All in favor. Motion approved.

Old Business:

1. Project Status Report

Committeeman Kayne asked whether there was an update with respect to JCP&L and Board of Education Settlement.

Township Attorney Fred Semrau responded there is no official movement. Matter has been briefed for the Appellate Division. He will check on status and advise the Committee.

Committeeman Kayne asked for an explanation about the TWA permit with Parsippany for the Old Lane Sewer Project.

Assistant Administrator Hercek responded that the permit has not been signed by Parsippany Township because there is a concern that Montville has exceed its allotment for the sewage capacity. This is being approached on two avenues: a new contract and anticipation that readings for the next few months may be less than the gallonage that is allowed showing that the allotment is less that what can be exceeded. The case will be made that Parsippany should be on board with approving the permit.

Township Attorney Fred Semrau added to his prior comments about JCP&L that the Township Attorney and Administration has been in communication with JCP&L to make sure that if and when this project goes forward, that they adhere to the terms of the settlement. We've had already discussions with them and talked more about the specific terms which they promised the Township and our residents.

Committeeman Kayne asked so our settlement is binding no matter when?

Township Attorney Fred Semrau responded yes, and in addition, about a month ago, Township Attorney and Administration had a meeting with them to make sure that if and when this all goes forward, what they promised the Township they would deliver.

New Business:

None

Ordinance Introductions:

Ordinance #2019-08 an Ordinance to amend Chapter 230 entitled "Land Use and Development Regulations" of the Revised General Ordinances of the Township of Montville to eliminate the B-6 Business Zone and establish a new Affordable Housing Redevelopment 1 (AHR-1) Zone

Motion by Cooney second by Cook to introduce Ordinance #2019-08 and set public hearing for April 9, 2019.

Roll Call

Yes: Kayne, Witty, Cook, Cooney, Conklin

No: -0-

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Ordinance #2019-09 an Ordinance of the Township of Montville, County of Morris, and State of New Jersey amending Chapter 10 “Vehicles and Traffic”, Article 10.20 “Schedules”, §10.20.080 “Stop Intersections,” of the Code of the Township of Montville, New Jersey

Motion by Cooney second by Witty to introduce Ordinance #2019-09 and set public hearing for March 26, 2019.

Roll Call:

Yes: Kayne, Witty, Cook, Cooney, Conklin

No: -0-

Resolution Authorizing Consent Agenda No 2019-CA6:

Resolution # 2019 – 82 resolution authorizing the processing of certain Tax Sale Certificate Redemptions

Resolution # 2019 - 83 resolution approving request from the Tax Collector for cancellation of taxes and refund of overpayment

Resolution # 2019 – 84 resolution accepting Performance Guarantee – Evangelical Mission Recreation Center – 36 Alpine Road Block 111, Lot 15.06 Preliminary/Final Site Plan

Resolution # 2019 – 85 resolution authorizing the issuance of a Solicitor/Peddler Permit for one year to Tulay Unutmaz for the Trade Name, Mr. Sam’s Ice Cream

Motion by Cook second by Kayne to approve the above consent agenda resolutions.

Roll Call:

Yes: Kayne, Witty, Cook, Cooney, Conklin

No: -0-

Resolution # 2019-82 resolution authorizing the processing of certain tax sale certificate redemptions

BE IT RESOLVED by the Township Committee of the Township of Montville, in the County of Morris and State of New Jersey, that the following tax sale certificate redemptions be processed by the department of Finance:

Block 88 Lot 55 85 Pine Brook Rd Lien Redemption Certificate #18000013 \$9,969.64

To: NJSL 301, LLC

Block 164 Lot 46 40 Maple Ave Lien Redemption Certificate #18000025 \$ 729.54

To: US Bank Cust for PC7 Firstrust Bank

Resolution # 2019-83 resolution approving request from the tax collector for cancellation of taxes and refund of overpayment.

WHEREAS, property taxes for the year of 2019 are to be cancelled due to a 100% disabled veteran exemption,

AND, WHEREAS, a portion of these property taxes have been paid by the property owner, creating an overpayment of tax;

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NOW, THEREFORE, BE IT RESOLVED that the Tax Collector of the Township of Montville be authorized to cancel taxes for the following and that the Treasurer of the Township of Montville be authorized to draw a check in the amount of overpayment to:

Jandura, John J Jr & Mary	11 Rathbun Rd	Block 39 Lot 47
Cancel	1st Qtr 2019	\$1,432.87
	2nd Qtr 2019	\$1,896.43
Refund	1st Qtr 2019-68 Days	<u>\$1,432.87</u>
Total Refund:		\$1,432.87

Resolution # 2019-84 resolution accepting performance guarantee – Evangelical Mission Recreation Center– 36 Alpine Road Block 111, Lot 15.06 preliminary/final site plan

WHEREAS, Evangelical Mission Recreation Center, the developer of property known as Block 111 Lot 15.06, is required to submit a Performance Guarantee to the Township of Montville; and

WHEREAS, Evangelical Mission Recreation Center has submitted a Performance Guarantee in the form of cash in the amount of \$18,300 for the amended preliminary/final site plan PSPP/FC16-05; and

WHEREAS, the Township Engineer, the Township Planning Board Engineer, Township Attorney, and Township Planner have reviewed the Performance Guarantee submitted and have recommended its acceptance.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Montville, in the County of Morris and State of New Jersey that the Performance Guarantee stated above submitted by Evangelical Mission Recreation Center is hereby accepted. The Township Clerk is authorized and directed to forward a copy of this Resolution to the developer.

Resolution # 2019-85 resolution authorizing the issuance of a solicitor/peddler permit for one year to Tulay Unutmaz for the trade name, Mr. Sam’s Ice Cream

WHEREAS, General Ordinance Chapter 281 requires the issuance of a license by the Township of Montville to qualified applicants for canvassing, soliciting, or peddling; and

WHEREAS, the issuance of a permit for canvassing, soliciting, or peddling to an applicant is for that individual applicant’s use only and the permit cannot be utilized by another person, even if the permit were to be used by another person for the licensed business; and

WHEREAS, Mr. Sam’s Ice Cream, 108 Chatfield Drive, Pompton Plains, NJ, has filed a renewal application and all necessary fees for a soliciting/peddling license as follows: Tulay Unutmaz, 108 Chatfield Drive, Pompton Plains, NJ, 1997 GMC Van, NJ XBWC17; and

WHEREAS, the application from Tulay Unutmaz conforms to the requirements of the Township Ordinance and the Police Department has approved the application; and

WHEREAS, the Health Department has approved the application with respect to the food license;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Montville, in the County of Morris, and State of New Jersey, that the above soliciting/peddling license for one year be issued to Tulay Unutmaz for the operation solely by her of Mr. Sam’s Ice Cream; and

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BE IT FURTHER RESOLVED, that said solicitor is prohibited from operating in the following Township parks during periods when concessionaires authorized by the Township are operating: 86 River Road fields, Community Park on Changebridge Road, and Camp Dawson Park on Jacksonville Road.

Resolutions:

1. **Resolution** approving the listing of bills and signing of checks for March 12, 2019.

Motion by Cooney second by Cook to approve Resolution approving the listing of bills and signing of checks for March 12, 2019.

Roll Call:

Yes: Kayne, Witty, Cook, Cooney, Conklin

No: -0-

2. **Resolution #2019-86** Transfer of Funds Resolution

WHEREAS, N. J. S. 40A-4-49 provides that all unexpected balances carried forward after the close of the succeeding year, to meet specific claims, commitments or contracts incurred during the preceding fiscal year and allow transfers to be made from unexpended balances which are expected to be insufficient during the first three months of the succeeding year.

WHEREAS, permission has been received from the Director of the Division of Local Government Services for approval as a Dedication of Rider of revenues received by a municipality when the revenue is not subject to reasonable accurate estimates in advance, and

WHEREAS, NJAC 5:30-15 permits municipalities to receive amounts for costs incurred for accumulated absences; and

WHEREAS, P. L. 2001 c. 138 permits municipalities to lapse unexpended balances budgeted annually for snow removal;

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Montville that the transfer in the amount of \$150,000 be made between the 2018 Budget Appropriation Reserves as follows:

From	Amount	To	Amount
<u>Current Fund</u>			
Administration S&W	\$ 5,000.00		
Township Clerk S&W	\$ 5,000.00		
Group Health Insurance	\$ 35,000.00		
Police S&W	\$ 100,000.00		
Health S&W	\$ 5,000.00		
		Provision for Accumulated Sick and Vacation	\$ 150,000.00
	<u>\$ 150,000.00</u>		<u>\$ 150,000.00</u>

BE IT FURTHER RESOLVED, by the Township Committee of the Township of Montville that the transfer in the amount of \$100,000 be made between the 2018 Budget Appropriation Reserves as follows:

From	Amount	To	Amount
Roads S&W	\$ 25,000.00		

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Group Health Insurance	\$	40,000.00		
Electricity	\$	10,000.00		
Gasoline	\$	25,000.00	Roads – Snow/Ice Removal	\$ 100,000.00
	\$	100,000.00		\$ 100,000.00

BE IT FURTHER RESOLVED, that the Director of Finance is hereby authorized and directed to make the transfers.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is hereby authorized and directed to lapse the unexpended balance of the Road OE-Snow and Ice Removal line to the Snow Removal/Storm Recovery Trust Fund.

Motion by Cooney second by Witty to approve Resolution #2019-86.

Discussion:

Township Administrator Victor Canning advised the transferring of unused operating funds to anticipated future needs is sound financial practice. Chairman Conklin stated for the record, that's what helps us maintain our AAA Bond Rating. Township Administrator Canning responded, one of the many reasons, yes.

Roll Call:

Yes: Kayne, Witty, Cook, Cooney, Conklin

No: -0-

3. **Resolution #2019-87** Resolution of the Township Committee of the Township of Montville, County of Morris and State of New Jersey, authorizing the Township Committee to call Letter of Credit No. 2923 on the Park Lane Estates Project

WHEREAS, Larry Gage is in the process of construction of a development project known as Park Lane Estates, Block 51, Lot 30; and

WHEREAS, in connection with the project, on June 6, 2002 Letter of Credit No. 2923 in the total amount of \$245,802.60 was issued by Valley National Bank for the benefit of the Township; and

WHEREAS, said Letter of Credit No. 2923 amount was reduced to \$73,740.78 in 2011, which reduction was approved by the Township Committee by resolution; and

WHEREAS, said Letter of Credit No. 2923 has a current expiration date of June 6, 2019; and

WHEREAS, as of February 25, 2019 the project had not been completed and numerous deficiencies remained unabated; and

WHEREAS, by letter to Steven B. Stein, Esq., dated February 25, 2019, Mrs. Gage was informed that if the deficiencies were not abated within ten (10) days of the letter the bond represented by Letter of Credit No. 2923 would be called; and

WHEREAS, as of March 12, 2019, all deficiencies with the Park Lane Estates project remain unabated.

WHEREAS, the Township Committee has determined that it is in the best interests of the Township to call Letter of Credit No. 2923 at this time.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Montville, in the County of Morris, and State of New Jersey that

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1) Letter of Credit No. 2923 issued in favor of the Township of Montville on behalf of Larry Gage will be called as of March 22, 2019, the Township attorney shall inform Valley National Bank of the default and Letter of Credit No. 2923 being called; and 2) If the property owner provides the Township Engineer with valid proof of correction of deficiencies before March 22, 2019, the Township Attorney will withdraw the proceedings to call the Letter of Credit.

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be provided to the Township Engineer and the property owner through attorney Steven B. Stein.

BE IT FURTHER RESOLVED, that this Resolution shall take effect pursuant to law.

Motion by Cook second by Witty to approve Resolution #2019-87.

Roll Call

Yes: Kayne, Witty, Cook, Cooney, Conklin

No: -0-

4. **Resolution #2019-88.** Resolution of the Township of Montville, County of Morris and State of New Jersey authorizing the payment of a stipend for a Construction Department staff member

WHEREAS, the Township of Montville and the Township of Boonton have entered into a shared services agreement for construction department services effective January 1, 2019; and

WHEREAS, pursuant to the shared services agreement, the Township of Montville Construction Department staff shall undertake certain services for the Township of Boonton; and

WHEREAS, as a result of the additional services, the Township wishes to provide a certain Construction Department staff member with a stipend for performance of the additional duties; and

WHEREAS, Patrick Calabrese shall receive an annual stipend of \$12,000; and

WHEREAS, the annual stipend shall only be provided to this specific employee while performing additional services under the shared services agreement for construction department services between the Township of Montville and the Township of Boonton; and

WHEREAS, said annual stipend shall be provided to this employee only so long as the shared services agreement for construction department services between the Township of Montville and the Township of Boonton is in effect.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Montville, in the County of Morris, and State of New Jersey that the Township Committee authorizes payment of a stipend to Patrick Calabrese as set forth above.

This Resolution will take effect immediately.

Motion by Kayne second by Witty to approve Resolution #2019-88

Roll Call

Yes: Kayne, Witty, Cook, Cooney, Conklin

No: -0-

Review of Meeting Action Items:

1. Administrator
 - Personnel information requested

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- Follow up on Youth Center survey to present to Township Committee
 - Set up a meeting with the Library Staff with Mayor present
2. Township Attorney
- Follow up on RT 202 property from Closed Executive Session
 - Board of Education and JCP&L settlement terms
3. Township Committee
- Committeeman Kayne requested a check in with JCP&L by Administration when upgrades will be completed.

Township Administrator Victor Canning reported that Mr. Meehan has not been responsive to emails.

Committeeman Kayne asked if he responds to phone calls.

Township Administrator Victor Canning stated his preference for email to document his contacts but said he would call as well.

- Committeeman Kayne asked whether notifications from JCP&L about every blackout in every municipality could be stopped.

Township Administrator Victor Canning said he would check with John Meehan about that.

- Committeewoman Witty will speak with John Misiewicz in preparation for the next Open Space meeting.

Adjournment:

Motion by Kayne second by Cooney to adjourn. All in favor. Motion adopted.

Meeting adjourned at 9:54 p.m.

Respectfully submitted,

Approved:
Montville Township Committee

Leena M. Abaza, Township Clerk

Richard D. Conklin, Mayor