

Cape May Court House, NJ

August 1, 2011

REGULAR MEETING

FLAG SALUTE

THIS MEETING IS BEING RECORDED:

I hereby declare that notice has been given to the Herald Times, the Atlantic City Press and posted on the bulletin board of the Middle Township Municipal Building, stating the time and place of the following meeting, as required in P.L. 1975, Chapter 231 of the State of New Jersey. (Sunshine Law).

The Township Committee met on the above date at 6:00 PM at the Middle Township Municipal Building. Members present were Mayor DeLanzo, Committeemember Doughty, Committeemember Lockwood, Township Business Administrator Mark Mallett, Township Clerk Kimberly Krauss, Municipal Solicitor James Pickering, and Township Engineer Vincent Orlando

1. QUESTION/ANSWER PERIOD ON AGENDA (This question and answer session shall relate only to items as outlined and pending on current agenda. Issues and concerns not related to agenda item shall be withheld to public comment portion at the conclusion of meeting.)
Ed Taylor thanked committee for the speed limit change ordinance on Wynndemere Court.
2. RESOLUTION NO. 352-11 – APPROVING PAYMENT FOR BILLS – BILL LIST A (General Bills) – On motion by Committeemember Lockwood seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that payment for the following bills in the amounts indicated are hereby approved:
Current Acct. \$ 1,790,971.76
3. RESOLUTION NO. 353-11 – APPROVING PAYMENT FOR BILLS – BILL LIST B (A&H/ FMR) – On motion by Committeemember Lockwood seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that payment for the following bills in the amounts indicated are hereby approved:
Current Acct. \$ 22,266.38
4. RESOLUTION NO. 354-11 – APPROVING PAYMENT FOR BILLS – BILL LIST D (HATCH MOTT MACDONALD) – On motion by Committeemember Lockwood seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that payment for the following bills in the amounts indicated are hereby approved:
Current Acct. \$ 2,271.33
5. RESOLUTION NO. 355-11 – APPROVING MINUTES FROM PREVIOUS MEETINGS – On motion by Mayor DeLanzo seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.
6. REPORTS: The following departments have submitted their reports for the months indicated: Municipal Clerk for the month of July; Construction Office for the month of July; Land Use Administrator for the month of July;
7. ORDINANCE NO. 1391-11 – AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF MIDDLE, CHAPTER 236-5, AS OUTLINED IN SCHEDULE 236-39, THEREOF, ENTITLED SPEED LIMITS – Following second reading, hearing, and consideration for adoption, Ordinance 1391-11 was adopted on motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call. Complete Ordinance is on file in the Clerk’s Office.
BE IT ORDAINED, by the Township Committee of the Township of Middle in the County of Cape May and State of New Jersey as follows:
SECTION 1. Section 236-5 (and furthermore schedule 236-29 of the Code of the Township of Middle is hereby supplemented by the addition of the following:
Name of Street Speed Limit (mph) Location
Wynndemere Court 15 mph Entire length
SECTION 2. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.
SECTION 3. Should any section, paragraph, sentence, clause or phase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.
SECTION 4. This Ordinance shall become effective immediately upon final passage and publication, according to law.
No Public Comment

8. ORDINANCE NO. 1392-11 – CHAPTER 250 ZONING – Following second reading, hearing, and consideration for adoption, Ordinance 1392-11 was adopted on motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call. Complete Ordinance is on file in the Clerk’s Office.

Mayor DeLanzo introduced Bill Purdy & Rick Brown from the Land Use and Planning Department of the DEP, Kate Meade of the Office of Planning Advocacy and Elizabeth Terenik, planner. Mrs. Terenik explained the process of rewriting the ordinance and touched on what she felt were the key points of the new ordinance including the focus of centers.

Kate Meade gave an overview presentation and responded to concerns voiced by residents at the previous meeting introducing said ordinance.

Vince Orlando stated that the plan has truly come together after 15 years of work. It addresses concerns now and needs for the future. In the process of looking at concerns and lines that need to be adjusted... currently working on that and will address them. Best idea is to move forward and put plan in place then to address concerns.

Sam Kelly – “Sprawl is here.” Professionals have been misguided. The plan has been previously mishandled in the past.” (Mr. Kelly reads opinion into record).

Mike Hajek – What is so appealing that you must over populate Middle Township? We are a vacation community. Why make Middle a metropolitan?

Ken Hamann spoke of his home in Maryland where the taxes are only \$1,000.00 a year.

Betty McGurk voiced her opinion about the state guiding the township on “build-outs”. Rte 9 is not set up to be a walking community.

Arthur Sward indicated that it is not just “tree-huggers” that are opposed to “urban areas”. There are homes half built because people cannot afford them. Fix what we have.. do not create something different.

Fran Westhead indicated a concern with water quality. Spoke of traffic and younger generations not being able to buy 3 ½ acre lots.

Jessica Fleming shared her opinion on the traffic situation in Middle Township.

Rick Traber thanked committee for fixing map, which was mis-mapped. Spoke on marinas and permitted use vs. conditional use.

Brian Murphy, representative of the Prone Family. Verified that they could look at individual properties later.

Orlando agreed.

Murphy – spoke about what would happen if the township did not move forward with 1 acre lots and the build out. Stated he believed there was a need to encourage business growth and discourage unregulated housing.

Kate Meade stated that if the plan was not adopted you will be faced with more development. It is important to gage against existing plan not what you see when you drive around.

Betty McGurk indicated she doesn’t like the current zoning. Looking for relief from what we already have.

Roy Thomas reiterated concerns on zoning for property owned by Lin’s (Hyland Motor Inn). Believes this parcel should not be zoned town professional, but believes it should be a town center or town business zone.

Bill Juliano asked about wetlands and endangered species.

Orlando explained that regulations are still in place.

Rick Brown stated that the DEP has worked with the township regarding these issues to construct boundaries within this area.

Juliano – referred to map – cautioned township that they should make sure zoning lines should be included in whole parcels otherwise they will not be able to develop.

Steve Etzer read letter into record. Asked for a change to page 15 of the master plan.

Steve O’Connor asked about the Conifer project.

Bud Corson spoke about non-contiguous parcel clusters.

Matt Blake read letter into record regarding water use supplies and the master plan.

Rick Brown spoke about the Gibson Study and impacts explained in the study. DEP did take into account water shortage issues.

Committeemember Lockwood commended those who have attended the meetings and voiced their opinions. Balance is important. Biggest accomplishment is guidance on how to move forward. He stated he was in support of the ordinance.

Mayor DeLanzo – while it is not a perfect plan it is a thoughtful plan. Will have opportunities in future to tweak it. Indicated that committee has taken all thoughts and opinions seriously.

9. ORDINANCE NO. 1395-11 – AN ORDINANCE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY VACATING A PORTION OF MAPLE AVENUE IN EDGEWOOD – On motion by Committeemember Doughty seconded by Committeemember Lockwood and passed on roll call, Ordinance No 1395-11 passed first reading. Second reading, public hearing and consideration for adoption will be held on 09/07/2011 at 6:00 p.m.

BE IT ORDAINED by the Township Committee of the Township of Middle, County of Cape May and State of New Jersey hereby as follows:

SECTION 1. The public right, title and interest in, along, upon and over the following described land is hereby vacated, surrendered and extinguished:

All that certain tract or parcel of land, situate in the Township of Middle, County of Cape May, State of New Jersey and being further described and bounded as follows:

BEGINNING at a point in the Southeasterly line of New Jersey State Highway Route U.S. 9 (50.00 feet wide), said point being at the intersection of the Southeasterly line of New Jersey State Highway Route U.S. 9 and the Southwesterly line of Maple Avenue (50.00 feet wide and unopened), said point also being North 32 degrees 40 minutes 00 seconds East 200.00 feet from the intersection of the Southeasterly line of New Jersey State highway Route U.S. 9 and the Northeasterly line of Main Avenue (70.00 feet wide); thence

1. along the Northwesterly terminus of Maple Avenue, also being along the Southeasterly line of New Jersey State Highway Route U.S. 9, North 32 degrees 40 minutes 00 seconds East 50.00 feet to a point; thence
2. along Lot 1, of Block 1112, South 57 degrees 20 minutes 00 seconds East 380.00 feet to a pipe found for a corner; thence
3. along the Southeasterly terminus of Maple Avenue, also being the Northwesterly line of Second Avenue (50.00 feet wide and unopened), South 32 degrees 40 minutes 00 seconds West 50.00 feet to a point; thence
4. along Lots 2 and 1 of Block 1113, North 57 degrees 20 minutes 00 seconds West 380.00 feet to the Point of Beginning.

CONTAINING: 19,000 square feet of land.

Also known as a portion of Maple Avenue between New Jersey State Highway Route U.S. 9 and Second Avenue in the Edgewood section of the Township of Middle.

SECTION 2. The Township of Middle, for itself, its successors and assigns, reserves unto itself the right to construct, install, build, operate, maintain, use, repair, replace and relocate such public utilities and cable television facilities, within the described premises, which currently exist, or which it may, at any time hereafter, deem necessary for the public health, safety, convenience and welfare, and the Township of Middle further reserves unto itself the right to use, maintain, repair, replace and relocate all existing utilities and cable television facilities owned or controlled by it located in, adjacent to, upon or through said land, and further reserves unto itself an easement over, under, through and across the portion of the land described as may be necessary or expedient for the purpose of maintaining, replacing, relocating, installing, leveling, constructing and repairing its utilities, mains and appurtenances, if any, wherever there exists a pipeline and appurtenances thereto beneath the surface of the aforesaid described land. The Township of Middle further reserves for its benefit and the benefit of any utility or cable television company the right to maintain, repair, and replace utilities installed by them in, adjacent to, over or through the aforesaid land. All of the aforesaid rights shall be unaffected by this ordinance.

SECTION 3. All other ordinances in conflict or inconsistent with this ordinance are hereby repealed, to the extent of such conflict or inconsistency.

SECTION 4. Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this ordinance are hereby declared to be severable.

SECTION 5. This ordinance shall become effective immediately upon final passage and publication according to law.

10. RESOLUTION NO. 356-11 – AUTHORIZING AGREEMENT BETWEEN THE TOWNSHIP OF MIDDLE AND OLD STAGECOACH CONDOMINIUM ASSOCIATION – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.
- WHEREAS, Old Stagecoach Condominium Association is a condominium campground existing with regard to a condominium campground which is located entirely on Block 167.01, Lot 75; and
- WHEREAS, there are various units in the campground that have serious issues regarding title, taxes, condominium fees, and other liens; and
- WHEREAS, the Township of Middle owns several vacant units in the campground; and
- WHEREAS, Stagecoach and Township desire to resolve most of these issues to the benefit of both parties;
- NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that certain issues between the Township of Middle and Old

Stagecoach Condominium Association are hereby resolved pursuant to the terms of the Agreement attached to this Resolution, and that the appropriate officials of the Township of Middle are hereby authorized to do what is necessary, including signing certain documents, to effectuate this Agreement.

11. RESOLUTION NO. 357-11 – HOUSING ADVISORY COMMITTEE - On motion by Committeemember Doughty seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.
WHEREAS, Resolution 359-09 created the Housing Advisory Board and appointed people to it; and
WHEREAS, Resolution 422-09 appointed new members; and
WHEREAS, both Resolutions, 359-09 and 422-09 stated that Housing Advisory Board’s “main objective is to advise and provide recommendations on how to meet Middle Township’s COAH Obligations and to provide safe, quality housing to low and moderate income families while addressing the overall needs of the entire community;” and
WHEREAS, the Township Committee has been very happy with the work that the Housing Advisory Board has done; and
WHEREAS, the Housing Advisory Committee seeks a clarification of its mission to include identifying property appropriate for low and moderate income housing and the ability to contact the property owner on behalf of the Township to purchase the property using the Housing Trust Fund money.
NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the Housing Advisory Board has the main objective to advise and provide recommendations on how to meet Middle Township’s low and moderate income housing obligation, and to provide safe, quality housing to low and moderate income families while addressing the overall needs of the entire community. It is also an objective of the Housing Advisory Board to identify property in the Township of Middle that is appropriate for low and moderate income housing, and to make inquiry with the owner thereof regarding any interest in selling to the Township of Middle. At no time, however, does the Housing Advisory Board, or any member thereof, have any authority to bind the Township; instead, once an owner expresses an interest in selling his or her property, the Housing Advisory Board is to notify the Township Committee immediately so that the Township Committee can consider whether or not it wishes to consider such a purchase, which purchase must be made in accordance with the state law governing how land is to be purchased by a municipality using housing trust fund monies.
12. RESOLUTION NO. 358-11 – AUTHORIZING APPLICATION – MUNICIPAL ALLIANCE GRANT 2012 – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.
WHEREAS, the Township Committee of the Township of Middle, County of Cape May, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages, and
WHEREAS, the Township Committee further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community, and
WHEREAS, the Township Committee has applied for funding to the Governor’s Council on Alcoholism and Drug Abuse through the County of Cape May.
NOW THEREFORE BE IT RESOLVED, that the Township Committee, of the Township of Middle, County of Cape May, New Jersey hereby recognizes the following:
 1. The Township Committee does hereby authorize submission of an application for the Township of Middle Municipal Alliance grant for calendar year 2012.
 2. The Township Committee acknowledges the terms and conditions for administering the Municipal Alliance grant including the administrative compliance and audit requirements.
13. RESOLUTION NO. 359-11 – DESIGNATION OF MUNICIPAL ALLIANCE COMMITTEE – On motion by Mayor DeLanzo seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.
WHEREAS, the New Jersey Governor’s Council on Alcoholism and Drug Abuse offers grants to municipalities to form a Municipal Alliance Committee, and
WHEREAS, the mission of the Municipal Alliance Committee is to develop substance abuse prevention programs at the local level, and
WHEREAS, the designation of a Municipal Alliance Committee is required to plan and develop local programs, and
WHEREAS, the following citizens have expressed an interest in serving on the Municipal Alliance Committee
Monica Pedroni
Bridget Saracco
Crystal Neil
Bonnie Ciaramella
Mark Higginbottom
Burgess Hamer
Julia Henrich
Necheala Pierce-Garcia
NOW, THEREFORE, BE IT RESOLVED that the following be and are hereby appointed as members of the Township of Middle Municipal Alliance for a term of 1 Year, term to expire on 12/31/2011

14. RESOLUTION NO. 360-11 – AUTHORIZING APPLICATION FOR GYPSY MOTH EGG MASS SURVEY – 2011 – On motion by Committeemember Doughty seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted. NOW THEREFORE BE IT RESOLVED, by the Township Committee, of the Township of Middle, County of Cape May, State of New Jersey that the governing body thereof, that authorization is hereby granted to submit the 2011 application for a gypsy moth egg mass survey, and
BE IT FURTHER RESOLVED, that the appropriate officials are hereby authorized to sign any and all documents in connection therewith.
15. RESOLUTION NO. 361-11 – RELEASE OF TRUST ACCOUNT – On motion by Committeemember Lockwood seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.
WHEREAS, certain monies held in Trust Accounts from time to time may have balances remaining after all fees have been paid, and
WHEREAS, the applicants are entitled to a refund of this money,
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that upon request of the Zoning Officer the following balances in the Trust Accounts as listed on the attached sheets shall be released.
16. RESOLUTION NO. 362-11 – RENEWAL OF TOWING LICENSES – 2011 – On motion by Committeemember Doughty seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.
WHEREAS, several towing license renewal applications listed below have been found to be in proper form, and the fees paid in each case.
NOW, THEREFORE BE IT RESOLVED, that each of the following licenses be and are hereby renewed for the calendar year of 2011:
- | License# | Tradename | Truck # | License Plate Number | Truck Make/ Model | Fee | Sticker Fee Paid | |
|----------|-------------------|---------|----------------------|--------------------|-----|------------------|---------|
| 10 | Peterson's Towing | 1 | NJ XV516C | Ford F-350 | | \$450.00 | \$50.00 |
| | | | | Rollback Flatbed | | | |
| | Peterson's Towing | 2 | NJ XT219M | International 4700 | | \$50.00 | |
| | | | | Rollback Flatbed | | | |
17. RESOLUTION NO. 363-11 – AUTHORIZING TO CLOSE A PORTION OF ROMNEY PLACE FOR NEIGHBORHOOD BLOCK PARTY – On motion by Committeemember Doughty seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.
BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that authorization is hereby given to close a portion of Romney Place (from Boyd to Magnolia) on Saturday, August 20, 2011 from 2:30pm to 6:00pm for a neighborhood block party.
18. RESOLUTION NO. 364-11 – RELEASE PERFORMANCE BOND – SOUTH JERSEY GAS COMPANY – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.
WHEREAS, \$17,753.70 plus interest is being held as a performance guarantee of South Jersey for Block 348.02 Lot 12, and
WHEREAS, the Engineer for the Township of Middle has conducted his inspection and certified that all improvements have been completed, and
WHEREAS, the Land Use Administrator for the Township of Middle has recommended that the performance bond be released, and
WHEREAS, the Land Use Law of the State of New Jersey (NJS 40:55D-1 et seq) requires such a release upon recommendation by the Township Engineer,
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the bond in the amount of \$17,753.70 is hereby released.
19. RESOLUTION NO. 365-11 – ACKNOWLEDGEMENT OF TERMINATIONS – On motion by Mayor DeLanzo seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.
BE IT RESOLVED, by the Township Committee, the Governing Body of the Township of Middle, County of Cape May and State of New Jersey, that the following termination listed below, is acknowledged.
- | EMPLOYEE | DEPARTMENT | POSITION | EFFECTIVE |
|---------------------|---------------|-------------------------|------------|
| April Mulligan | Public Safety | PS Telecom Operator P/T | 07/25/2011 |
| Jennifer Rutherford | Public Safety | PS Telecom Operator P/T | 07/25/2011 |
| Jennifer Teasenfitz | Public Safety | PS Telecom Operator P/T | 07/25/2011 |
20. RESOLUTION NO. 366-11 – ACKNOWLEDGEMENT OF RESIGNATION – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.
BE IT RESOLVED, by the Township Committee, the Governing Body of the Township of Middle, County of Cape May and State of New Jersey, that the following resignation listed below, is acknowledged.
- | EMPLOYEE | DEPARTMENT | POSITION | EFFECTIVE |
|------------------------------|---------------|-------------------------|------------|
| Maureen Leitenberger – Hagan | Public Safety | PS Telecom Operator P/T | 07/25/2011 |

21. RESOLUTION NO. 367-11 – CLOSED SESSION – POTENTIAL LITIGATION – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.

WHEREAS, the section of the Open Public Meetings Law, Chapter 231, P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances, and

WHEREAS, the Township Committee of the Township of Middle, the governing body thereof, is of the opinion that such circumstances presently exist, and

WHEREAS, said Closed Session shall be held directly after this open session.

NOW THEREFORE BE IT RESOLVED, by the Township of Middle, County of Cape May, State of New Jersey:

1.) The public shall be excluded from the discussion of an action upon the hereinafter specified matter: POTENTIAL LITIGATION

2.) The general nature of the subject matter to be discussed is as follows: POTENTIAL LITIGATION

3.) It is anticipated at this time the above subject matter will be made public as follows:
WHEN THE MATTER IS RESOLVED

4.) This Resolution shall take effect immediately.

22. RESOLUTION NO. 368-11 – RATIFY SHARED SERVICES AGREEMENT BETWEEN THE TOWNSHIP OF MIDDLE AND CAPE EDUCATIONAL COMPACT – On motion by Committeemember Doughty seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.

BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the attached Shared Services Agreement between the Cape Educational Compact and the Township of Middle, be and is hereby ratified.

BE IT FURTHER RESOLVED, that said agreement shall be from September 1, 2011 through June 30, 2012 for usage of both the Martin Luther King Center and Goshen Complex.

FURTHER RESOLVED, that the appropriate officials are hereby authorized and directed to sign said agreement.

23. RESOLUTION NO. 369-11 – AUTHORIZING CREATION OF LIEN ON PROPERTY – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.

WHEREAS, N.J.S.A. 40:48-2.13 authorizes the governing body of every municipality the power to make, enforce, amend and repeal ordinances requiring the owner or tenant of a dwelling or of lands lying within the municipality to provide for the removal or destruction of brush, weeds, debris, etc. constituting fire hazard or injurious to public health or safety and to provide for the imposition of penalties for the violation of any such ordinance, and

WHEREAS, N.J.S.A.40:48-2.14 authorizes the municipality the right to place a lien against such dwelling or lands to provide for the cost of removing brush, weeds debris, etc., and

WHEREAS, the Township of Middle has adopted Ordinance No. 316-76 known as Article I of Chapter 193 of the Code of the Township of Middle “Property Maintenance”, and

WHEREAS, the Township of Middle has noticed the following property owners as indicated below and furthermore these violations had not been remedied.

WHEREAS, in absence of compliance by said owners, the Township of Middle commenced and completed abatement of these violations, and

WHEREAS, the Code Enforcement Officer of the Township of Middle has certified the following cost as listed.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that it hereby impose a lien on the properties listed below as indicated.

FURTHER RESOLVED, that a copy of this lien shall be filed in the Office of the Tax Collector of the Township of Middle.

OWNER	PROP. LOCATION	BLOCK / LOT	AMOUNT
Richard & Regina Anderson	17 Fishing Creek	166/52	\$104.27
Francis Cheety	4 S 2nd Ave	1127/6	\$104.27
Earl & Christine Nichols	6 Parkway Dr	124/7	\$69.51
Harbor Place Development LLC	1116 Stone Harbor Blvd	136/14	\$159.61
Robert Plunkett	743 Dias Creek Rd	164.01/22	\$114.00
George Watkins	107 W. Dunbar	935/5	\$188.62

24. RESOLUTION NO. 370-11 – CHANGING CUSTODIAN PETTY CASH FUNDS – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.

WHEREAS, NJSA 40A:5-21 authorizes the establishment of a Petty Cash Fund in any county or municipality by application and resolution, and

WHEREAS, it is the desire of the Township of Middle, County of Cape May to establish such funds for various departments in the following amounts, and

WHEREAS, the custodian for this funds shall be as follows, who is bonded for the amount of blanket bond; such custodians shall maintain records for these funds in a manner conducive to proper accounting and auditing procedures, and

WHEREAS, it is necessary to set a maximum disbursement per transaction, the maximum being of \$10.00 (ten dollars) with the exception of the Sewer and Water Department which shall not exceed \$25.00 (twenty five dollars).

Custodian	Department	Fund Amount
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Marilyn Miller	Senior Citizen Center	\$100.00
Charles McDonnell	Recreation Department	\$150.00
Chief Christopher Leusner	Police Department	\$100.00
Tracey Taverner**	Finance Department	\$300.00

NOW, THEREFORE BE IT RESOLVED that the Township of Middle hereby authorizes such action and that two copies of this resolution be filed with the Division of Local Government Services, New Jersey Department of Community Affairs for approval.

25. RESOLUTION NO. 371-11 – AUTHORIZING MAYOR TO SIGN DOCUMENTATION – SOUND DRIVE – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.
 WHEREAS, The Township is currently an owner of land that is south of Sound Drive; and
 WHEREAS, Thomas Tower is also currently an owner of land that is south of Sound Drive; and
 WHEREAS, Corolla, LLC owns land that is to the north of Sound Drive; and
 WHEREAS, Corolla, LLC constructed improvements to Sound Drive; and
 WHEREAS, the survey for Corolla, LLC indicates that the road is constructed in the correct location; and
 WHEREAS, the survey for Thomas Tower indicates that the road is constructed to the south so as to encroach on the land owned by Thomas Tower and the Township; and
 WHEREAS, litigation of this matter would be costly, and the potential end result of the removal existing road improvements and relocation several feet north would be a waste of resources, public and private, and an imposition on many Township residents; and
 WHEREAS, the parties have agreed to leave the road in place, and to agree instead to a boundary line agreement which recognizes the existing roadway as built, and modifies the lot configuration so as to place the parties in nearly the same position;
 NOW, THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Middle, the governing body thereof, hereby agrees to resolve this boundary line dispute pursuant to the terms of the Boundary Line Agreement and Deeds attached hereto, and authorizes the Mayor and any other Township Officials to sign said documents and any others necessary to carry out the purpose and intent of this Resolution.
26. RESOLUTION NO. 372-11 – CONFIRMING SALE OF LAND, BLOCK 1491 LOT 5 – On motion by Committeemember Doughty seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.
 WHEREAS, the Township of Middle approved by Resolution the public auction of certain lands, including Block 1491, Lot 5; and
 WHEREAS, at said auction, the high bidder on said lot was Ocean Food and Fuels, LLC who bid \$15,000.00; and
 WHEREAS, because this is an isolated undersized lot, adjacent property owners enjoy a right of first refusal pursuant to N.J.S.A. 40A:12-13.2 and 40A:12-13(b)(5); and
 WHEREAS, pursuant thereto, the municipal solicitor sent letters by certified mail, return receipt requested to each of the adjacent property owners, and despite the exercise of such right initially, each has now in fact waived any such right, but the determination to do so has taken an extraordinary amount of time due to a boundary line dispute and a resulting agreement among the adjacent property owners; and
 WHEREAS, it being necessary by the statute that the Township Committee confirm the sale of the land;
 NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Middle, that:
1. It hereby extends the period within which the sale can be confirmed, which extension was made necessary by the need to notify the individual adjacent property owners and give them time to exercise or not their right of first refusal, the initial exercise of that right by at least one adjacent property owner, and the need to work out an agreement between those parties; and
 2. Sale of the property (Block 1491, Lot 5) to Ocean Food and Fuels, LLC is hereby confirmed; and
 3. The municipal solicitor, Mayor, and all staff members are hereby authorized to prepare and sign any documents necessary to convey this parcel.
27. RESOLUTION NO. 373-11 – STATEMENT PURSUANT TO N.J.S.A. 40:55D-62.1 – STATEMENT OF REASONS FOR ADOPTION OF ZONING ORDINANCE – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.
 WHEREAS, N.J.S.A. 40:55d-62a states that the governing body of a municipality may adopt or amend a zoning ordinance after the planning board has adopted the land use plan element and the housing plan element of the master plan, and that all of the provisions of the zoning ordinance or any amendment or revision thereto “shall either be substantially consistent with the land use element and the housing plan element of the master plan or designed to effectuate such plan elements; provided that the governing body may adopt a zoning ordinance or amendment or revision thereto which in whole or part is inconsistent with or not designed to effectuate the land use plan element and the housing plan element, but only by affirmative vote of a majority of the full authorized membership of the governing body, with the reasons of the governing body for so acting set forth in a resolution and recorded in its minutes when adopting such a zoning ordinance”; and
 WHEREAS, the Housing Element and Fair Share Plan was adopted by the Middle Township Planning Board on December 9, 2008, endorsed by the Township Committee thereafter, and submitted with a petition to COAH for substantive certification on December 30, 2008; and

WHEREAS, the Land Use Element and the Master Plan Reexamination Report were adopted by the Middle Township Planning Board on July 22, 2010; and
WHEREAS, there are certain provisions of the Housing Element and Fair Share Plan that are not reflected in the Master Plan Reexamination Report, which is recognized in the Master Plan Reexamination Report at page 8 where it was stated that the Housing Element and Fair Share Plan will “need to be revised in the future to address changing COAH regulations and affordable housing sites that no longer present a realistic opportunity for affordable housing,” and also at page 13 where similar comments are made, and therefore Ordinance #1392-11, while consistent with the Master Plan Reexamination Report could be deemed inconsistent with the Housing Element and Fair Share Plan; and
WHEREAS, there are certain provisions of the Land Use Plan that could be deemed inconsistent with the Land Use Element; and
WHEREAS, the Middle Township Planning Board found that Ordinance #1392-11 is substantially consistent with the Master Plan and stated such in a report dated July 12, 2011; and
WHEREAS, the Township Committee agrees that Ordinance #1392-11 is substantially consistent with the Master Plan; and
WHEREAS, to the extent that it can be asserted that there is an inconsistency between the Housing Element and Fair Share Plan and Ordinance #1392-11, the reasons are set forth herein; a
NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body therein, as follows:

1. The Land Use Element suggests densities per acre in portions of the Centers, but Ordinance #1392-11 proposes less density. Township Committee heard many comments from citizens at Township Committee meetings that the density in portions of the Centers were too high, particularly in the Cape May Court House Center. Township Committee is persuaded that the higher density proposed in the land use plan would be detrimental to the public good. Township Committee believes that the higher density is out of character with the neighborhood schemes as they exist today. Township Committee was concerned with traffic congestion on narrow roads, with traffic using already overtaxed roads and burdened intersections, and with increasing traffic near the recently completed bike path which crosses those narrow roads and intersections. Township Committee is also mindful of the potential negative environmental impacts in the Cape May Court House center which is on the edge of the preserved open space. Township Committee believes that the higher densities were included in the report in light of the then existing COAH regulations. State regulations governing affordable housing have been invalidated by the courts since the Master Plan, Land Use Element and Housing Element were approved, and neither the legislature nor the administration (the Governor has abolished COAH) has put revised regulations in place to provide direction to the municipalities on how to determine, fulfill and measure their affordable housing obligation. While these issues are on appeal before the Supreme Court, right now, the concepts of “growth share” and presumptive densities are in serious question. Additionally, the higher density is believed to have also been an attempt to satisfy the 2008 Housing Element and Fair Share Plan which identified several 100% affordable housing developments that would help the Township meet its affordable housing obligation. Some of the projects listed are no longer viable projects. Some have simply been abandoned. One of the projects, the Conifer project in Cape May Court House, was reviewed by the Zoning Board pursuant to a use variance request. The Zoning Board found that the site was not suited for that project, a finding that was specifically upheld by the Superior Court. Township Committee is persuaded that the site is not suited for a project of that size and density. To the extent that a low and moderate income housing obligation remains, and it does remain, the Township Committee believes that the density provided in the ordinance is sufficient to encourage low and moderate income housing to be developed. The proposed zoning districts, uses and bulk requirements will provide an increased opportunity for a variety of housing types, sizes, and costs. Township Committee does not believe that at this time an ordinance with higher densities is in the best interest of the community.

2. The Township adopted a Development Fee Ordinance in August 2006. A Draft Updated Development Fee Ordinance is provided in the Housing Element and Fair Share Plan as an Appendix; it proposed to collect development fees in accordance with then current COAH regulations. COAH had approved the proposed ordinance with some changes. Township Committee has not approved the ordinance. The existing ordinance remains in place. Township Committee has not adopted the ordinance because it would increase fees on residential housing. At this time, Township Committee does not wish to discourage any economic activity and residential construction by increasing fees and the cost of housing. The existing ordinance is exacting enough.

3. The Housing Element and Fair Share Plan included a “growth share” type ordinance with regard to low and moderate housing. Since the adoption of the Housing Element and Fair Share Plan, the Appellate Division has invalidated the growth share concept. Township Committee cannot adopt such an ordinance.

Township Committee directs that this Resolution and any discussion regarding it be included in the minutes of the meeting.

28. RESOLUTION NO. 374-11 – AUTHORIZING PARTICIPATION IN 2011 NEW JERSEY POWER COOPERATIVE IN CONNECTION WITH COUNTY OF CAPE MAY – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.
NOW THEREFORE BE IT RESOLVED, by the Township Committee, of the Township of Middle, County of Cape May and State of New Jersey, that the participation in the 2011 SJPC is hereby authorized.
BE IT FURTHER RESOLVED, that the appropriate officials are hereby authorized to sign any and all documents in connection therewith.

29. PUBLIC COMMENT:

Committeemember Doughty thanked the state employees for all the hard work.

Mr. Pickering informed committee that Marsha Shiftman's husband had passed.

Mayor DeLanzo thanked the DEP members, Kate & Elizabeth. Thanked everyone for their comments.

There being no further business the meeting was adjourned at 9:00pm.

Kimberly Krauss, Twp. Clerk