

Cape May Court House, NJ
August 20, 2012
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 Lockwood, Committeemember Donohue, Township Business Administrator Mark Mallett, Township Clerk Kimberly Krauss, Municipal Solicitor Marcus Karavan, and Township Engineer Marc DeBlasio. Committeemember DeLanzo was absent.

1. PRESENTATION OF DONATION – DENNIS ROBERTS, BELLEVUE TAVERN

Mr. Roberts presented committee with a check from the proceeds of the Bellevue Golf Classic. This is the 16th year of said golf tournament. On behalf of Bellevue Tavern and all sponsors Mr. Roberts presented a check in the amount of \$4,000.00 to the Middle Township Recreation Department. Donations started in roughly 1996 and roughly \$90,000.00 has been donated thus far.

Mayor Lockwood stated that the money donated targets specific needs and areas that maybe would have been pushed off another year, and the money is earmarked so that we may accomplish things that may not have happened otherwise. Scoreboards are in bad shape. This year's money will go towards that.

2. RESOLUTION 379-12 – APPOINTMENT – NEW HIRE – POLICE OFFICER – On motion by Mayor Lockwood seconded by Committeemember Donohue 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 following employees are hereby appointed to the following position at the salaries opposite their names:

NAME	DEPARTMENT	TITLE	SALARY	EFFECTIVE
Justin Vitola	Public Safety	Police Officer	\$33,101.00(academy)	08/27/2012

3. SWEARING IN OF NEW OFFICER

Mayor Lockwood swore in Justin Vitola

4. 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.

Madelyn McCarroll "asking under whichever legal grounds necessary that items 37, 38 and 42 be tabled until such time as 3 members of the committee can vote upon them. Very important to our committee. It seems inappropriate with only 2 people..."

Committeemember Donohue - very legitimate point.. we have had some preliminary discussions.

M. McCarroll – wait until 3 members are present.

Committeemember Donohue the reason we didn't pull them Madelyn is because we have everyone here.. I know these are things they want to talk about... the PILOT and the number of students this will add to the school. I think it will still be beneficial to have those discussions.

Joe Ravitz (question to attorneys) to the best of your knowledge has there ever been a case in New Jersey where a developer has sued a municipality with a PILOT and won.

Michael Jedziniak – has sued to force a PILOT? I am not aware of any cases.

J. Ravitz – thank you.. I would also like to echo Madelyn's comments, I think we should table until all three members are here. My opinion is a PILOT is not for this municipality. The only time you should consider one is when you have a large employer coming in that would create a lot of employment. What you are really doing with a PILOT is saying please come into our community and please do this development.

Committeemember Donohue asked for clarification on Jedziniak's comment.

M. Jedziniak - I am not aware of any developer filing a suit against a municipality to try and force a PILOT upon a town.

Mayor Lockwood have they had a lawsuit where the PILOT was part of an agreement or mandate by a judge?

M. Jedziniak - I think that PILOTS are a common place in the Mount Laurel arena as well as the development realm. I am not aware of any situation where the town was sued just to force a pilot.

Betty McGurk (to Michael Jedziniak) is it legal or illegal to spot zone.

M. Jedziniak – in a typical scenario spot zoning has been found to be illegal, but in a Mount Laurel arena it is not considered to be spot zoning.

B. McGurk – Back at one of the Planning Board meetings you had told me that in confines of COAH that spot zoning was legal and able to be done.

Jedziniak – “I would say it a little different.. I would just say it’s not spot zoning”.

McGurk stated she spoke with Gina Fischetti from COAH. She said this increased zoning, there are phases, each property is assigned a certain number and I wanted more clarification. It seems this property..... (interruption)... are we looking at 6 or 7 units?

Terenik – 5

McGurk asked about Rio Grande Property.

Jedziniak stated it was low density for the Mount Laurel project.

Mayor Lockwood - 7 in Rio Grande

McGurk - she found it peculiar to a point that you are moving on .. “she” said there are no guidelines right now, no enforcement, nothing that “they” are looking at.. She asked why “our town would be doing it” and Fischetti said she had no idea and they would not comment.. they had not reviewed our spending plan.

Jedziniak – that is not right.

McGurk – please call Ms. Fischetti tomorrow, she said nothing has been moved on because zoning is a part of that lawsuit that is in Trenton right now. She could not direct a town to move.

Jedziniak – to satisfy your third round obligations, but you know what your second round obligations are. I am little concerned that your conversation with Ms. Fischetti may be apples and oranges.

Matt Blake after ordinance is adopted preparation of site plan, state letter of interpretation.. is that your understanding of process?

Mayor Lockwood yes that is my understanding however there have been comments at previous meetings that some of that may have already taken place. I have not seen evidence to that fact.

Blake – does this ordinance pertain to the requirement of the developer regarding these properties to have to adhere to your environment assessment ordinance?

Elizabeth Terenik stated all site plan applications would require site plan approval and require an environmental assessment report.

M. Blake asked about the Environmental protection ordinance.

E. Terenik spoke of check list and assessment ordinance, through Planning Board.

Larry Newbold – spoke of water problems faced by Cape May County and impact these developments may have. Spoke of salt water intrusion.

Eileen Fausey- OPRA requested minutes from Affordable Housing Committee. Hoping to find some basis to endorse these projects. Looking for studies that should be done before entering into contract. Concerned how this will affect our community.

Mayor Lockwood indicated that a lot of the back and forth regarding these projects happened in executive session because of pending litigation. I don’t want it to be felt that the Affordable Housing Committee did not do due diligence.

Fausey asked if they were “ok” with the plan?

Mayor Lockwood - They believe only way we will solve affordable housing problem is with this type of project, not necessarily this project.

E. Fausey expressed concerns with minutes of July 16th. A lot of things decided before “we” were every told about it. Since COAH does not require PILOT, would appreciate not voting for it.

John Widago- is it a fact that buildings are going to be built?

Mayor Lockwood - No. several other processes first before construction.

Widago asked what other requirements necessary to build.

Mayor Lockwood outlined state requirements and zoning.

Widago – who is responsible for picking up expenses if they do not have to pay the taxes.

Mayor Lockwood indicated that the PILOT is another way of calculated what they pay in taxes. Instead of assessed value they would pay on revenue. Stated there is a form in front that outlines the 10%.

E. Fausey commented from year (interrupted)...

Mayor Lockwood asked Ms. Fausey what her comment was.

E. Fausey – 7 years..

Mayor Lockwood - numbers ran with developer paying 10% for PILOT would be greater than what the assessor has calculated would be paid in taxes.

Committeemember Donohue spoke of spreadsheet prepared by Mr. Mallett. Our assessor met with Mr. Ray Brown, County Tax Assessor, who came up with an assessed value of these two properties based on 2 facts, deed restriction and commercial value based on income from properties.

Middle Township
 Conifer Pilot Analysis
 August 19, 2012

Projected Taxes based on Estimated Assessment

	Cap Rate	Railroad Ave	Rio Grande	Total
Est. Assessment	7%	\$ 1,779,753	\$ 4,152,765	
	2012 Tax Rate	Projected Property Tax	Projected Property Tax	Projected Property Tax
Municipal	\$ 0.390	\$ 6,941	\$ 16,196	\$ 23,137
County	\$ 0.217	\$ 3,862	\$ 9,011	\$ 12,874
School	\$ 0.803	\$ 14,291	\$ 33,347	\$ 47,638
Fire District #1	\$ 0.062	\$ 1,103		\$ 1,103
Fire District #2	\$ 0.084		\$ 3,488	\$ 3,488
Total RR Ave	\$ 1.472	\$ 26,198		
Total Rio Grande	\$ 1.494		\$ 62,042	\$ 88,240

Projected Annual PILOT Revenues

	Railroad Ave - 48 Units	Rio Grande - 112 Units	Total
Proj. Annual Gross Rents	\$ 392,090	\$ 914,878	\$ 1,306,968
Pro Forma Vacancy at 7%	\$ (27,446)	\$ (64,041)	\$ (91,488)
Minus Utilities	\$ (37,200)	\$ (86,800)	\$ (124,000)
Other Revenues	\$ 4,032	\$ 9,408	\$ 13,440
Project Revenues	\$ 331,476	\$ 773,445	\$ 1,104,920
Payment in Lieu %	10%	10%	10%
Annual PILOT Amount	\$ 33,148	\$ 77,344	\$ 110,492

Proposed PILOT Distribution

	Railroad Ave - 48 Units		Rio Grande - 112 Units		Total
	Proposed % Pilot Distr.	Projected PILOT	Proposed % Pilot Distr.	Projected PILOT	Projected PILOT
Municipal	30%	\$ 9,786	29%	\$ 22,440	\$ 32,226
County	5%	\$ 1,657	5%	\$ 3,867	\$ 5,525
School	61%	\$ 20,149	60%	\$ 46,204	\$ 66,352
Fire District #1	5%	\$ 1,556			\$ 1,556
Fire District #2			6%	\$ 4,833	\$ 4,833
Total RR Ave	100%	\$ 33,148	100%		
Total Rio Grande				\$ 77,344	\$ 110,492
Variance of PILOT vs. Projected Assessed Taxes					
Municipal		\$ 2,845		\$ 6,244	\$ 9,089
County		\$ (2,205)		\$ (5,144)	\$ (7,349)
School		\$ 5,857		\$ 12,857	\$ 18,714
Fire District #1		\$ 452		\$ -	\$ 452
Fire District #2				\$ 1,345	\$ 1,345
Total RR Ave		\$ 6,950			
Total Rio Grande				\$ 15,302	\$ 22,252

John Widago – any tax increase on community at all?

Audience commented yes.

Committeemember Donohue asked if anyone had any empirical evidence of this...

J. Widago stated paying \$2,000.00 now will it go up to \$3,000.00

Mayor Lockwood – No. Cannot go up more than 2%...

Mark Mallett reviewed prepared spread sheet.

Committeemember Donohue - if you want to talk specifically about schools, which seems to be the biggest concern, if we adopt this formula based on 10% PILOT in the first year the school would receive \$66,352.00

M. Mallett - almost \$19,000.00 more than if it was based on the estimated assessment.

Doris Williams – Concerned with traffic. Told by Conifer that residents would not use Mechanic Street, they will use Goshen Road. That will not happen. Another 96 cars back and forth on Mechanic Street.

Mayor Lockwood stated he was also concerned about it and is looking into it. Can't require developer to solve that.

Gail Herron - Living on social security and cannot afford it.

Joe Ravitz – spoke of his credentials with tax assessing and real estate appraisal. “Mark, you know this is bogus”. Three approaches to value – cost approach, sales comparison and income approach. Where you fallacy is your trying to do this as income approach ...

Mayor Lockwood stated that tax assessor and county tax assessor came up with these numbers.

Joe Ravitz – they were given wrong information. Mr. Ravitz explained his concern with how number was derived.

Marc Karavan spoke of deed restriction.

Susan Seabrook, on behalf of her parents, asked about letter received. If you vote on this ordinance does it mean those items in ordinance are ok? Read letter into record:

Henry and Mary Lou Mattera
101 Rio Grande Avenue
Rio Grande, NJ 08242

August 20, 2012

MIDDLE TOWNSHIP
ATTN: TOWNSHIP COMMITTEE
33 MECHANIC STREET
CAPE MAY COURT HOUSE, NJ 08210

RE: PUBLIC HEARING
ORDINANCE 1416-12 (Affordable Housing)

DISCUSSION ITEMS – MATTERA & ZONING CHANGES (4006 Route 9 South, Rio Grande)

Introduction

- My name is Susan Seabrook and I am here tonight on behalf of my parents Henry and Mary Lou Mattera to formally raise concern with the zoning ordinance being proposed for an affordable housing project within the township referred to as Conifer Village – Rio Grande.
- Henry is the executor of his brother Frank's estate and he had a fiduciary responsibility to sell his brothers former farm property in order to close the estate.
- Henry was required to accept any reasonable offer received and was not in the position to stipulate what would be an acceptable use of the property by the buyer from his perspective, which was the basis of the contract with Conifer Realty, LLC, where Henry sold the property not by choice but by obligation.
- Henry and Mary Lou are arguably the most impacted residents of the township by this zoning ordinance and their concerns should be heard on that basis.
- Henry and Mary Lou realize that there does not appear to be organized opposition to the zoning ordinance within the township so it seems nearly impossible for them to defeat this on their own as private residents.
- Henry and Mary Lou will focus their efforts towards any future related Planning Board meetings but do want to formally submit a request to the Township Committee at this meeting.

Township Committee Request

- **The request at this time is to ask that the Township Committee delay adoption of this ordinance until the developer provides the township with the official letter of interpretation from the New Jersey Department of Environmental Protection regarding the wetlands on the property.**
- The Township Committee could then review and consider the wetlands letter of interpretation as it relates to this ordinance.
- This property is unique in that it was a former farm and is known to contain an area of wetlands but the exact location and size of the wetlands area have never been formally delineated for development purposes.
- There are lot size, property line, setback, building height, and number of story exceptions, some or all of which may not be necessary depending on the extent of wetlands on the property.
- Rather than immediately adopting this ordinance tonight, it would seem reasonable and fair to all parties, including the township, to wait and see to what extent the formal wetlands delineation provides for more buildable acreage than currently contemplated and what impact that would have on the need for each component of this zoning ordinance related to the Rio Grande property.
- We feel these variances should not be granted hastily or prematurely but rather only if absolutely necessary and that necessity cannot be determined for this particular property until the specifics of the wetlands are resolved.

Questions:

- What is the current required minimum distance from Henry and Mary Lou's side property line to any access road that may be built as part of the development?
- The current side property line distance is not being proposed to be reduced by this zoning ordinance, correct?

Thank you for your consideration of the request to delay adoption of the ordinance until the critical wetlands determination is made and provided to, and considered by, the Township Committee.

M. McCarroll asked about “exhibit b” referenced with PILOT resolution.

M. Mallett – explained.

M. McCarroll stated she disagreed with the number presented and the amount per student.

Committeemember Donohue clarified amount raised per the levy.

M. McCarroll & Committeemember Donohue spoke of averages based on the Rutgers Study.

Fran Grant – our backs are not against the wall.. your hands are not tied. Are your minds already made up?

Mayor Lockwood & Committeemember Donohue asked for clarification on her question...

Committeemember Donohue stated he comes into every meeting with an open mind.

F. Grant – did each member come into the meeting with a “predisposed notion” that this has to be done tonight?

Mayor Lockwood stated he came into the meeting doing a lot of research and to work out a scenario that would have a minimum impact on community and still be able to meet mandates from state. I don't know that we are going to improve from this point so if we are going to move forward then what is on our agenda would probably be that.

F. Grant asked if any comment tonight will have impact. Do we have studies for property in Rio Grande.. wetlands? Was that presented to anyone?

Committeemember Donohue - part of process that has not happened yet.

E. Terenik explained the Planning Board process as well as wetland permits in connection with site plan approval.

Harold Herron – “Missing something.. gentlemen in business to make money. Why would if you had a chance to get a deal to pay on your profit and it would cost you more than the cost of taxes why would you do that? What kind of businessmen to that.”

Mayor Lockwood not based on profit, based on gross revenue. Not based on us coming back and reassessing the town. It controls the amount of taxes they pay... short answer.

H. Herron – figures don't lie, but liars figure.

Agnes Keating – Asked if everyone has to have a job to live in developments?

Mayor Lockwood – you need income.

A. Keating asked for more clarity on income requirements.

Mike Jedziniak spoke about the guidelines for affordable housing, income, and criteria on income.

E. Terenik explained low and moderate income rents.

Tom Beroski spoke of his current school tax amount.

E. Fausey – talked about the impact of the PILOT on the school. Spoke about statistics with Rutgers. Stated Rutgers utilizes the entire state “you can't count on 1 or 2 students per class.” You can make numbers and statistics say anything you like.

B. McGurk – Committeemember DeLanzo stated it came to 1 ½ students at that location...

Committeemember Donohue - this is based on the best information we have been able to find.

F. Grant requested studies be performed on the projects so that we can have base line. We need some numbers.

Mayor Lockwood explained that this will not be the only impact on taxes, there are other elements. We will have a reassessment; you can have tax appeals...

Susan Burb - are either project going to be in your neighborhoods? I didn't know anything about this.. I read it in the spout off. I think it is outrageous.

Matt Blake read letter into record:



AMERICAN LITTORAL SOCIETY

16 N. High Street, Millville, NJ 08332

The American Littoral Society would like to state for the record that we continue to strongly oppose this project. We have no problem with the Township's desire and need to provide affordable housing, but do not believe the community should to trade-away its fragile environment in order to meet these goals.

We particularly do not support the proposal to grant relief from the need to obtain certain variances from the zoning code for set-backs, open space or adherence to critically important ordinances such as the Township's newly approved Environmental Protection Ordinance. If there ever was a site that truly needed these sound planning requirements this is it. You are calling for 45 units here; that's an ~~incredibly~~ high density for a sliver-shaped parcel on 9 acres of land where you would eliminate the provision for even the most basic set-back standards. Moreover, many of these units will be large families, yet you propose to eliminate the requirement for even minimal open space and recreation area? That just doesn't seem fair to the people who are going live here nor their neighbors.

Unnecessary gift to Developers table it.

As you know, ~~this~~ ^{Conifer} property is entirely within the CM Refuge acquisition boundaries and nearly surrounded by Refuge-owned land, which the public has invested millions protecting. The US Fish and Wildlife Service's Comprehensive Conservation Plan (CCP) completed in 2004 states that, "there are 12 listed species in and around Cape May Refuge that are federally-listed endangered and threatened... There is a strong potential for their occurrence on lands currently owned by the Refuge, or proposed for acquisition."

Environment Assessment! In the Dark

Wetlands?

submit CCP Study

The CCP also identified this property as a Priority 1 Property having "very high biological and trust resource value and crucial in providing connectivity among habitats and natural communities." (pg. 4-5)

In addition, the property is ranked 4 on the DEP's Landscape Project Species-based habitat for State endangered Eastern Tiger Salamander and Cope's Gray Treefrog as well as State threatened Barred Owl and Cattle Egret. ~~While there may not be any visible wetlands on the property, they appear to occur less than 150 feet away from the property boundaries. (2007 wetlands data GeoWeb)~~

For these reasons it's no wonder why even the former Refuge Manage raised concerns about the proposal to develop here when the project came before the Township back in 2009.

The best way to avoid the potential for long-term adverse impacts to the Refuge and protected species would be to preserve the property in its entirety. Short of that, would be to leave the forest or vegetated area at the rear of the property undeveloped and in its natural state via deed-restriction. Since the bulk of off-site wetland habitat is located near the rear of the property, providing an upland forested buffer offers the best means to protect the state endangered wetland species believed to occur here.

Thank you, Matt Blake, Manager

kg committee

Backwards PROCESS of env. realities of site should inform discussion over whether there should any variances

Mr. Blake commented on the benefits of a 5 member committee. Provided committee with a copy of the Cape May National Wildlife Refuge Comprehensive Conservation Plan, June 2004 edition.

Ralph Shuman – should the public be able to ask Conifer questions.. Committeemember Donohue stated he looked at 2006 study.. have you looked at 2004 study?

Committeemember Donohue – I have not in reference to this..

R. Shuman – shouldn't that document be held to same regard as 2006 study. If you haven't read that you shouldn't be able to come to conclusion tonight.

Committeemember Donohue disagreed. "That piece of land was part of Master Plan. Our Master Plan was accepted by the State. Property has history."

R. Shuman – whole town wants you to have an open mind. By not reading that you are eliminating creatures that cannot speak for themselves tonight.

WHEREAS, Habitat for Humanity is a non-profit entity which has a purpose of constructing housing for low and moderate income persons; and
WHEREAS, the Township Housing Committee has reviewed the request by Habitat for Humanity for this lot and encourages the conveyance to Habitat for Humanity;
NOW, THEREFORE, BE IT ORDAINED,

1. The Township Committee of the Township of Middle shall sell the parcel of land identified on the Official Tax Map of the Township of Middle as:

Block 1048, Lot 9

2. The sale price for each lot shall be \$8,500.

3. The parcel shall be deed restricted so as to provide that at least one single family residential dwelling shall be built upon it within 24 months or the land shall revert to the Township of Middle.

4. The property shall be deed restricted so that the single family residential dwelling shall be compliant with State laws so that the Township of Middle will be credited for having low and/or moderate income housing units in the Township of Middle.

5. Habitat for Humanity shall enter into a Housing Agreement with the Township of Middle which shall contain certain requirements which shall make the units compliant with the State low and moderate income housing requirements.

6. The Mayor, Clerk, and any and all other Township Officials, are hereby authorized to sign any documents necessary to effectuate this transaction, including any contract, deed, deed restriction or easement.

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 phrase 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.

11. ORDINANCE NO. 1425-12 - AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF MIDDLE, CHAPTER 27, SECTION 2, ENTITLED MARRIAGES AND CIVIL UNIONS, FEES –
On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, Ordinance No 1425-12 passed first reading. Second reading, public hearing and consideration for adoption will be held on 09/17/2012 at 6:00 p.m.

BE IT ORDAINED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, that the following chapter of the local code is hereby revised as follows:

SECTION 1: Chapter 27 of the Code of the Township of Middle is hereby amended as follows:
§ 27-2. Fee.

If the Mayor or Deputy Mayor, when authorized by the Mayor, performs a marriage or civil union ceremony, the fee for said service shall be \$100.00. The fees shall be deposited in the current fund, and shall be payable to the Township of Middle.

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.

12. ORDINANCE NO. 1414-12 - REFUNDING BOND ORDINANCE OF THE TOWNSHIP OF MIDDLE, IN THE COUNTY OF CAPE MAY, NEW JERSEY, PROVIDING FOR THE REFUNDING OF ALL OR A PORTION OF THE OUTSTANDING LOANS OF THE TOWNSHIP, INCLUDING THOSE LOANS DATED JULY 16, 1993, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$2,385,000; DATED JULY 14, 1994, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$1,604,700; DATED DECEMBER 1, 1995, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$1,375,000; DATED FEBRUARY 1, 1996, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$2,374,000; DATED JULY 27, 2001, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$2,080,000; DATED FEBRUARY 24, 2006, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$2,408,000; AND DATED FEBRUARY 24, 2006, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$450,000, ALL ISSUED TO THE UNITED STATES DEPARTMENT OF AGRICULTURE - RURAL DEVELOPMENT, AND APPROPRIATING \$11,000,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$11,000,000 REFUNDING BONDS OF THE TOWNSHIP FOR FINANCING THE COST THEREOF. – Following second reading, hearing, and consideration for adoption, Ordinance 1414-12 was adopted on motion by Committeemember Donohue seconded by Mayor Lockwood and passed on roll call. Complete Ordinance is on file in the Clerk's Office.

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MIDDLE, IN THE COUNTY OF CAPE MAY, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The Township of Middle, in the County of Cape May, New Jersey (the "Township") is hereby authorized to refund:

(a) all or a portion of the outstanding bonds of the Township originally issued in the aggregate principal amount of \$2,385,000 to the United States Department of Agriculture – Rural Development, dated July 16, 1993 (the "1993 Bonds"). All or a portion of the 1993 Bonds maturing

after July 16, 2012 (the "1993 Refunded Bonds") will be called for redemption at a redemption price equal to 100% of such 1993 Refunded Bonds, plus unpaid accrued interest, if any, to the date fixed for redemption; and

(b) all or a portion of the outstanding bonds of the Township originally issued in the aggregate principal amount of \$1,604,700 to the United States Department of Agriculture – Rural Development, dated July 14, 1994, (the "1994 Bonds"). All or a portion of the 1994 Bonds maturing after July 1, 2012 (the "1994 Refunded Bonds") will be called for redemption at a redemption price equal to 100% of such 1994 Refunded Bonds, plus unpaid accrued interest, if any, to the date fixed for redemption; and

(c) all or a portion of the outstanding bonds of the Township originally issued in the aggregate principal amount of \$1,375,000 to the United States Department of Agriculture – Rural Development, dated December 1, 1995 (the "1995 Bonds"). All or a portion of the 1995 Bonds maturing on and after December 1, 2012 (the "1995 Refunded Bonds") will be called for redemption at a redemption price equal to 100% of such 1995 Refunded Bonds, plus unpaid accrued interest, if any, to the date fixed for redemption; and

(d) all or a portion of the outstanding bonds of the Township originally issued in the aggregate principal amount of \$2,374,000 to the United States Department of Agriculture – Rural Development, dated February 1, 1996 (the "1996 Bonds"). All or a portion of the 1996 Bonds maturing after August 1, 2012 (the "1996 Refunded Bonds") will be called for redemption at a redemption price equal to 100% of such 1996 Refunded Bonds, plus unpaid accrued interest, if any, to the date fixed for redemption; and

(e) all or a portion of the outstanding bonds of the Township originally issued in the aggregate principal amount of \$2,080,000 to the United States Department of Agriculture – Rural Development, dated July 27, 2001 (the "2001 Bonds"). All or a portion of the 2001 Bonds maturing after July 27, 2012 (the "2001 Refunded Bonds") will be called for redemption at a redemption price equal to 100% of such 2001 Refunded Bonds, plus unpaid accrued interest, if any, to the date fixed for redemption; and

(f) all or a portion of the outstanding bonds of the Township originally issued in the aggregate principal amount of \$2,408,000 to the United States Department of Agriculture – Rural Development, dated February 24, 2006 (the "2006A Bonds"). All or a portion of the 2006A Bonds maturing on and after January 27, 2013 (the "206A Refunded Bonds") will be called for redemption at a redemption price equal to 100% of such 2006A Refunded Bonds, plus unpaid accrued interest, if any, to the date fixed for redemption; and

(g) all or a portion of the outstanding bonds of the Township originally issued in the aggregate principal amount of \$450,000 to the United States Department of Agriculture – Rural Development, dated February 24, 2006 (the "2006B Bonds"). All or a portion of the 2006B Bonds maturing after August 24, 2012 (the "2006B Refunded Bonds") will be called for redemption at a redemption price equal to 100% of such 2006B Refunded Bonds, plus unpaid accrued interest, if any, to the date fixed for redemption; and

Section 2. In order to finance the cost of the purpose described in Section 1 hereof, negotiable refunding bonds (the "Refunding Bonds") are hereby authorized to be issued in the aggregate principal amount not to exceed \$11,000,000 pursuant to the Local Bond Law of the State of New Jersey.

Section 3. An aggregate amount not exceeding \$350,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-51(b) has been included in the aggregate principal amount of Refunding Bonds authorized herein.

Section 4. The supplemental debt statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the refunding bonds and notes provided in this refunding bond ordinance by \$213,363.51 and that an amount representing the obligations to be refunded (\$10,786,636.49) will be deductible from gross debt. The obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

Section 5. The purpose of the refunding is to effect an interest cost savings for the Township.

Section 6. A certified copy of this refunding bond ordinance as adopted on first reading has been filed with the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey prior to final adoption.

Section 7. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law, provided that the consent of the Local Finance Board has been endorsed upon a certified copy of this ordinance as finally adopted.

Committeemember Donohue – good idea that our "Landscaper" Mayor came up with to refinance our sewer debt to save our town 1.8 million.

No Public Comment

13. ORDINANCE NO. 1415-12 - AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF MIDDLE, CHAPTER 188, SECTION 188-9, FEE SCHEDULE – Following second reading, hearing, and consideration for adoption, Ordinance 1415-12 was adopted on motion by Committeemember Donohue seconded by Mayor Lockwood 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. Chapter 188-9, Fee Schedule, of the Code of the Township of Middle is hereby amended to read as follows:

Fees for usage of recreational facilities are as follows:

Organization or use	Fee
Samuel S. DeVico Senior Citizen Center	
Membership Fee	\$5
Middle Township employees/government/organizations/senior citizens	\$100/event;\$30/three-hour meeting
Middle Township Community organizations	\$300/year for one meeting a month
Non-profit/private organizations	\$150/event;\$75/monthly meeting (6 or more meetings a year)
Commercial organizations	\$250/event;\$125/monthly meeting (6 or more meetings/year);\$75/weekly meeting(2 or more meetings; month)
Goshen Complex and Martin Luther King Center	
Baseball/softball fields (tournaments)	\$150/day/field
Baseball/softball fields (MTBSA Sponsored tournaments)	\$ 75/day/field
Deposit Required	
1-2 Fields	\$150.00
3-4 Fields	\$300.00
5-6 Fields	\$450.00
With lights	Additional \$50/field
Football fields	\$125/day
Deposit Required	\$ 50 per field
With lights	Additional \$50/day
Organized basketball tournaments	\$125/day
With lights (outdoor MLK courts)	Additional \$50/day
Soccer Fields	\$125/day
Deposit Required	\$50 per field
With lights	Additional \$50/day
Hockey Rink (MT Hockey Assoc. sponsored tournament)	\$75/day
Goshen & MLK gymnasiums (tournaments)	\$500/day or \$1,500 for Friday, Saturday and Sunday)
For nonprofit (501c) Organizations	\$250/day or \$750 for Friday, Saturday and Sunday
Sports camps	\$125/day/field
Community rooms	\$75/hour
If using MLK kitchen	\$Additional \$50/hour
Pavilion/outdoor reunions/events at MLK	\$35/event
If using MLK kitchen	Additional \$50/hour
Snack Stand Baker Center	\$350/day

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

14. ORDINANCE NO. 1416-12 - AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF MIDDLE, CHAPTER 250 THEREOF ENTITLED "ZONING" – Following second reading, hearing, and consideration for adoption, Ordinance 1416-12 was adopted on motion by seconded by and passed on roll call. Complete Ordinance is on file in the Clerk's Office.

ITEM MOVED TO END OF AGENDA. VOTED UPON 8/24/2012 AFTER MEETING CALLED TO ORDER AFTER RECESS

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

SECTION 1. Chapter 250 of the Code of the Township of Middle is hereby amended and supplemented to add a new article to read as follows:

ARTICLE VIII: AFFORDABLE HOUSING

§ 250-800. Purpose and Definitions

A. Purpose

1. To provide for a realistic opportunity for affordable housing as required by the New Jersey Fair Housing Act.
2. To effectuate the following master plan goals: Provide housing to meet the needs of current and future Township residents by providing a full range of housing opportunities for all income levels and housing needs; Encourage affordable housing close to the job centers; to promote infill development.
3. To provide opportunities for affordable housing units within the residential centers of the Township, thereby coordinating access to employment, transportation and public facilities.

B. Definition- Affordable Housing Unit shall mean a housing unit developed on the site which shall be affordable to low and moderate income households consistent with the current regulations of the New Jersey Council on Affordable Housing ("COAH") or successor agency, at N.J.A.C. 5:87-1 et seq., and shall comply with the uniform Housing Affordability Controls standards at N.J.A.C. 5:80-26.

§ 250-801. Affordable Housing Overlay Zone

A. Applicability – This overlay zone provides incentives for 100% affordable multifamily residential development on parcels 2 acres or larger in area and is applicable to the following parcels only:

AH #	Block and Lot	Address	Acres
1	Block 1523, Lots 3 and 4	4006 Route 9 South at Rio Grande Avenue, Rio Grande	16.42 acres
2	Block 56.01, Lot 46	8 Railroad Avenue, Cape May Court House	9.64 acres

AH = Affordable Housing

B. Multifamily use is permitted in the R Residential zone. The bulk standards below apply.

C. Density – The maximum gross density shall be:

1. R Residential zone– 5 units per acre
2. TR Town Residential zone– 7 units per acre

D. Floor Area Ratio – maximum floor area ratio is 0.3.

E. An accessory community building providing a community room, exercise room, laundry, office, computer rooms, maintenance facilities, and related spaces and uses for residents and management is permitted in a 100% affordable housing development on lots greater than 2 acres.

F. An on-site dwelling unit for management may be market rate without affecting the applicability of this section.

G. The proposed development must comply with all applicable requirements of the code for multifamily use, including the design standards for townhouse development and multifamily residential, at §250-635, with the following exceptions:

1. Parking setback from the property line shall be a minimum of 10'.
2. Signage: one project identification sign shall be permitted, with an area not to exceed 24 square feet on one side, on each frontage of the site on a public street, and signage otherwise in accordance with §218-81
3. Open space: a minimum of 10% of the gross site area shall be reserved as common open space, which shall not include streets, parking, or other improved areas, or wetlands or flood plains.
4. Recreation: a community building with recreation facilities, a tot-lot with playground equipment, multipurpose fields, and paths shall be provided to serve the recreation needs of the residents.

- H. Noncontiguous Parcel Clustering cannot be applied to 100% affordable developments.
- I. In order to avoid unnecessary cost generating requirements, as required by COAH rules, at N.J.A.C. 5:97-10.2, the standards of this overlay zone shall supersede any conflicting provisions of the Zoning Ordinance, §250, and the Subdivision of Land and Site Plan Ordinance, §218.
- J. Bulk Standards for 100% affordable housing development: A 100% affordable housing development may deviate from the bulk requirements of Chapter 250 as outlined below.

Minimum Lot Width	150'
Minimum Lot Frontage	150'
Minimum Yard-Side	30'
Minimum Yard-Total Side	60'
Maximum Building Height	TR zone – 38.4'
Maximum number of Stories	TR zone - 3

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 phrase 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 filing with the Cape May County Planning Board and publication of notice of passage.

Eileen Fausey – asked for the definition of a majority vote

Madelyn McCarroll asked to table this ordinance until all 3 members are present.

Mr. Blake corrected previous mistake in his comment.. it was actually calling for 10% open space. Who came up with number 10%?

Committeemember Donohue currently zoned for 10%.

E. Terenik – open space is currently 10%. Environmental process still needs to take place.

M. Blake – Elizabeth Terenik has done great job, thank you.

F. Grant – asked committee to table vote at this time.

Susan Seabrook also asked committee to table the ordinance.

B. McGurk asked if anyone checked to see if Railroad has CAFRA.

E. Terenik indicated that letter dated July 23rd to residents within 200 ft of properties, it outlines proposed changes. Correction 1st paragraph.. proposed changes do not change required distance rear property lines. Ordinance correct, letter was incorrect. Ordinance was provided with the letter.

Committeemember Donohue clarification – how many units in Rio Grande Site under current zoning

Terenik - By right, 96 units.

Fran Grant – legally what needs to be in place for ordinance not to pass...

M. Karavan explained that if committee votes with the required number of votes then it passes, then there is a period of time the public has to file a complaint in lieu of prerogative writ to challenge the ordinance.

Clara Golley – Question was already answered, was going to ask about appeal process for ordinance.

B. McGurk expressed that one of the notices from Conifer was sent to the township, it was not passed onto the residents.

MAYOR CALLED BRIEF RECESS

Mayor Lockwood indicated that both he and Committeemember Donohue concur that they will wait until all three members of the board are present before voting on this. Legal Counsel recommends finishing the rest of printed agenda, have the public comment, then recess until Friday at 6:00 when Committeemember DeLanzo is available. Meeting will be held in same meeting room.

Marc Karavan indicated important to indicate that public hearing portion of this is closed at this time. It would only be a vote at that time.

Mike Jedziniak - pretty clear suggestions have been made not only tonight but other nights that the committee did not do their job or due diligence, believes committee has done more due diligence and has investigated and conducted own studies and done more things to try and listen to public. These are tough decisions. For record, your governing body has done an excellent job in representing Middle Township. Suggestion that people of Middle have not had voices heard, that is not true either.

PUBLIC COMMENT CLOSED. VOTE RECESSED UNTIL 8/24/2012.

15. ORDINANCE NO. 1417-12 - BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO THE SEWER UTILITY IN AND BY THE TOWNSHIP OF MIDDLE, IN THE COUNTY OF CAPE MAY, NEW JERSEY, APPROPRIATING \$1,705,150 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,705,150 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING THE COST THEREOF. – Following second reading, hearing, and consideration for adoption, Ordinance 1417-12 was adopted on motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call. Complete Ordinance is on file in the Clerk's Office. BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MIDDLE, IN THE COUNTY OF CAPE MAY, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Township of Middle, in the County of Cape May, New Jersey (the "Township"). For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$1,705,150. No down payment is required as the purpose authorized herein is deemed self-liquidating and the obligation authorized herein is deductible from the gross debt of the Township, as more fully explained in Section 6(e) of this bond ordinance.

Section 2. In order to finance the cost of the improvement or purpose, negotiable bonds are hereby authorized to be issued in the principal amount of \$1,705,150 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is to connect the Grassy Sound neighborhood to the public sewer system by installing a sewer main from the west side of the Grassy Sound Bridge to an existing sanitary sewer manhole west of the Garden State Parkway and further including all related design and construction costs and together with all necessary and incidental miscellaneous equipment, apparatus, appliances, structures and appurtenances.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3(a) of this bond ordinance are not current expenses. They are improvements or purposes that the Township may lawfully undertake as self-liquidating purposes of a municipal public utility. No part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$1,705,150, but that the net debt of the Township determined as

provided in the Local Bond Law is not increased by this bond ordinance. The obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$400,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purposes or improvements.

(e) This bond ordinance authorizes obligations of the Township solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for purposes that are deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-47(a) and are deductible from gross debt pursuant to N.J.S.A. 40A:2-44(c).

Section 7. The Township hereby declares the intent of the Township to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations § 1.150-2 or any successor provisions of federal income tax law.

Section 8. Any grant moneys received for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Township is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Township and to execute such disclosure document on behalf of the Township. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Township and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Township fails to comply with its undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Steve Barry – will rate payers of Grassy Sound really repay debt?

Mayor Lockwood it will be comparable to all other sewer infrastructure project we have done in the last 25 years. My opinion is that there hasn't been one sewer project where rate payers offset full infrastructure. One reason why we looked so closely to debt structure and refinanced sewer debt tonight is so we can lessen the impact of new debt many years down the road. Grassy Sounds generates significant tax revenue and if we do not do sewer project houses will be condemned and we will lose ratables.

16. **ORDINANCE NO. 1418-12 - AN ORDINANCE AUTHORIZING AN EMERGENCY APPROPRIATION N.J.S. 40A:4-53 FOR COMPLETION OF A REASSESSMENT PROGRAM IN THE TOWNSHIP OF MIDDLE.** – Following second reading, hearing, and consideration for adoption, Ordinance 1418-12 was adopted on motion by Committeemember Donohue seconded by Mayor Lockwood and passed on roll call. Complete Ordinance is on file in the Clerk's Office.
- WHEREAS, the Township of Middle, County of Cape May, New Jersey ("Township"), has determined that it is necessary to undertake a program of reassessment of real property in the Township ("Project"); and
- WHEREAS, the amount to be appropriated by the Township for the purpose described above is \$85,000, which amount shall be deemed a special emergency appropriation as defined and provided for in the Local Budget Law, N.J.S.A. 40A:4-1 et seq.; and
- WHEREAS, it is the desire of the Township Committee to adopt an ordinance to create said special emergency appropriation.
- NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY, NEW JERSEY, PURSUANT TO LOCAL BUDGET LAW, AS FOLLOWS:
- Section 1. There is hereby appropriated pursuant to N.J.S.A. 40A:4-53(b), the sum of \$85,000 for the Project, as further described in the preamble of this ordinance.
- Section 2. The appropriation of said \$85,000 for the Project as further described in the preamble of this ordinance shall be deemed a special emergency appropriation as defined, and provided for, in N.J.S.A. 40A:4-53(b).
- Section 3. The authorization to finance the appropriation shall be provided for in succeeding annual budgets by the inclusion of at least 1/5 of the amount authorized pursuant to this act. (N.J.S. 40A:4-55).
- Section 4. A certified copy of this ordinance as finally adopted shall be filed by the Township Clerk with the Director of the Division of Local Government Services in the New Jersey Department of Community Affairs.
- Section 5. All ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 6. This ordinance shall take effect immediately upon final adoption in accordance with applicable law.

No Public Comment

17. RESOLUTION 383-12 – RENEWAL OF GRAVEL PIT PERMITS – 2012 – On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.

WHEREAS, the several gravel pit permit renewal applications listed below have been found to be in proper form, and the fee paid in each case, and

WHEREAS, the Township Committee finds and concludes that the excavation and soil removal work originally authorized has been in continuous operation during the period of the permit and has been performed in accordance with the conditions under which the original permit was granted, and

WHEREAS, the Township Engineer undertook an inspection of the subject premises and has stated in his letter, “recertification is currently recommended” for the following licensees, and

NOW THEREFORE BE IT RESOLVED, that each of the following permits be and are hereby

renewed for the calendar year 2012 and this permit is subject to the rules and regulations as set forth in the code of the Township of Middle known as Chapter 132:

NO.	NAME OF LICENSE	BLOCK/LOT	ACREAGE	FEE
11	Albrecht & Heun	95.03 / 21	42.64	\$600.00
13	Sam & Helena Bradway	1410.01/27	12.23	\$600.00

FURTHER RESOLVED, that the above licenses be issued upon any and all conditions set forth by the Township Engineer in the letters attached to each license and as outlined in the code of the Township of Middle.

18. RESOLUTION 384-12 – APPROVE CHANGE ORDER NO. 4 – SHELLBAY, SHUNPIKE, GOSHEN ROAD AND CREST HAVEN ROAD SANITARY SEWER PROJECT (SSGC) – On motion by Committeemember Donohue seconded by Mayor Lockwood and passed on roll call, the following resolution was adopted.

WHEREAS, the contract for the SSGC Sanitary Sewer Project was awarded on September 1, 2010 via Resolution No 360-10 to FW Shawl & Sons Inc., and

WHEREAS, a net zero change order, otherwise known as Change Order 4, was signed October 2011, and

WHEREAS, for recording keeping purposes a resolution shall be approved, authorizing the Mayor to sign a Contract Change Order Summary which outlines the description of changes for said project.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, that the attached Change Order No. 4 is hereby approved

with no increase in award amount and that the Mayor is hereby authorized to sign any and all documents in connection therewith.

19. RESOLUTION 385-12 – APPROVE CHANGE ORDER NO. 2 – RECONSTRUCTION OF MAIN STREET – On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.

WHEREAS, the reconstruction of Main Street project was awarded November 21, 2011 via Resolution No. 580-11 then later amended on December 5, 2011 to Charles Marandino, LLC. to include the Base Bid + Alternate #2 totaling \$388,456.16.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, that the attached Change Order #2 for the project awarded to Charles Marandino, LLC be and is hereby approved in the amount of \$1,220.00.

20. RESOLUTION 386-12 – AMENDING RESOLUTION 237-12 – AWARD OF CONTRACT UNDER FAIR AND OPEN PROCESS – REMINGTON, VERNICK & WALBERG ENGINEERS- ENGINEERING SERVICES AND CONSTRUCTION OBSERVATION SERVICES-PART TIME FOR BIKE PATH PHASE III – On motion by Committeemember Donohue seconded by Mayor Lockwood and passed on roll call, the following resolution was adopted.

WHEREAS, Remington, Vernick & Walberg Engineers were awarded a Fair and Open Contract with the Township of Middle on January 4, 2012, for Municipal Engineer services, and

WHEREAS, Resolution No. 237-12, which amended the original contract of said engineer, was inadvertently titled as a “Non-Fair and Open” contract.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the agreement between Remington, Vernick & Walberg Engineers and the Township of Middle, as amended via Resolution 237-12, , shall be awarded through the Fair and Open Process as described in Pay-To-Play Statutes.

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

Remington, Vernick & Walberg Engineers - Not to Exceed \$15,500.00

21. RESOLUTION 387-12 – REFUND OF TAXES – On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted. Refund due to overpayment by Mortgage Company.

22. RESOLUTION 388-12 – MIDDLE TOWNSHIP ANNUAL FREE YARD SALE – On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.

WHEREAS, the Township of Middle supports the Annual Wings and Water Festival held by the Wetlands Institute, and

WHEREAS, the residents of the Township of Middle are permitted to hold an annual yard sale with no charge to the residents on the following days only.

NOW, THEREFORE BE IT RESOLVED, that Township Committee in the Township of Middle, County of Cape May, does hereby authorize the annual free yard sale to be held September 22-23, 2012 in the Township of Middle

23. RESOLUTION 389-12 – AMENDING RESOLUTION 235-12 – APPOINTMENTS – VARIOUS BOARDS – On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.

WHEREAS, Resolution 235-12 inadvertently listed incorrect term expirations for various board member appointments.

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 following individuals shall be appointed to the terms and boards as indicated:

NAME	BOARD	TERM EXPIRES
Betsy Haskin	Environmental Commission Alt #1	12/31/2012
Larissa Smith	Environmental Commission Alt #2	12/31/2012

24. RESOLUTION 390-12 – AWARD CONTRACT AND RATIFY AGREEMENT THROUGH NON-FAIR AND OPEN PROCESS – PHOENIX ADVISORS, LLC. – REFUNDING ANALYSIS AND FINANCIAL ADVISOR – SEWER BOND REFUNDING – On motion by Mayor Lockwood seconded by Committeemember Donohue 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 agreement between Phoenix Advisors, LLC. and the Township of Middle be and is hereby ratified and the contract is hereby awarded through the Non-Fair and Open Process as described in Pay-To-Play Statutes.

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

Phoenix Advisors LLC. – Refunding Analysis and Financial Advisor – Sewer Bond Refunding - \$12,500.00

25. RESOLUTION 391-12 – AMENDING RESOLUTION 213-12 – APPOINTMENT – NEW HIRE – On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.

WHEREAS, Alan Morris was hired 05/08/2012, as an employee in the Registrar Department, and

WHEREAS, this resolution shall be amended to accurately reflect that Mr. Morris is a part-time Clerk Typist (temporary appointment).

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, that the following employee is hereby temporarily appointed to the following position at the salary opposite their name:

NAME	DEPARTMENT	TITLE	SALARY	EFFECTIVE
Alan Morris	Registrar	P/T Clerk Typist (T/A)	\$ 9.00 ph	May 8, 2012

26. RESOLUTION 392-12 – AMENDING RESOLUTION 149-12 – APPOINTMENT – EMERGENCY MANAGEMENT COORDINATOR – On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.

WHEREAS, Resolution 149-12 inadvertently listed an incorrect term expiration for the following board member appointment, and

WHEREAS, the term for Emergency Management Coordinator is 3 years, thereby making the term expiration for Mr. Fritsch 12/31/2014.

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 following individuals shall be appointed to the terms and boards as indicated:

NAME	POSITION	TERM AFFECTIVE SALARY	TERM EXPIRES	
Paul Fritsch	Emergency Management Coordinator	3/19/12	12/31/2014*	\$4650.00

* Filling unexpired term

27. RESOLUTION 393-12 – AMENDING CONTRACT THROUGH FAIR AND OPEN PROCESS – VIABLE NETWORKS – On motion by Committeemember Donohue seconded by Mayor Lockwood and passed on roll call, the following resolution was adopted.

WHEREAS, the following professional was originally awarded a contract under the Fair and Open Process, pursuant to N.J.S.A. 40A:11-4.1 et.seq., during reorganization 2012, and

WHEREAS, it has been deemed necessary to amend said contract to include additional work performed in connection with the implementation of the POSS system, as well as other IT related issues.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, that the following contract be amended as follows:
IT Professional – Viable Network- additional work performed towards POSS System and IT Related issues – additional \$10,000.00 (for a contract total of \$35,000.00)

28. RESOLUTION 394-12 – ESTABLISHING A GREEN TEAM FOR SUSTAINABLE JERSEY PROGRAM - On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.
WHEREAS, the Township Committee of the Township of Middle strives to save tax dollars, assure clean air and water, improve working and living environments to build a community that is sustainable economically, environmentally and socially; a community which would thrive well into the new century; and
WHEREAS, the Township Committee of the Township of Middle wishes to build a model of government which benefits our residents now and far into the future with green community initiatives outlined in the Sustainable Jersey program, which are easy to replicate and affordable to implement; and
WHEREAS, in an attempt to focus attention on “Green” issues, the Township Committee wishes to establish a Green Team; and
WHEREAS, the Township Committee of the Township of Middle wants to begin the process of focusing on “Green” issues by starting with audits of municipality facilities and operations first; and
WHEREAS, the following actions will be priorities for the Green Team as the Township moves to do their share to lessen the environmental impact of its operations: energy conservation; smart growth principals; protection of natural resources; smart growth principals of development; and community education.
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle that we do hereby establish a Green Team consisting of all the members of the Middle Township Environmental Commission.
NOW THEREFORE BE IT FINALLY RESOLVED, by the Township Committee of the Township of Middle that the following persons are hereby appointed to the Green Team for the remainder of 2012:
Steve Atzert, Chairman
Gary Farrow
Rachel Reed
Jeffrey L. Schafer, CEM
Vilma Pombo
Susan Copson
Lillian Armstrong
Betsy Haskins
Larissa Smith
Dawn Stimmel, Sec.
29. RESOLUTION 395-12 – AMENDING RESOLUTION 236-12 AWARD OF BID – BIKE PATH PHASE III – On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.
WHEREAS, Resolution No. 236-12 awarded the Bike Path Phase III project to Asphalt Paving Corporation, and
WHEREAS, the resolution listed the incorrect award amount.
NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the contract for BIKE PATH PHASE III be and hereby is awarded to:
Asphalt Paving Corporation - Bike Path Phase III - \$299,007.00
FURTHER BE IT RESOLVED, that this award is conditioned upon certification of availability of funds.
30. RESOLUTION 396-12 – CLOSED SESSION – CONTRACT NEGOTIATION – GRASSY SOUNDS CIVIC ASSOCIATION – On motion by Mayor Lockwood seconded by Committeemember Donohue 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: CONTRACT NEGOTIATION – GRASSY SOUNDS CIVIC ASSOCIATION
2.) The general nature of the subject matter to be discussed is as follows: CONTRACT NEGOTIATION – GRASSY SOUNDS CIVIC ASSOCIATION
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.
***Upon adoption of this resolution and conclusion of this meeting the governing body will convene on the following topic in closed session: Contract Negotiation – Grassy Sounds Civic Association.**

This matter will be released to the public when the matter has been deemed resolved and the need to hear said item in closed session no longer exist. The public will be invited back into open session at the conclusion of this meeting and formal action may be taken.

31. RESOLUTION 397-12 – TEMPORARY APPOINTMENT – NEW HIRE - On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.

WHEREAS, the following individuals shall be temporary appointed in the departments as designated below.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, that the following employee is hereby temporarily appointed

to the following position at the salary opposite their name:

NAME	DEPARTMENT	TITLE	SALARY	EFF. DATE
Crystal Campo	Clean Communities	Clean Communities Supervisor	\$9.00 ph*	08/20/2012

*rate goes to \$10.00 after 6 months of employment

32. RESOLUTION 398-12 – INSERTION OF A SPECIAL ITEM OF REVENUE – ANJEC OPEN SPACE AND RECREATION – On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.

WHEREAS, R.S. 40A: 4-87 provides the Director of the Division of Local Government Services to approve the insertion of any Special Item of Revenue in the budget of any Municipality when such item shall have been made available by law and the amount whereof was not determined at the time of adoption of budget, and

WHEREAS, said Director may also approve the insertion of an appropriation for an equal amount.

NOW THEREFORE BE IT RESOLVED, that the Township Committee, the Governing Body of the Township of Middle, County of Cape May and State of New Jersey, hereby requests the director of Local Government Services to approve the insertion of additional items of revenue in the budget of the year 2012 in the sum of:

ANJEC Open Space and Recreation Grant -- FY 2012 -- \$ 8,000.00

BE IT FURTHER RESOLVED, that like sum be and the same is hereby appropriated under the following caption:

ANJEC Open Space and Recreation Grant -- FY 2012 -- \$ 8,000.00

33. RESOLUTION 399-12 – AMENDING CONTRACT THROUGH FAIR AND OPEN PROCESS – TERENCE LAND USE CONSULTING – On motion by Committeemember Donohue seconded by Mayor Lockwood and passed on roll call, the following resolution was adopted.

WHEREAS, the following professional was originally awarded a contract under the Fair and Open Process, pursuant to N.J.S.A. 40A:11-4.1 et.seq., during reorganization 2012, and

WHEREAS, it has been deemed necessary to once again amend said contract to include additional work performed in connection with professional planning services for the Open Space and Recreation Plan.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, that the following contract be amended as follows:

Terenik Land Use Consulting - additional work performed in connection with professional planning services for the Open Space and Recreation Plan - \$8,000.00

34. RESOLUTION 400-12 – AUTHORIZING EXECUTION OF FAIR AND OPEN CONTRACT – DAVID A. STEFANKIEWICZ – PLANNING BOARD SOLICITOR – On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.

WHEREAS, the Township Committee has previously instituted a Fair and Open Process for the award of contract pursuant to N.J.S.A. 19:44A-20.4 et.seq., and

WHEREAS, the Township Committee has followed the procedures that it has previously set forth for the award of specific contracts; and

WHEREAS, the Township Committee had solicited proposals and placed the position on the township website as outlined in Resolution 572-11 dated November 21, 2011, and has publicly opened each proposal submitted, and has considered each proposal in light of criteria previously established by the Township, and has made a decision on each proposal submitted in light of those criteria, and

WHEREAS, the Planning Board had formally passed a resolution on March 13, 2012, appointing Mr. Stefankiewicz.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey that the following submission shall be awarded as follows: David A. Stefankiewicz– Planning Board Solicitor – Not to exceed \$36,000.00

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute contracts with each of the above-mentioned individuals as necessary, to be followed with a resolution of award and certification as attached hereto.

BE IT FURTHER RESOLVED, that this contract shall be effective until December 31, 2012.

35. *TABLED ** RESOLUTION 401-12 – AWARD CONTRACT AND RATIFY AGREEMENT THROUGH NON FAIR AND OPEN PROCESS – PAT MARTIN – CONFLICT PROSECUTOR – On motion by seconded by 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 Agreement between Pat Martin and the Township of Middle for conflict prosecutor services be and is hereby ratified and the contract is hereby awarded through the Non Fair and Open Process as described in Pay-To-Play Statutes in the amount not to exceed \$1,000.00.

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

36. RESOLUTION 402-12 – DETERMINING THE FORM AND OTHER DETAILS OF NOT TO EXCEED \$11,000,000 PRINCIPAL AMOUNT OF REFUNDING BONDS OF THE TOWNSHIP OF MIDDLE, IN THE COUNTY OF CAPE MAY, NEW JERSEY AND PROVIDING FOR THE SALE OF SUCH BONDS TO RBC CAPITAL MARKETS. – On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MIDDLE, IN THE COUNTY OF CAPE MAY, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The Township of Middle, in the County of Cape May, New Jersey (referred herein as the “Township”) hereby authorizes the sale of bonds, in one or more series, in an amount not to exceed \$11,000,000 Refunding Bonds (the “Bonds”), by virtue of its final adoption by a two-thirds majority of its full membership on August 7, 2012 entitled, “Refunding Bond Ordinance of the Township of Middle, in the County of Cape May, New Jersey, Providing for the Refunding of All or a Portion of the Outstanding Loans of the Township, Including Those Loans Dated July 16, 1993, Issued in the Original Principal Amount of \$2,385,000; Dated July 14, 1994, Issued in the Original Principal Amount of \$1,604,700; Dated December 1, 1995, Issued in the Original Principal Amount of \$1,375,000; Dated February 1, 1996, Issued in the Original Principal Amount of \$2,374,000; Dated July 27, 2001, Issued in the Original Principal Amount of \$2,080,000; Dated February 24, 2006, Issued in the Original Principal Amount of \$2,408,000; and Dated February 24, 2006, Issued in the Original Principal Amount of \$450,000, All Issued to the United States Department of Agriculture - Rural Development, and Appropriating \$11,000,000 Therefor and Authorizing the Issuance of Not to Exceed \$11,000,000 Refunding Bonds of the Township for Financing the Cost Thereof.”

Section 2. The Bonds are hereby authorized to be sold to RBC Capital Markets (the “Underwriter”) in accordance with the purchase contract to be entered into by and between the Underwriter and the Township (the “Purchase Contract”). The purchase price for the Bonds shall be as set forth in the Purchase Contract, plus unpaid accrued interest from the dated date of the Bonds to, but not including, the delivery date of the Bonds. The Mayor and/or the Chief Financial Officer is hereby authorized to enter into the Purchase Contract on behalf of the Township with the Underwriter in a form satisfactory to McManimon, Scotland & Baumann, LLC, bond counsel for the Township (“Bond Counsel”) for the sale of the Bonds to the Underwriter in accordance with the provisions of this resolution. The signature of the Mayor or Chief Financial Officer on the Purchase Contract shall be conclusively presumed to evidence any necessary approvals.

Section 3. The Bonds are being issued to (i) incur interest cost savings by current refunding all or a portion of the outstanding bonds of the Township originally issued in the aggregate principal amount of \$2,385,000 to the United States Department of Agriculture – Rural Development, dated July 16, 1993 and maturing on January 16 and July 16 in the years 2013 through and including 2033 (the “1993 Refunded Bonds”), (ii) incur interest cost savings by current refunding all or a portion of the outstanding bonds of the Township originally issued in the aggregate principal amount of \$1,604,700 to the United States Department of Agriculture – Rural Development, dated July 14, 1994 and maturing on January 1 and July 1 in the years 2013 through and including 2034 (the “1994 Refunded Bonds”), (iii) incur interest cost savings by current refunding all or a portion of the outstanding bonds of the Township originally issued in the aggregate principal amount of \$1,375,000 to the United States Department of Agriculture – Rural Development, dated December 1, 1995 and maturing on June 1 and December 1 in the years 2013 through and including 2035 (the “1995 Refunded Bonds”), (iv) incur interest cost savings by current refunding all or a portion of the outstanding bonds of the Township originally issued in the aggregate principal amount of \$2,374,000 to the United States Department of Agriculture – Rural Development, dated February 1, 1996 and maturing on February 1 and August 1 in the years 2013 through and including 2036 (the “1996 Refunded Bonds”), (v) incur interest cost savings by current refunding all or a portion of the outstanding bonds of the Township originally issued in the aggregate principal amount of \$2,080,000 to the United States Department of Agriculture – Rural Development, dated July 27, 2001 and maturing on January 17 and July 17 in the years 2013 through and including 2041 (the “2001 Refunded Bonds”), (vi) incur interest cost savings by current refunding all or a portion of the outstanding bonds of the Township originally issued in the aggregate principal amount of \$2,408,000 to the United States Department of Agriculture – Rural Development, dated February 24, 2006 and maturing on February 24 and August 24 in the years 2013 through and including 2046 (the “2006A Refunded Bonds”), (vii) incur interest cost savings by current refunding all or a portion of the outstanding bonds of the Township originally issued in the aggregate principal amount of \$450,000 to the United States Department of Agriculture – Rural Development, dated February 24, 2006 and maturing on February 24 and August 24 in the years 2013 through and including 2046 (the “2006B Refunded Bonds” and together with the 1993 Refunded Bonds, the 1994 Refunded Bonds, the 1995 Refunded Bonds, the 1996 Refunded Bonds, the 2001 Refunded Bonds, and 2006A Refunded Bonds, the “Refunded Bonds”), which bonds are redeemable at the option of the Township on any date at 100% of the principal amount of bonds to be redeemed, plus unpaid accrued interest to the date fixed for redemption.

Section 4. The Bonds shall be issued in accordance with the terms and the conditions set forth in the Purchase Contract within the parameters set forth herein:

(A) The Bonds shall be issued in a par amount determined to be necessary to pay costs of issuance and to provide for payment of (i) the Redemption Price of the Refunded Bonds and unpaid accrued interest on the date fixed for redemption, and (ii) costs of issuance for the Bonds, all in accordance with the Local Finance Board approval;

(B) The Bonds shall be dated such date as established in the Purchase Contract;

(C) The Bonds shall mature in the principal amounts on or about October 1 of each year, commencing on or about October 1, 2012 and thereafter or otherwise as set forth in the Purchase Contract and shall bear interest at interest rates per annum on the unpaid principal balance on each October 1 and April 1 until maturity or earlier redemption, commencing on or about October 1, 2012, or as otherwise set forth in the Purchase Contract;

(D) The Bonds shall be issued in the form of one or more bonds for each maturity except if all or any portion of the Bonds are issued as term bonds;

(E) The Bonds shall be numbered consecutively from R-1 upward and shall mature in such principal amounts with such mandatory call features and with such mandatory sinking fund payments as set forth below and as determined in the Purchase Contract; and

(F) The Bonds may be subject to optional redemption or not as set forth in the Purchase Contract.

(G) Depending on market conditions at the time of the sale, the Bonds may be issued in one or more series as determined by the Chief Financial Officer, in consultation with Bond Counsel.

Section 5. The Bonds shall be substantially in the following form with such additions, deletions and omissions as may be necessary for the Township to conform the Bonds to the requirements of the Purchase Contract.

SAMPLE BOND FORM FOR INFORMATION

ONLY – DO NOT COMPLETE

REGISTERED REGISTERED
NUMBER R- _____ \$ _____

UNITED STATES OF AMERICA
STATE OF NEW JERSEY

TOWNSHIP OF MIDDLE,
IN THE COUNTY OF CAPE MAY

REFUNDING BOND

DATED DATE MATURITY DATE: RATE OF INTEREST PER ANNUM: CUSIP:
___/___/12 ___/1/___ % _____

The TOWNSHIP OF MIDDLE, IN THE COUNTY OF CAPE MAY, NEW JERSEY (the "Township") hereby acknowledges itself indebted and for value received promises to pay to CEDE & CO., as nominee of The Depository Trust Company, which will act as Securities Depository, on the Maturity Date specified above, the principal sum of _____ DOLLARS (\$ _____), and to pay interest on such sum from the Dated Date set forth above at the Rate of Interest Per Annum specified above semiannually on the first days of August and July in each year until maturity [or earlier redemption] commencing on ___ 1, 2012. Interest on this bond will be paid to the Securities Depository by the Township and will be credited to the participants of The Depository Trust Company as listed on the records of The Depository Trust Company as of the December 15 and June 15 next preceding the date of such payments (the "Record Dates" for such payments). Principal of this bond, upon presentation and surrender to the Township, will be paid to the Securities Depository by the Township, and will be credited to the participants of The Depository Trust Company.

This bond is not transferable as to principal or interest except to an authorized nominee of The Depository Trust Company. The Depository Trust Company shall be responsible for maintaining the book-entry system for recording the interests of its participants or the transfers of the interests among its participants. The participants are responsible for maintaining records regarding the beneficial ownership interests in the bonds on behalf of individual purchasers.

[The bonds of this issue maturing prior to ___ 1, 2023 are not subject to redemption prior to their stated maturities. The bonds of this issue maturing on or after ___ 1, 2023 are redeemable at the option of the Township in whole or in part on any date on or after July 1, 2022 upon notice as required herein at par, plus in each case unpaid accrued interest to the date fixed for redemption.

[Insert Term Bond Provisions, if any]

Notice of redemption shall be given by mailing by first class mail in a sealed envelope with postage prepaid to the registered owners of the bonds not less than thirty (30) days, nor more than sixty (60) days prior to the date fixed for redemption. Such mailing shall be to the owners of such bonds at their respective addresses as they last appear on the registration books kept for that purpose by the Township or a duly appointed Bond Registrar. Any failure of the Securities Depository to advise any of its participants or any failure of any participant to notify any beneficial owner of any notice of redemption shall not affect the validity of the redemption proceedings. If the Township determines to redeem a portion of the bonds prior to maturity, the bonds to be redeemed shall be selected by the Township. The bonds to be redeemed having the same maturity shall be selected by the Securities Depository in accordance with its regulations.

If notice of redemption has been given as provided herein, the bonds or the portion thereof called for redemption shall be due and payable on the date fixed for redemption at the redemption price, together with unpaid accrued interest to the date fixed for redemption. Interest shall cease to accrue on the bonds after the date fixed for redemption. Payment shall be made upon surrender of the bonds redeemed.]

This bond is one of an authorized issue of bonds and is issued pursuant to the Local Bond Law of the State of New Jersey and a refunding bond ordinance of the Township finally adopted March 18, 2008 and entitled, "Refunding Bond Ordinance of the Township of Middle, in the County of Cape May, New Jersey, Providing for the Refunding of All or a Portion of the Outstanding Bonds of the Township, Dated August 9, 1984, Issued in the Original Principal Amount of \$1,234,000 to the United States Department of Agriculture – Farmers Home Administration and/or All or a Portion of the Outstanding Bonds of the Township Dated March 22, 1996, Issued in the Aggregate Original Principal Amount of \$2,567,400 to the United States Department of Agriculture – Rural Development and/or All or a Portion of the Outstanding Bonds of the Township Dated

August 23, 1997, Issued in the Aggregate Original Principal Amount of \$3,337,900 to the United States Department of Agriculture – Rural Development, Appropriating \$11,000,000 Therefor and Authorizing the Issuance of Not to Exceed \$11,000,000 Refunding Bonds of the Township for Financing the Cost Thereof.”

The full faith and credit of the Township are hereby irrevocably pledged for the punctual payment of the principal of and the interest on this bond according to its terms.

It is hereby certified and recited that all conditions, acts and things required by the constitution or the statutes of the State of New Jersey to exist, to have happened or to have been performed precedent to or in the issuance of this bond exist, have happened and have been performed and that the issue of bonds of which this is one, together with all other indebtedness of the Township, is within every debt and other limit prescribed by such constitution or statutes.

IN WITNESS WHEREOF, the TOWNSHIP OF MIDDLE, IN THE COUNTY OF CAPE MAY, NEW JERSEY has caused this bond to be executed in its name by the manual or facsimile signatures of its Mayor and its Chief Financial Officer, its corporate seal to be hereunto imprinted or affixed, this bond and the seal to be attested by the manual signature of its Township Clerk and this bond to be dated the Date of Original Issue as specified above.

TOWNSHIP OF MIDDLE, IN THE
COUNTY OF CAPE MAY, NEW JERSEY

By: (facsimile) _____
Mayor

By: (facsimile) _____
Chief Financial Officer

[SEAL]

ATTEST:

By: _____
Clerk

Section 6. The Bonds shall have printed thereon a copy of the written opinion with respect to the Bonds that is to be rendered by Bond Counsel, complete except for omission of its date. The Township Clerk is hereby authorized and directed to file a signed duplicate of such written opinion in the Township Clerk’s office. Alternatively, each Bond may be accompanied by the signed legal opinion or copy thereof.

Section 7. The Township hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986 (the "Code") in order to preserve the exemption from taxation of interest on the Bonds, including the requirement to rebate all net investment earnings on the gross proceeds above the yield on the Bonds, and that it will refrain from taking any action that would adversely affect the tax exemption of the Bonds under the Code. The Township authorizes the Chief Financial Officer to act and determine on behalf of the Township whether the Bonds will be designated as “bank qualified” within the meaning of Section 265 of the Code.

Section 8. Bond Counsel is authorized to arrange for the printing of the Bonds. The proper officials of the Township are hereby authorized and directed to execute the Bonds and to deliver them to the Underwriter in exchange for payment, including accrued interest from their date to the date of delivery, if any.

Section 9. The Chief Financial Officer is hereby authorized to make representations and warranties, to enter into agreements and to make all arrangements with The Depository Trust Company, New York, New York, as may be necessary in order to provide that the Bonds will be eligible for deposit with The Depository Trust Company and to satisfy any obligation undertaken in connection therewith.

Section 10. In the event that The Depository Trust Company may determine to discontinue providing its service with respect to the Bonds or is removed by the Township and if no successor Securities Depository is appointed, the Bonds which were previously issued in book-entry form shall be converted to Registered Bonds (the "Registered Bonds") in denominations of \$5,000, or any integral multiple thereof, except that an amount maturing in any one year in excess of the largest principal amount thereof equaling a multiple of \$5,000 will be in denominations of \$1,000, or any integral multiple thereof. The beneficial owner under the book-entry system, upon registration of the Bonds held in the beneficial owner's name, will become the registered owner of such Registered Bonds. The Township shall be obligated to provide for the execution and delivery of the Registered Bonds in certificate form.

Section 11. Solely for purposes of complying with Rule 15c2-12 of the Securities and Exchange Commission, as amended and interpreted from time to time (the "Rule"), and provided that the Bonds are not exempt from the Rule and provided that the Bonds are not exempt from the following requirements in accordance with paragraph (d) of the Rule, for so long as the Bonds remain outstanding (unless the Bonds have been wholly defeased), the Township shall provide for the benefit of the holders of the Bonds and the beneficial owners thereof:

(a) On or prior to 270 days from the end of each fiscal year, beginning December 31, 2012, electronically to the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access (“EMMA”) system or such other repository designated by the SEC to be an authorized repository for filing secondary market disclosure information, if any, annual financial information with respect to the Township consisting of the audited financial statements (or unaudited financial statements if audited financial statements are not then available, which audited financial statements will be delivered when and if available) of the Township and certain financial information and operating data consisting of (1) Township and overlapping indebtedness including a schedule of outstanding debt issued by the Township; (2) the Township's most current adopted budget; (3) property valuation information; and (4) tax rate, levy and collection data. The audited financial statements will

be prepared in accordance with generally accepted accounting principles as modified by governmental accounting standards as may be required by New Jersey law;

(b) if any of the following material events occur regarding the Bonds, a timely notice not in excess of ten business days after the occurrence of the event sent to EMMA:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modifications to rights of security holders, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the securities, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the obligated person;
- (13) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

For the purposes of the event identified in subparagraph (12) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

(c) Notice of failure of the Township to provide required annual financial information on or before the date specified in this resolution shall be sent in a timely manner to EMMA.

(d) If all or any part of the Rule ceases to be in effect or is not in effect for any reason, then the information required to be provided under this resolution, insofar as the provisions of the Rule not or no longer in effect required the provision of such information, shall not or no longer be required to be provided.

(e) The Chief Financial Officer shall determine, in consultation with Bond Counsel, the application of the Rule or the exemption from the Rule for each issue of obligations of the Township prior to their offering. Such officer is hereby authorized to enter into additional written contracts or undertakings to implement the Rule and is further authorized to amend such contracts or undertakings or the undertakings set forth in this resolution, provided such amendment is, in the opinion of nationally recognized bond counsel, in compliance with the Rule.

(f) In the event that the Township fails to comply with the Rule requirements or the written contracts or undertakings specified in its undertaking, the Township shall not be liable for monetary damages. The sole remedy is hereby specifically limited to specific performance of the Rule requirements or the written contracts or undertakings therefor.

Section 12. If all or any part of the Rule ceases to be in effect for any reason, then the information required to be provided under this resolution, insofar as the provision of the Rule no longer in effect required the provision of such information, shall no longer be required to be provided.

Section 13. The Chief Financial Officer shall determine, in consultation with Bond Counsel, the application of the Rule or the exemption from the Rule for each issue of obligations of the Township prior to their offering. Such officer is hereby authorized to enter into additional written contracts or undertakings to implement the Rule and is further authorized to amend such contracts or undertakings or the undertakings set forth in this resolution, provided such amendment is, in the opinion of nationally recognized bond counsel, in compliance with the Rule.

Section 14. In the event that the Township fails to comply with the Rule requirements or the written contracts or undertakings specified in this resolution, the Township shall not be liable for monetary damages, remedy being hereby specifically limited to specific performance of the Rule requirements or the written contracts or undertakings therefor.

Section 15. The Township hereby approves the preparation and the distribution of the Preliminary Official Statement in the form to be approved by the Chief Financial Officer. Such Official Statement may be distributed in preliminary form and deemed final for purposes of Rule 15c2-12 of the Securities and Exchange Commission on behalf of the Township by the Chief Financial Officer. The Preliminary Official Statement shall be prepared in final form in connection with the issuance of the Bonds and the Chief Financial Officer is authorized to execute any certificates necessary in connection with the distribution of the Official Statement. Final Official Statements shall be delivered to the

Underwriter within the earlier of seven business days following the sale of the Bonds or to accompany the Underwriter's confirmations that request payment for the Bonds. The Chief Financial Officer, Bond Counsel and/or Suplee, Clooney & Company, the Township's auditor, are further authorized to arrange on behalf of the Township for a rating for the Bonds from Moody's Investors Service and/or Standard & Poor's.

Section 16. The Chief Financial Officer, with the advice of the Underwriter and Bond Counsel, is authorized to arrange for bond insurance if advantageous based on the advice of the Underwriter to be provided at a premium not to exceed 89 basis points of the amount of principal and interest payable in order to obtain the best possible rates and the most cost effective financing and is authorized to take all steps on behalf of the Township necessary to do so.

Section 17. The Chief Financial Officer, with the advice of Bond Counsel, shall arrange for paying agent or redemption agent services with a banking institution if any portion of the Bonds are term bonds requiring a sinking fund.

Section 18. The Chief Financial Officer is also authorized to pay the costs of issuance at or after the time of closing to the various participants regarding the sale and issuance of the Bonds, based upon the recommendation of Bond Counsel, to pay such costs.

Section 19. The Chief Financial Officer shall take all steps necessary to call the Refunded Bonds on the date fixed for redemption at 100% of par plus any unpaid accrued interest thereon and to take all steps necessary for the investment of the proceeds of the Refunded Bonds necessary to arrange for such redemption. The Township Clerk or Chief Financial Officer, with the advice of Bond Counsel, are hereby authorized to accept proposals for an escrow agent and to enter into an Escrow Deposit Agreement with such escrow agent in order to provide instructions regarding the deposit of securities purchased with the Bond proceeds and cash, if any, into an escrow account in order to pay the Redemption Price of and unpaid accrued interest on the Refunded Bonds on the date fixed for redemption.

Section 20. The Township Clerk or Chief Financial Officer, with the advice of Bond Counsel, are further authorized to accept proposals for verification agent services, if necessary, in order to enter into an agreement with a verification agent to confirm the accuracy of the arithmetical and mathematical computations supporting (i) the accuracy of the interest cost savings and the sufficiency of the amount in the escrow account to pay the interest due on the Refunded Bonds through the Redemption Date and pay the redemption price on the date fixed for redemption; and (ii) the calculations of yield supporting the conclusion of Bond Counsel that the Bonds are not "arbitrage bonds" as such meaning is set forth in the Code.

Section 21. The Township Clerk, the Chief Financial Officer and other appropriate representatives of the Township are hereby authorized to take all steps necessary to provide for the issuance of the Bonds and the redemption of the Refunded Bonds, including preparing and executing such agreements and documents on behalf of the Township and taking all steps necessary or desirable to implement the requirements of this resolution, such agreements, and documents as may be necessary and appropriate and the transactions contemplated thereby.

Section 22. This resolution shall take effect immediately.

37. RESOLUTION 403-12 - AUTHORIZING EXECUTION OF PAYMENT IN LIEU OF TAXES AGREEMENTS PURSUANT TO PURSUANT TO THE NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY LAW OF 1983 (N.J.S.A. 55:14K-1 ET SEQ.) FOR THE PROPERTY KNOWN AS 8 RAILROAD AVENUE, MIDDLE TOWNSHIP, NEW JERSEY - On motion by _____ seconded by _____ and passed on roll call, the following resolution was adopted.

ITEM MOVED TO END OF AGENDA. VOTED UPON 8/24/2012 AFTER MEETING CALLED TO ORDER AFTER RECESS

WHEREAS, CONIFER REALTY, L.L.C., a limited liability company of the State of New York (hereinafter referred to as the "Sponsor") proposes to construct an affordable rental housing development for families consisting of 48 units in townhouses and flats (hereinafter referred to as the "Project") pursuant to the provisions of the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended (N.J.S.A. 55:14K-1 et seq.), the rules promulgated thereunder at N.J.A.C. 5:80-1 et seq., and all applicable guidelines (the foregoing hereinafter referred to as the "HMFA Requirements") within the municipality of Middle Township, Cape May County (hereinafter referred to as the "Municipality") on a site described as Block 56.01, Lot 46 on the tax maps of the Township, and commonly known as 8 Railroad Avenue; and

WHEREAS, the Project will be subject to the HMFA Requirements and the mortgage and other loan documents executed between the Sponsor and the New Jersey Housing and Mortgage Finance Agency (hereinafter referred to as the "Agency"); and

WHEREAS, the Project will be subject to requirements of the New Jersey Department of Community Affairs (hereinafter referred to as the "Department of Community Affairs"), Neighborhood Preservation Balanced Housing Program in accordance with N.J.S.A. 52:27D-320 and applicable rules promulgated thereunder at N.J.A.C. 5:43-1.1 et seq., and the mortgage and other loan documents executed between the Sponsor and the Commissioner of the Department of Community Affairs; and

WHEREAS, pursuant to the HMFA Requirements, the governing body of the Municipality hereby determines that there is a need for this housing project in the Municipality; and

WHEREAS, the Sponsor has presented to the Municipal Committee a revenue projection for the Project which sets forth the anticipated revenue to be received by the Sponsor from the operation of the Project as estimated by the Sponsor and the Agency, a copy of which is attached hereto and made a part hereof as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the Committee of the Township of Middle (the "Committee") that:

- (1) The Committee finds and determines that the proposed Project will meet or meets an existing housing need;
- (2) The Committee does hereby adopt the within Resolution and makes the determination and findings herein contained by virtue of, pursuant to, and in the conformity with the provisions of the HMFA Requirements with the intent and purpose that the Agency shall rely thereon in making a mortgage loan to the Sponsor, which shall construct, own and operate the Project; and
- (3) The Committee does hereby adopt the within Resolution with the further intent and purpose that from the date of execution of the Agency mortgage, the proposed

Project, including both the land and improvements thereon, will be exempt from real property taxation as provided in the HMFA Requirements, provided that payments in lieu of taxes for municipal services supplied to the Project are made to the municipality in such amounts and manner set forth in the Agreement for Payments in Lieu of Taxes attached hereto as Exhibit "B"; and

- (4) The Committee hereby authorizes and directs the Mayor of the Township of Middle execute, on behalf of the municipality, the Agreement for Payments in Lieu of Taxes in substantially the form annexed hereto as Exhibit "B"; and
- (5) The Committee understands and agrees that the revenue projections set forth in Exhibit "A" are estimates and that the actual payments in lieu of taxes to be paid by the Sponsor to the municipality shall be determined pursuant to the Agreement for Payments in Lieu of Taxes executed between the Sponsor and municipality.

38. RESOLUTION 404-12 - AUTHORIZING EXECUTION OF PAYMENT IN LIEU OF TAXES AGREEMENTS PURSUANT TO PURSUANT TO THE NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY LAW OF 1983 (N.J.S.A. 55:14K-1 ET SEQ.) FOR THE PROPERTY KNOWN AS THE "RIO GRANDE PROPERTY," MIDDLE TOWNSHIP, NEW JERSEY - On motion by _____ seconded by _____ and passed on roll call, the following resolution was adopted.

ITEM MOVED TO END OF AGENDA. VOTED UPON 8/24/2012 AFTER MEETING CALLED TO ORDER AFTER RECESS

WHEREAS, CONIFER REALTY, L.L.C., a limited liability company of the State of New York (hereinafter referred to as the "Sponsor") proposes to construct an affordable rental housing development for families consisting of 112 units in flats (hereinafter referred to as the "Project") pursuant to the provisions of the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended (N.J.S.A. 55:14K-1 et seq.), the rules promulgated thereunder at N.J.A.C. 5:80-1 et seq., and all applicable guidelines (the foregoing hereinafter referred to as the "HMFA Requirements") within the municipality of Middle Township, Cape May County (hereinafter referred to as the "Municipality") on a site described as Block 1523, Lots 3 & 4 on the tax maps of the Township, and commonly known as the Rio Grande Property; and

WHEREAS, the Project will be subject to the HMFA Requirements and the mortgage and other loan documents executed between the Sponsor and the New Jersey Housing and Mortgage Finance Agency (hereinafter referred to as the "Agency"); and

WHEREAS, the Project will be subject to requirements of the New Jersey Department of Community Affairs (hereinafter referred to as the "Department of Community Affairs"), Neighborhood Preservation Balanced Housing Program in accordance with N.J.S.A. 52:27D-320 and applicable rules promulgated thereunder at N.J.A.C. 5:43-1.1 et seq., and the mortgage and other loan documents executed between the Sponsor and the Commissioner of the Department of Community Affairs; and

WHEREAS, pursuant to the HMFA Requirements, the governing body of the Municipality hereby determines that there is a need for this housing project in the Municipality; and

WHEREAS, the Sponsor has presented to the Municipal Committee a revenue projection for the Project which sets forth the anticipated revenue to be received by the Sponsor from the operation of the Project as estimated by the Sponsor and the Agency, a copy of which is attached hereto and made a part hereof as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the Committee of the Township of Middle (the "Committee") that:

- (1) The Committee finds and determines that the proposed Project will meet or meets an existing housing need;
- (2) The Committee does hereby adopt the within Resolution and makes the determination and findings herein contained by virtue of, pursuant to, and in the conformity with the provisions of the HMFA Requirements with the intent and purpose that the Agency shall rely thereon in making a mortgage loan to the Sponsor, which shall construct, own and operate the Project; and
- (3) The Committee does hereby adopt the within Resolution with the further intent and purpose that from the date of execution of the Agency mortgage, the proposed

Project, including both the land and improvements thereon, will be exempt from real property taxation as provided in the HMFA Requirements, provided that payments in lieu of taxes for municipal services supplied to the Project are made to the municipality in such amounts and manner set forth in the Agreement for Payments in Lieu of Taxes attached hereto as Exhibit "B"; and

(4) The Committee hereby authorizes and directs the Mayor of the Township of Middle execute, on behalf of the municipality, the Agreement for Payments in Lieu of Taxes in substantially the form annexed hereto as Exhibit "B"; and

(5) The Committee understands and agrees that the revenue projections set forth in Exhibit "A" are estimates and that the actual payments in lieu of taxes to be paid by the Sponsor to the municipality shall be determined pursuant to the Agreement for Payments in Lieu of Taxes executed between the Sponsor and municipality.

39. RESOLUTION 405-12 – AWARD OF BID – FY 2012 NEW JERSEY DEPARTMENT OF TRANSPORTATION RECONSTRUCTION OF SECOND STREET IN THE TOWNSHIP OF MIDDLE – On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.
 WHEREAS, it has been deemed necessary and desirable to solicit bids for the FY 2012 New Jersey Department of Transportation Reconstruction of Second Street project, and
 WHEREAS, sealed bids were received on August 7, 2012, and
 WHEREAS, it appears that the following bid submitted represents a figure equal to the lowest bid received, which complies with specifications.
 Lexa Concrete LLC – base bid - \$ 132,430.32
 NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the contract for FY 2012 New Jersey Department of Transportation Reconstruction of Second Street project, project by and hereby is awarded to Lexa Concrete, LLC.
 FURTHER RESOLVED, that this award is conditioned upon submission of Treasurer’s Certification of availability of funds.
40. RESOLUTION 406-12 – AWARD OF BID – WHITESBORO ROADWAY IMPROVEMENTS - PHASE 3A – On motion by Committeemember Donohue seconded by Mayor Lockwood and passed on roll call, the following resolution was adopted.
 WHEREAS, it has been deemed necessary and desirable to solicit bids for the Whitesboro Roadway Improvements – Phase 3A project, and
 WHEREAS, sealed bids were received on August 7, 2012, and
 WHEREAS, it appears that the following bid submitted represents a figure equal to the lowest bid received, which complies with specifications.
 Arawak Paving - \$383,000.00
 NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the contract for Whitesboro Roadway Improvements – Phase 3A project by and hereby is awarded to Arawak Paving.
 FURTHER RESOLVED, that this award is conditioned upon submission of Treasurer’s Certification of availability of funds.
41. RESOLUTION 407-12 – AMENDING ADOPTED FLEXIBLE SPENDING PLAN – On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.
 WHEREAS, September 19, 2011, via Resolution 468-11, the Township of Middle adopted a Flexible Spending Account Plan with AFLAC, and
 WHEREAS, AFLAC has teamed up with WageWorks, “a top provider of tax-advantaged programs”, to provide FSA administration services, and
 WHEREAS, WageWorks will be the provider for AFLAC FSAs and Commuter Benefit programs effective October 1, 2012, and
 WHEREAS, it is necessary for the township to amend the previously adopted plan to indicate the change in service providers.
 NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Middle, that the Flexible Spending Account Plan is hereby amended to reference the change in provider service to WageWorks.
42. RESOLUTION 408-12 – RESOLUTION OF THE COMMITTEE OF THE TOWNSHIP OF MIDDLE ENDORSING THE TOWNSHIP’S AMENDED AFFORDABLE HOUSING SPENDING PLAN AND REQUESTING COAH OR THE DCA TO REVIEW AND APPROVE SAME – On motion by seconded by and passed on roll call, the following resolution was adopted.
ITEM MOVED TO END OF AGENDA. VOTED UPON 8/24/2012 AFTER MEETING CALLED TO ORDER AFTER RECESS
 WHEREAS, the Committee of the Township of Middle, County of Cape May petitioned the Council on Affordable Housing (COAH) for substantive certification on December 15, 2008; and
 WHEREAS, Middle Township received approval from COAH on December 29, 2006 of its development fee ordinance; and
 WHEREAS, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, and proceeds from the sale of affordable units; and
 WHEREAS, N.J.A.C. 5:97-8.1(d) requires a municipality with an affordable housing trust fund to receive approval of a spending plan from the Department prior to spending any of the funds in its housing trust fund; and
 WHEREAS, COAH approved the spending plan of the Township of Middle on July 8, 2008; and
 WHEREAS, on June 4, 2012, the Township endorsed a Spending Plan and forward same to COAH for review and approval; and
 WHEREAS, N.J.A.C. 5:97-8.10 requires a spending plan to include the following:
1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
 2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;

3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9;
5. A schedule for the expenditure of all affordable housing trust funds, provided that the trust fund balance as of July 17, 2008 is committed for expenditure within four years of that date and that all development fees and any payments in lieu of construction are committed for expenditure within four years from the date of collection;
6. If applicable, a schedule for the creation or rehabilitation of housing units;
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and
8. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and
9. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, Middle Township has prepared an amended spending plan, attached hereto, consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c.46.

NOW THEREFORE BE IT RESOLVED that the Committee of the Township of Middle, County of Cape May, hereby endorses the attached spending plan and requests that either COAH or the DCA review and approve same.

FURTHER RESOLVED, that this resolution shall take effect immediately.

43. PUBLIC COMMENT:

Committeemember Donohue commented on the bike path which should be finished up in next couple of weeks. Not complete yet. Good asset to community.

“As far as topics tonight, I have done as much as possible to look into this issue, to learn as much as possible, compile as much information and talk to as many people as possible. Flavor of this room is that “the people” are opposed to this. Would say I have talked to people that have said it is something the community needs and we have tried to mitigate negative impact of every scope of this on our town. As we move forward, time will tell what final outcome will be. Architecturally it fits into our community; it will be people we know and respect in our community. We have done everything we can to minimize the negative impact on our taxes. Not saying there isn’t going to be an impact on the taxes; a lot of things impact our taxes.” Wasn’t committee’s idea, was mandated on high to us.

Mayor Lockwood recognized law enforcement for job well done at National Night Out. Thanks to Butch Hamer and all that helped out.

Open Space and Recreation Study – looking for members of recreation community to get involved with things that they may see that need to be corrected. One member of community recommended marking creeks in our community. Hopefully it leads to marking recreation for all of county and hopefully State.

Spoke at Traffic Committee meeting and sat in on traffic study. Discussed sidewalks. At work session discussed sidewalks and lighting on Bayshore Road. We are looking at this issue town wide.

Also discussed Medicare. They have changed coding with billing process and some of the bills have been kicked back because they say they didn’t merit an ambulance ride. Working hard to revisit bills and take care of residents.

Had budget review with Treasurer at work session. Report 7 months in.. looked at areas that may be above or below budget line.

Chris Eaton gave Engineering Report (on file in Clerk’s Office).

Mayor Lockwood spoke of meeting with Turnpike Authority. Plans pretty much finalized. Will have big impact on complexion of town and county. Will be meeting with residents adjacent to parkway.

Charles Keenan – 2nd street project... at what point in government do you float bond for construction project?

Mayor Lockwood spoke of grant received and list of roads that are deteriorating.

Mark Mallett spoke of process of receiving bond and spoke of bonds that expire. Stated that an ordinance needs to be passed first.

Ralph Shuman – Asked why the COAH attorney met with people outside. Those conversations should be done in the public.

Steve O'Connor – for the resolutions put off until Friday, will there be public comment? Who approved parcels into plan?

Mike Jedziniak – Planning Board then Governing Body to be endorsed.

Madelyn McCarroll – Would like there to be public comment on resolutions on Friday. Spoke of Rabies and unlicensed dogs. Thanked Mayor for call on Emergency Management and evacuation. Thank you to committee for starting next year's budget. Would like to see a Financial Impact Statement Friday.

Steve Barry – stated someone had emailed him about Mayor Lockwood's Economic Development loan. Presented the public and committee with payment information on this loan.

Vilma Pombo – Asked if there was a Historic Committee? Is there historic overlay yet?

Mayor Lockwood – yes overlay effective now.

B. McGurk – Conifer deadline?

E. Fausey (to Karavan) asked about the 45 day statement made earlier. Lots of towns did fight the State and the State did not take the money.

M. McCarroll – what is the percentage of people that vote?

B. McGurk – State hasn't adopted our Fair Share Plan. Need that 1st before moving forward. Has yet to meet one person that is for this..

CLOSED PUBLIC COMMENT PORTION.

Motion to go into closed session:

1st Committeemember Donohue 2nd Mayor Lockwood

Roll Call Vote: Passed on roll call.

Committee entered closed session at 9:50pm.

Committee reentered regular session at 10:00pm.

Motion to recess until Friday August 24, 2012 at 6:00pm:

1st Mayor Lockwood 2nd Committeemember Donohue

Roll Call Vote: Passed on roll call.

GOVERNING BODY RECESSED UNTIL FRIDAY, AUGUST 24, 2012 AT 6:00PM.

FRIDAY, AUGUST 24, 2012 6:00PM – RECESS OVER, MEETING CALLED TO ORDER.

Members present were Mayor Lockwood, Committeemember Donohue, Committeemember DeLanzo, Township Business Administrator Mark Mallett, Township Clerk Kimberly Krauss, and Municipal Solicitor Marcus Karavan.

Mayor Lockwood apologized for delay. "It was in the interest of making sure we make this decision in the best manner in which we could. I am willing to do whatever possible to make sure we do that and make sure this board has heard the public."

Marc Karavan expressed that public hearing relative to ordinance is closed, public comment is closed, and whatever comment committee allowed is not legally required but would be at your volition.

Committee announced to Public that anyone that did not speak Monday will have the opportunity to speak on any of the issued outlined. Mayor Lockwood expressed there would be a five minute limit on comment.

44. RESOLUTION 381-12 – APPROVING PAYMENT FOR BILLS – BILL LIST B (ANZELONE) – On motion by Committeemember Donohue seconded by Committeemember DeLanzo and passed on roll call, the following resolution was adopted. Mayor Lockwood abstained.

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. \$ 170.00

45. ORDINANCE NO. 1416-12 - AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF MIDDLE, CHAPTER 250 THEREOF ENTITLED “ZONING” – Following second reading, hearing, and consideration for adoption, Ordinance 1416-12 was adopted on motion by Committeemember Donohue seconded by Committeemember DeLanzo and passed on roll call. Complete Ordinance is on file in the Clerk’s Office.

Motion to re-open public hearing for limited purpose:

1st Committeemember Donohue 2nd Committeemember DeLanzo

Roll Call Vote: Passed on roll call.

NO PUBLIC COMMENT

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

SECTION 1. Chapter 250 of the Code of the Township of Middle is hereby amended and supplemented to add a new article to read as follows:

ARTICLE VIII: AFFORDABLE HOUSING

§ 250-800. Purpose and Definitions

C. Purpose

1. To provide for a realistic opportunity for affordable housing as required by the New Jersey Fair Housing Act.
2. To effectuate the following master plan goals: Provide housing to meet the needs of current and future Township residents by providing a full range of housing opportunities for all income levels and housing needs; Encourage affordable housing close to the job centers; to promote infill development.
3. To provide opportunities for affordable housing units within the residential centers of the Township, thereby coordinating access to employment, transportation and public facilities.

D. Definition- Affordable Housing Unit shall mean a housing unit developed on the site which shall be affordable to low and moderate income households consistent with the current regulations of the New Jersey Council on Affordable Housing (“COAH”) or successor agency, at N.J.A.C. 5:87-1 et seq., and shall comply with the uniform Housing Affordability Controls standards at N.J.A.C. 5:80-26.

§ 250-801. Affordable Housing Overlay Zone

K. Applicability – This overlay zone provides incentives for 100% affordable multifamily residential development on parcels 2 acres or larger in area and is applicable to the following parcels only:

AH #	Block and Lot	Address	Acres
1	Block 1523, Lots 3 and 4	4006 Route 9 South at Rio Grande Avenue, Rio Grande	16.42 acres
2	Block 56.01, Lot 46	8 Railroad Avenue, Cape May Court House	9.64 acres

AH = Affordable Housing

L. Multifamily use is permitted in the R Residential zone. The bulk standards below apply.

M. Density – The maximum gross density shall be:

3. R Residential zone– 5 units per acre
4. TR Town Residential zone– 7 units per acre

N. Floor Area Ratio – maximum floor area ratio is 0.3.

O. An accessory community building providing a community room, exercise room, laundry, office, computer rooms, maintenance facilities, and related spaces and uses for residents and management is permitted in a 100% affordable housing development on lots greater than 2 acres.

P. An on-site dwelling unit for management may be market rate without affecting the applicability of this section.

Q. The proposed development must comply with all applicable requirements of the code for multifamily use, including the design standards for townhouse development and multifamily residential, at §250-635, with the following exceptions:

1. Parking setback from the property line shall be a minimum of 10’.
2. Signage: one project identification sign shall be permitted, with an area not to exceed 24 square feet on one side, on each frontage of the site on a public street, and signage otherwise in accordance with §218-81
3. Open space: a minimum of 10% of the gross site area shall be reserved as common open space, which shall not include streets, parking, or other improved areas, or wetlands or flood plains.
4. Recreation: a community building with recreation facilities, a tot-lot with playground equipment, multipurpose fields, and paths shall be provided to serve the recreation needs of the residents.

R. Noncontiguous Parcel Clustering cannot be applied to 100% affordable developments.

S. In order to avoid unnecessary cost generating requirements, as required by COAH rules, at N.J.A.C. 5:97-10.2, the standards of this overlay zone shall supersede any conflicting provisions of the Zoning Ordinance, §250, and the Subdivision of Land and Site Plan Ordinance, §218.

T. Bulk Standards for 100% affordable housing development: A 100% affordable housing development may deviate from the bulk requirements of Chapter 250 as outlined below.

Minimum Lot Width	150'
Minimum Lot Frontage	150'
Minimum Yard-Side	30'
Minimum Yard-Total Side	60'
Maximum Building Height	TR zone – 38.4'
Maximum number of Stories	TR zone - 3

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 phrase 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 filing with the Cape May County Planning Board and publication of notice of passage.

37. RESOLUTION 403-12 - AUTHORIZING EXECUTION OF PAYMENT IN LIEU OF TAXES AGREEMENTS PURSUANT TO PURSUANT TO THE NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY LAW OF 1983 (N.J.S.A. 55:14K-1 ET SEQ.) FOR THE PROPERTY KNOWN AS 8 RAILROAD AVENUE, MIDDLE TOWNSHIP, NEW JERSEY - On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.

WHEREAS, CONIFER REALTY, L.L.C., a limited liability company of the State of New York (hereinafter referred to as the "Sponsor") proposes to construct an affordable rental housing development for families consisting of 48 units in townhouses and flats (hereinafter referred to as the "Project") pursuant to the provisions of the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended (N.J.S.A. 55:14K-1 et seq.), the rules promulgated thereunder at N.J.A.C. 5:80-1 et seq., and all applicable guidelines (the foregoing hereinafter referred to as the "HMFA Requirements") within the municipality of Middle Township, Cape May County (hereinafter referred to as the "Municipality") on a site described as Block 56.01, Lot 46 on the tax maps of the Township, and commonly known as 8 Railroad Avenue; and

WHEREAS, the Project will be subject to the HMFA Requirements and the mortgage and other loan documents executed between the Sponsor and the New Jersey Housing and Mortgage Finance Agency (hereinafter referred to as the "Agency"); and

WHEREAS, the Project will be subject to requirements of the New Jersey Department of Community Affairs (hereinafter referred to as the "Department of Community Affairs"), Neighborhood Preservation Balanced Housing Program in accordance with N.J.S.A. 52:27D-320 and applicable rules promulgated thereunder at N.J.A.C. 5:43-1.1 et seq., and the mortgage and other loan documents executed between the Sponsor and the Commissioner of the Department of Community Affairs; and

WHEREAS, pursuant to the HMFA Requirements, the governing body of the Municipality hereby determines that there is a need for this housing project in the Municipality; and

WHEREAS, the Sponsor has presented to the Municipal Committee a revenue projection for the Project which sets forth the anticipated revenue to be received by the Sponsor from the operation of the Project as estimated by the Sponsor and the Agency, a copy of which is attached hereto and made a part hereof as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the Committee of the Township of Middle (the "Committee") that:

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- (2) The Committee does hereby adopt the within Resolution and makes the determination and findings herein contained by virtue of, pursuant to, and in the conformity with the provisions of the HMFA Requirements with the intent and purpose that the Agency shall rely thereon in making a mortgage loan to the Sponsor, which shall construct, own and operate the Project; and
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- (4) The Committee hereby authorizes and directs the Mayor of the Township of Middle execute, on behalf of the municipality, the Agreement for Payments in Lieu of Taxes in substantially the form annexed hereto as Exhibit "B"; and
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WHEREAS, the Project will be subject to requirements of the New Jersey Department of Community Affairs (hereinafter referred to as the "Department of Community Affairs"), Neighborhood Preservation Balanced Housing Program in accordance with N.J.S.A. 52:27D-320 and applicable rules promulgated thereunder at N.J.A.C. 5:43-1.1 et seq., and the mortgage and other loan documents executed between the Sponsor and the Commissioner of the Department of Community Affairs; and

WHEREAS, pursuant to the HMFA Requirements, the governing body of the Municipality hereby determines that there is a need for this housing project in the Municipality; and

WHEREAS, the Sponsor has presented to the Municipal Committee a revenue projection for the Project which sets forth the anticipated revenue to be received by the Sponsor from the operation of the Project as estimated by the Sponsor and the Agency, a copy of which is attached hereto and made a part hereof as Exhibit A.

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- (3) The Committee does hereby adopt the within Resolution with the further intent and purpose that from the date of execution of the Agency mortgage, the proposed Project, including both the land and improvements thereon, will be exempt from real property taxation as provided in the HMFA Requirements, provided that payments in lieu of taxes for municipal services supplied to the Project are made to the municipality in such amounts and manner set forth in the Agreement for Payments in Lieu of Taxes attached hereto as Exhibit "B"; and
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42. RESOLUTION 408-12 – RESOLUTION OF THE COMMITTEE OF THE TOWNSHIP OF MIDDLE ENDORSING THE TOWNSHIP’S AMENDED AFFORDABLE HOUSING SPENDING PLAN AND REQUESTING COAH OR THE DCA TO REVIEW AND APPROVE SAME – On motion by Committeemember DeLanzo seconded by Mayor Lockwood and passed on roll call, the following resolution was adopted.

WHEREAS, the Committee of the Township of Middle, County of Cape May petitioned the Council on Affordable Housing (COAH) for substantive certification on December 15, 2008; and

WHEREAS, Middle Township received approval from COAH on December 29, 2006 of its development fee ordinance; and

WHEREAS, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, and proceeds from the sale of affordable units; and

WHEREAS, N.J.A.C. 5:97-8.1(d) requires a municipality with an affordable housing trust fund to receive approval of a spending plan from the Department prior to spending any of the funds in its housing trust fund; and

WHEREAS, COAH approved the spending plan of the Township of Middle on July 8, 2008; and

WHEREAS, on June 4, 2012, the Township endorsed a Spending Plan and forward same to COAH for review and approval; and

WHEREAS, N.J.A.C. 5:97-8.10 requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9;
5. A schedule for the expenditure of all affordable housing trust funds, provided that the trust fund balance as of July 17, 2008 is committed for expenditure within four years of that date and that all development fees and any payments in lieu of construction are committed for expenditure within four years from the date of collection;
6. If applicable, a schedule for the creation or rehabilitation of housing units;
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and
8. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and
9. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, Middle Township has prepared an amended spending plan, attached hereto, consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c.46.

NOW THEREFORE BE IT RESOLVED that the Committee of the Township of Middle, County of Cape May, hereby endorses the attached spending plan and requests that either COAH or the DCA review and approve same.

FURTHER RESOLVED, that this resolution shall take effect immediately.

Committeemember Donohue – we have done 4 things here tonight, combination of a long process by calculation 23 hours of public comment. We moved to approve spending plan, and we modified that plan a few times as things have moved along. Purpose is so the funds raised by Middle Township to promote affordable housing were made safe so that they were spent in Middle Township. Leveraged as a negotiation tool to lessen impact of high density developments. We have achieved those two goals. Other was change in zoning. We were not voting to go from 0-48 units on Railroad Ave or 0-112 units in Rio Grande. Total impact was to allow 9 more on Railroad Ave then currently permitted and 16 more in Rio Grande then currently allowed in zoning. Total increase of 25 units over two sites. That is the impact this ordinance has. As far as PILOT we tried to approach them in different ways. Came up with a few different values. How big of a disparity would it be taxes vs. PILOT. Would property ever be assessed at market value. My opinion is PILOT as I understand it is very close to what we would collect in property tax. We have a plan that would have school receiving largest amount of PILOT, Fire Co. would receive amount, County would receive 5 percent by law. Township would receive the rest.

Motion to adjourn meeting:

1st Mayor Lockwood 2nd Committeemember DeLanzo

Roll Call Vote: Passed on roll call.

There being no further business the meeting was adjourned at 7:30pm.

Kimberly D. Krauss, Twp. Clerk