

Cape May Court House, NJ

July 18, 2011

REGULAR MEETING

FLAG SALUTE

THIS MEETING IS BEING RECORDED:

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

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

1. QUESTION/ANSWER PERIOD ON AGENDA (This question and answer session shall relate only to items as outlined and pending on current agenda. Issues and concerns not related to agenda item shall be withheld to public comment portion at the conclusion of meeting.)
No Public Comment
2. RESOLUTION NO. 330-11 – APPROVING PAYMENT FOR BILLS – BILL LIST A (General Bills) – On motion by Committeemember Lockwood seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that payment for the following bills in the amounts indicated are hereby approved:
Current Acct. \$ 729,511.08
3. RESOLUTION NO. 331-11 – APPROVING PAYMENT FOR BILLS – BILL LIST B (A&H/ FMR) – On motion by Committeemember Lockwood seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that payment for the following bills in the amounts indicated are hereby approved:
Current Acct. \$ 11,207.65
4. RESOLUTION NO. 332-11 – APPROVING PAYMENT FOR BILLS – BILL LIST C (ANZELONE) – On motion by Mayor DeLanzo seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that payment for the following bills in the amounts indicated are hereby approved:
Current Acct. \$ 283.00
5. RESOLUTION NO. 333-11 – APPROVING PAYMENT FOR BILLS – BILL LIST D (HATCH MOTT MACDONALD) – On motion by Committeemember Lockwood seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that payment for the following bills in the amounts indicated are hereby approved:
Current Acct. \$ 21,194.39
6. RESOLUTION NO. 334-11 – APPROVING MINUTES FROM PREVIOUS MEETINGS – On motion by Mayor DeLanzo seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the minutes from the Township Committee meeting held July 6, 2011 are hereby approved.
7. REPORTS: The following departments have submitted their reports for the months indicated:
Treasurer for the month of June; Municipal Court for the month of June;
8. ORDINANCE NO. 1389-11 – AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF MIDDLE, CHAPTER 28, SECTION 4, THEREOF ENTITLED NOTIFICATION OF PENDING RETIREMENT – Following second reading, hearing, and consideration for adoption, Ordinance 1389-11 was adopted on motion by Mayor DeLanzo seconded by Committeemember Doughty and passed on roll call. Complete Ordinance is on file in the Clerk’s Office. Committeemember Lockwood voted No.
No Public Comment
BE IT ORDAINED, by the Township Committee of the Township of Middle in the County of Cape May and State of New Jersey as follows:
SECTION 1. Section 38-4, of the Code of the Township of Middle is hereby amended to read as follows:
38-4. Notification of pending retirement.

In order to permit proper budgetary provisions to be made, any employee entitled to payment of accumulated sick-leave, vacation or personal days shall notify the Township Treasurer no later than December 31 of the year prior to retirement with written notification. In the absence of such timely notification, the employee shall be paid his or her termination payment on or before June 30th of the year after retirement, or, at the discretion of Township Committee, the employee may be paid the termination payment but only if the payment is less than \$5,000.00 and approved by resolution.

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.

9. ORDINANCE NO. 1390-11 – AN ORDINANCE ESTABLISHING THE COMPENSATION OF THE OFFICERS AND EMPLOYEES OF THE TOWNSHIP OF MIDDLE – Following second reading, hearing, and consideration for adoption, Ordinance 1390-11 was adopted on motion by Committeemember Doughty seconded by Committeemember Lockwood and passed on roll call. Complete Ordinance is on file in the Clerk’s Office.
Adding range and title of “Sewer Billing and Administration”
Sewer Billing and Administration \$0.00 \$5,000.00
No Public Comment
10. ORDINANCE NO. 1393-11 – AN ORDINANCE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY, NEW JERSEY, APPROPRIATING THE SUM OF \$50,000 IN FUNDING FROM THE CAPITAL IMPROVEMENT FUND FOR THE WHITESBORO WATER PHASE III CONSTRUCTION – On motion by Committeemember Doughty seconded by Committeemember Lockwood and passed on roll call, Ordinance No 1393-11 passed first reading. Second reading, public hearing and consideration for adoption will be held on 08/15/2011 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, AS FOLLOWS:
Section 1. There is hereby appropriated the sum of \$50,000 from the Capital Improvement Fund of the Township of Middle, County of Cape May, New Jersey ("Township") for the Whitesboro Water Phase III Construction
Section 2. It is hereby determined and stated that the improvements set forth in Section 1 are each a general capital improvement and not a current expense.
Section 3. The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith, and the resolution promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services, is on file with the Township Clerk and available for inspection.
Section 4. All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed to the extent of such inconsistency.
Section 5. This ordinance shall take effect after final adoption and publication as required by law.
11. ****TABLED**** ORDINANCE NO. 1394-11 – AMENDMENT TO CHAPTER 218 OF THE CODE OF THE TOWNSHIP OF MIDDLE – On motion by _____ seconded by _____ and passed on roll call, Ordinance No 1394-11 passed first reading. Second reading, public hearing and consideration for adoption will be held on 08/15/2011 at 6:00 p.m.
12. RESOLUTION NO. 335-11 – CAPITAL BUDGET AMENDMENT – On motion by Mayor DeLanzo seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.
WHEREAS, the local capital budget for the year 2011 was adopted on the 18th of April, 2011, and
WHEREAS, it is desired to amend said adopted capital budget section, and
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the following amendment to the capital budget section of 2011 be made.
BE IT FURTHER RESOLVED, that two certified copies of this resolution be filed forthwith the Office of the Director of Local Government Services.
13. RESOLUTION NO. 336-11 – AUTHORIZING SETTLEMENT OF CONDEMNATION ACTION AND PAYMENT FOR EASEMENT ON THE FOLLOWING LOTS: BLOCK 1040, LOT 8; BLOCK 1040, LOT 10 & BLOCK 1040 LOT 12 – On motion by Committeemember Lockwood seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.
WHEREAS, the Township of Middle needed a permanent and a temporary easement for sewer installation over property owned by Audry Green and Shirley Green, Block 1040, Lots 8, Block 1040, Lot 10, and Block 1040, Lot12 as part of the Whitesboro Phase I Sewer Project; and
WHEREAS, Township Committee approved an ordinance to file a condemnation action; and
WHEREAS, the parties reached a settlement of the value of the easements, in the amount of \$1,000.00 per lot, a total of \$3,000.00;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Middle, approves the settlement for \$3,000.00, and that the Treasurer issue a check to the following individuals and in the amount indicated, and that the Treasurer, Municipal Solicitor, and any other Township official is authorized to sign any documents necessary to carry out the purposes and intents of this Resolution:

Audry Green and Shirley Green \$3,000.00

14. RESOLUTION NO. 337-11; 338-11 – ENDORSING APPROVAL CERTIFICATE FOR BOAT DEALER REGISTRATION (ITEMS A THROUGH B) – On motion by Committeemember Doughty seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.

337-11 (A) WHEREAS, Cape Harbor Marine Service LLC. has submitted a Motor Vehicle Commission application for a New & Used Motor Vehicle Dealer license.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, the governing body thereof, that the Municipal Clerk and Zoning Official are hereby authorized to sign the Approval Certificate.

338-11 (B) WHEREAS, Avalon Marine Center LLC. has submitted a Motor Vehicle Commission application for a Boat Dealer Registration.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, the governing body thereof, that the Municipal Clerk and Zoning Official are hereby authorized to sign the Approval Certificate.

15. RESOLUTION NO. 339-11 – APPROVE TRANSIENT MERCHANT PERMIT – RIO GRANDE VOLUNTEER FIRE DEPARTMENT / COLE BROS. CIRCUS INC. – On motion by Committeemember Doughty seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.

WHEREAS, Chapter 231-1 of the code of the Township of Middle authorizes the licensing of a traveling show or circus within the confines of the Township of Middle, and

WHEREAS, Rio Grande Volunteer Fire Department and Branchwater Productions Inc. dba Cole Bros. Circus, have applied to the Township of Middle to hold a Tented Circus on August 10th and 11th, 2011, and

WHEREAS, by way of application, Rio Grande Volunteer Fire Department and/or Cole Bros. Circus has requested the use of the Robert “Ockie” Wisting Recreation Complex, and

WHEREAS, they have met all of the application requirements by supplying the necessary fees and insurance certificate information, and

WHEREAS, Rio Grande Volunteer Fire Company has been designated as the sponsor for said circus and described on the submitted “Hold Harmless Agreement” presented by Cole Bros. Circus along with the Township of Middle.

NOW THEREFORE BE IT RESOLVED, by the Township Committee, of the Township of Middle, County of Cape May, New Jersey, that authorization is hereby granted to Branchwater Productions Inc. dba Cole Bros. Circus to hold a circus at the location of the Robert “Ockie” Wisting Recreation Complex on August 10th and 11th, 2011 in compliance with the rules and regulations set forth by the Code of the Township of Middle.

16. RESOLUTION NO. 340-11 – APPOINTMENT – NEW HIRES – On motion by Committeemember Lockwood seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.

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

NAME	DEPARTMENT	TITLE	SALARY	EFF. DATE
Christopher Anderson	EMS	EMT – P/T	\$10.60 ph	07/18/2011
Walter Belles Sr.	EMS	EMT – P/T	\$10.60 ph	07/18/2011
Danielle Lyman	EMS	EMT – P/T	\$10.60 ph	07/18/2011
Kyle Lindholm	EMS	EMT – P/T	\$10.60 ph	07/18/2011
Kristen Davis	EMS	EMT – P/T	\$10.60 ph	07/18/2011

17. RESOLUTION NO. 341-11 – CANCEL OUTSTANDING CHECKS – GENERAL ACCOUNT – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.

WHEREAS, there are certain checks that have been outstanding in the Middle Township General Account for a period of more than six months, and

WHEREAS, it is the desire of the Township Treasurer to return these funds to the Middle Township General Account.

NOW THEREFORE BE IT RESOLVED by the Township Committee, the Governing Body of the Township of Middle, County of Cape May, State of New Jersey that the following checks be and hereby are canceled and will be returned to the General Account of the Township of Middle.

General Account

46559	06/02/10D’Onofrio, Claudia	\$66.05
47278	11/01/10Clark, Michael & Victoria	\$1,053.88
47289	11/01/10Fat Jack’s	\$32.00
47391	11/15/10Eddie’s Auto Body	\$59.95
47459	11/15/10Westside Wholesale Dist.	\$253.45

18. RESOLUTION NO. 342-11 –OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY, NEW JERSEY AUTHORIZING THE ISSUANCE AND SALE OF UP TO \$5,478,000 OF GENERAL OBLIGATION BONDS, USDA SERIES 2011A AND USDA SERIES 2011B OF THE TOWNSHIP OF MIDDLE; MAKING CERTAIN COVENANTS TO MAINTAIN THE EXEMPTION OF THE INTEREST ON SAID BONDS FROM FEDERAL INCOME TAXATION; AND AUTHORIZING SUCH FURTHER ACTIONS AND MAKING SUCH DETERMINATIONS AS MAY BE NECESSARY OR APPROPRIATE TO EFFECTUATE THE ISSUANCE AND SALE OF THE BONDS – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted

BACKGROUND

WHEREAS, pursuant to the Local Bond Law, Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented ("Local Bond Law"), the Township Committee ("Committee") of the Township of Middle, County of Cape May, New Jersey ("Township"), has, pursuant to bond ordinance numbers 1267-07 and 1308-08, each duly and finally adopted and published in accordance with the requirements of Local Bond Law (collectively, the "Bond Ordinances"), authorized the issuance of general obligations bonds or bond anticipation notes of the Township to finance the costs of the capital improvements set forth in and authorized by the Bond Ordinances, all as more particularly set forth in Exhibit "A" attached hereto and made a part hereof ("Improvements"); and

WHEREAS, on December 28, 2010, the Township issued \$6,269,150 of its Bond Anticipation Notes of 2010, Series C ("Prior Notes"), to temporarily finance a portion of the costs of the Improvements ("Prior Improvements"); and

WHEREAS, the Prior Notes mature on December 16, 2011, and are subject to redemption, in whole or in part, at the option of the Township; and

WHEREAS, the Township desires to: (i) permanently finance the costs of the Prior Improvements by the issuance and sale of its general obligation bond in an amount sufficient to repay the principal of the Prior Notes at maturity; and (ii) pay the costs associated with the issuance and sale of its general obligation bond (collectively, the "Project"); and

WHEREAS, pursuant to Local Bond Law and the Bond Ordinances, it is the intent of the Committee to hereby authorize, approve and direct the issuance and sale of such bonds, to ratify and confirm certain action heretofore by and on behalf of the Township and to make certain related determination and authorizations in connection with such issuance and sale.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY, NEW JERSEY, PURSUANT TO THE LOCAL BOND LAW (NOT LESS THAN TWO-THIRDS OF ALL THE MEMBERS THEREOF AFFIRMATIVELY CONCURRING), AS FOLLOWS:

Section 1. Pursuant to the Local Bond Law and the Bond Ordinances, the issuance and sale of and award of negotiable general obligation bonds of the Township, each to be designated substantially "Township of Middle, County of Cape May, New Jersey, General Obligation Bond, USDA Series 2011A" ("2011A Bonds"), and "Township of Middle, County of Cape May, New Jersey, General Obligation Bond, USDA Series 2011B" ("2011B Bonds", together with the 2011A Bonds, the "Bonds"), in an aggregate principal amount of up to \$5,478,000 for the Project, is hereby authorized and approved.

Section 2. The Bonds shall contain such provisions and be in the form prescribed and permitted by the Local Bond Law, as Bond Counsel may advise and as the Township and Purchaser (hereinafter defined) shall approve. The Bonds shall be initially issued in certificated form registered in the name of the Purchaser. The Bonds shall be executed by the manual signature of the Mayor and Chief Financial Officer, attested by the manual signature of the Township Clerk, and shall bear the corporate seal of the Township thereon.

Section 3. The 2011A Bonds are hereby awarded to the United States of America ("Purchaser") at the price of \$1,815,000 and at an interest rate not to exceed 2.625% per annum, payable in the amounts set forth in Exhibit "B" attached hereto and made a part hereof. The 2011B Bonds are hereby awarded to the Purchaser at the price of \$3,663,000 and at an interest rate not to exceed 4.000% per annum, payable in the amounts set forth in Exhibit "C" attached hereto and made a part hereof.. The Bonds shall be dated the date of closing. The first payment date for the Bonds shall be six months from the date of closing and semi-annually thereafter, until the Bonds are paid in full. The term of the Bonds is equal to or less than the period of usefulness of the Project being financed through the issuance of the Bonds.

Section 4. The full faith and credit of the Township are irrevocably pledged to the punctual payment of the principal of and interest on the Bonds and, to the extent payment is not otherwise provided, the Township shall be obligated levy ad valorem taxes upon all taxable real property within the Township without limitation as to rate or amount for the payment thereof.

Section 5. The Township hereby covenants that it will not make any use of the proceeds of the Bonds or do or suffer any other action that would cause: (i) the Bonds to be "arbitrage bonds" as such term is defined in Section 148(a) of the Code and the Income Tax Regulations promulgated thereunder; (ii) the interest on the Bonds to be included in the gross income of the owners thereof for federal income taxation purposes; or (iii) the interest on the Bonds to be treated as an item of tax preference under Section 57(a)(5) of the Code.

Section 6. The Township hereby covenants as follows: (i) it shall timely file with the Ogden, Utah Service Center of the Internal Revenue Service, such information report or reports as may be required by Sections 148(f) and 149(e) of the Code; and (ii) it shall take no action that would cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

Section 7. The Township expects that the Bonds will be treated as satisfying the requirements to rebate to the United States of arbitrage profits with respect to the proceeds of the Bonds by satisfying the requirements for exemption from rebate provided for in Section 148(f)(4)(C) of the Code ("Small Issuer Exception") since: (i) the Township is a governmental unit of the State of

New Jersey and is empowered to exercise general taxing powers with respect to all non-exempt real property within the Township; (ii) none of the proceeds of the Bonds will be loaned to nongovernmental entities; (iii) no portion of the payment of debt service on the Bonds is secured by property owned by or payments (other than taxes of general applicability) to be made by nongovernmental units; (iv) all of the net proceeds of the Bonds are being used to pay the costs of local government activities of the Township; (v) the Township does not expect that the aggregate face amount of tax-exempt bonds (other than private-activity bonds described in Section 141 of the Code and certain current refunding bonds described in 148(f)(4)(C) of the Code) issued during the calendar year 2011 will exceed \$5,000,000; (vi) there are no entities that may issue bonds on behalf of the Township; and (vii) none of the proceeds of the Bonds will be loaned by the Township to a governmental unit with general taxing powers.

Section 8. If the Bonds fail to qualify for the Small Issuer Exception to arbitrage rebate, the Township will pay, or cause to be paid, to the United States Treasury in the manner and at the time prescribed in Regulations §§1.148-1 through 1.148-11, 1.149(b)-1, 1.149(d)-1, 1.149(g)-1, 1.150-1 and 1.150-2, as such regulations and statutory provisions may be modified insofar as they apply to the Bonds, an amount equal to the rebatable arbitrage earned by investing proceeds of the Bonds.

Section 9. The Township hereby designates the Bonds as "qualified tax-exempt obligations" as defined in and for the purposes of Section 265(b)(3) of the Code. For purposes of this designation, the Township hereby represents that the amount of tax-exempt obligations to be issued by it during the period from January 1, 2011 to December 31, 2011, and the amount of obligations designated as "qualified tax-exempt obligations" by it, will not exceed \$10,000,000 when added to the aggregate principal amount of the Bonds.

For purposes of this Section 9, the following obligations are not taken into account in determining the aggregate principal amount of tax-exempt obligations issued by the Township: (i) a private activity bond, as defined in Section 141 of the Code (other than a qualified 501(c)(3) bond, as defined in Section 145 of the Code); and (ii) any obligation issued to refund any other tax-exempt obligation (other than to advance refund within the meaning of Section 149(d)(5) of the Code) as provided in Section 265(b)(3)(c).

Section 10. All actions heretofore taken and documents prepared or executed by or on behalf of the Mayor, Township Administrator, Chief Financial Officer, Township Clerk, Deputy Township Clerk, other Township officials or by the Township's professional advisors, in connection with the issuance and sale of the Bonds and construction of the Project, are hereby ratified, confirmed, approved and adopted.

Section 11. All actions heretofore taken and documents prepared or executed by or on behalf of the Township by the Mayor, Administrator, Chief Financial Officer, Township Clerk, Deputy Township Clerk, other Township officials or by the Township's professional advisors, in connection with the issuance and sale of the Bonds or the Project are hereby ratified, confirmed, approved and adopted.

Section 12. The Mayor, Administrator, Chief Financial Officer, Township Clerk and Deputy Township Clerk are each hereby authorized to determine all matters and execute all documents and instruments in connection with the Bonds or the Project not determined or otherwise directed to be executed by the Local Bond Law, the Bond Ordinances, or by this or any subsequent resolution, and the signature of the Mayor, Administrator, Chief Financial Officer, Township Clerk or Deputy Township Clerk on such documents or instruments shall be conclusive as to such determinations.

Section 13. All resolutions, or parts thereof, inconsistent herewith or with the Authorizing Resolution, are hereby rescinded and repealed to the extent of any such inconsistency.

Section 14. This resolution shall take effect immediately upon adoption this 18th day of July, 2011.

19. RESOLUTION NO. 343-11 – AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS SANITARY SEWER SERVICE TO EXISTING RESIDENTIAL HOMES AND COMMERCIAL BUSINESSES LOCATED IN THE VICINITY OF SHELL BAY AVENUE, SHUNPIKE ROAD, GOSHEN ROAD AND CREST HAVEN ROAD. – On motion by Committeemember Lockwood seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.
- WHEREAS, it is necessary for the Township Committee (herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of THREE MILLION SIX HUNDRED SIXTY-THREE THOUSAND DOLLARS (\$3,663,000) pursuant to the provisions of THE LOCAL BOND LAW, CHAPTER 169 OF THE LAWS OF 1960 OF THE STATE OF NEW JERSEY AND BOND ORDINANCE 1308-08, DULY ADOPTED BY THE TOWNSHIP COMMITTEE AND PUBLISHED IN ACCORDANCE WITH THE REQUIREMENTS OF LOCAL BOND LAW; and
- WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:
- NOW THEREFORE, in consideration of the premises the Association hereby resolves:
1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
 2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as

required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).

3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.

4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.

5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.

6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.

7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.

8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.

9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.

10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0575-0015), Washington, DC 20503..

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.

12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.

13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.

14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.

15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.

16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.

17. To accept a grant in an amount not to exceed \$583,000 under the terms offered by the Government; that the Chief Financial Officer and Township Clerk of the Association are hereby authorized and empowered to take all action necessary or appropriate in

the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s). The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

20. **RESOLUTION NO. 344-11 – AWARDING CONTRACT UNDER NON-FAIR AND OPEN PROCESS – MCMANIMON & SCOTLAND, LLC. – SPECIAL COUNSEL – OPERATION AND MAINTENANCE OF THE TOWNSHIP’S SEWER SYSTEM** – On motion by Mayor DeLanzo seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.

WHEREAS, the Township of Middle has a need for special counsel services for the operation and maintenance of the township’s sewer system, as a non-fair and open contract pursuant to the provisions under the Pay to Play regulations, and
WHEREAS, the proposal provided indicates that value of the agreement will exceed \$17,500, and
WHEREAS, McManimon & Scotland, LLC. has completed and submitted a Business Entity Disclosure Certification which certifies that said entity has not made any reportable contributions to a political or candidate committee in the Township of Middle in the previous one year, and that the contract will prohibit the McManimon & Scotland, LLC. from making any reportable contributions through the term of the contract, and
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that authorization is hereby granted to enter into an agreement with said contractor and that the appropriate officials are hereby authorized to sign any and all document in connection therewith.
BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution
21. **RESOLUTION NO. 345-11 – SUPPORT FROM LOCAL GOVERNING BODY AUTHORIZING THE SUSTAINABLE JERSEY GRANT FUNDED BY WAL-MART** – On motion by Mayor DeLanzo seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.

WHEREAS, a sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic and social objectives are balanced and mutually supportive; and
WHEREAS, the Township of Middle strives to save tax dollars, assure clean land, air and water, improve working and living environments; and
WHEREAS, the Township of Middle is participating in the Sustainable Jersey Program; and
WHEREAS, one of the purposes of the Sustainable Jersey Program is to provide resources to municipalities to make progress on sustainability issues, and they have created a grant program called the Sustainable Jersey Small Grants funded by Wal-Mart;
NOW THEREFORE BE IT RESOLVED, that the Township Committee, of the Township of Middle, County of Cape May and State of New Jersey, has determined that MIDDLE TOWNSHIP should apply for the aforementioned Grant.
BE IT FURTHER RESOLVED, that the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, authorizes the submission of the aforementioned Sustainable Jersey Grant funded by Wal-Mart.
22. **RESOLUTION NO. 346-11– APPROVE CHANGE ORDER NO. 1 – MIDDLE TOWNSHIP PARKING LOT IMPROVEMENTS** – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.

WHEREAS, a contract for improvements to the Middle Township Parking Lot was awarded January 19, 2011 via Resolution No. 72-11 to Midwest Construction.
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 #1 for the project awarded to Midwest Construction be and is hereby approved in the amount of \$5,522.38.
23. **RESOLUTION NO. 347-11 – AUTHORIZING CREATION OF LIEN ON PROPERTY** – On motion by Committeemember Lockwood seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.

WHEREAS, N.J.S.A. 40:48-2.13 authorizes the governing body of every municipality the power to make, enforce, amend and repeal ordinances requiring the owner or tenant of a dwelling or of lands lying within the municipality to provide for the removal or destruction of brush, weeds, debris, etc. constituting fire hazard or injurious to public health or safety and to provide for the imposition of penalties for the violation of any such ordinance, and
WHEREAS, N.J.S.A.40:48-2.14 authorizes the municipality the right to place a lien against such dwelling or lands to provide for the cost of removing brush, weeds debris, etc., and
WHEREAS, the Township of Middle has adopted Ordinance No. 316-76 known as Article I of Chapter 193 of the Code of the Township of Middle “Property Maintenance”, and
WHEREAS, the Township of Middle has noticed the following property owners as indicated below and furthermore these violations had not been remedied.
WHEREAS, in absence of compliance by said owners, the Township of Middle commenced and completed abatement of these violations, and

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

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

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

OWNER	PROP. LOCATION	BLOCK / LOT	AMOUNT
Christopher Fox	2 Steel Road	257/33	\$69.51
Rosetta Cain	7 Parkway Drive	125/4	\$69.51
Jeffrey Evans	303 Goshen Road	60/10	\$69.51
Wendell Hannah	408 S. Main Street	305/3	\$104.27
Lillian Brunell	222 School Lane	1447/15	\$69.51
Jeffrey Buscek & Debra Mahle	671 Dias Creek	164.02/15	\$133.41
Michael Glathorn	80 Millman Blvd.	389/14	\$173.78
Anthony Cunha	9 S. 8 th Street	411/11	\$69.51
Roxanne Stark & Richard Cotter	15 W. Shellbay Ave	350/34	\$69.51
Robert & Rosalie King	124 Indian Trail	208/4	\$69.51
George Watkins	107 W. Dunbar	935/5	\$332.73
Constance Dadura	13 Linden Ln.	1469/2	\$69.51
Joseph Toland	204 School Lane	1447/9	\$104.27
Dana Eller	211 W. Pacific	325/5	\$324.19
Charles & Doris Albright	109 W. Main Ave	1124/4	\$69.51
Regina Schottmuller	14 Sand Castle	95.07/3	\$114.00
Edward & Catherine Jones	610 Rte 9 N	127/27	\$59.06
Giuseppe & Sherry DeGaetano	27 Meadow Valley	475.01/83	\$306.20
Randy & Rachel Yarwasky	811 Goshen Road	52/13	\$189.85
Beverly Saylor & JL Goodway	1453 Burleigh Rd	1410.01/52	\$159.61

24. RESOLUTION NO. 348-11 – AMENDING CONTRACT AWARDED UNDER FAIR AND OPEN PROCESS – On motion by Committeemember Lockwood seconded by Committeemember Doughty 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. 19:44A-20.4 et.seq., during reorganization 2011, and WHEREAS, it has been deemed necessary to amend said contract to include work performed by said professional to amend Chapter 218 of the zoning code.

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:

Planning Consultant – Terenik Land Use Consulting - additional work performed towards Chapter 218 of the Zoning Code – additional \$1,140.00

25. RESOLUTION NO. 349-11 – REQUEST FOR QUALIFICATIONS AND PROPOSALS FOR A CONTRACT AND MANAGEMENT SERVICES FOR THE TOWNSHIP OF MIDDLE, NEW JERSEY MUNICIPAL WASTEWATER SYSTEMS PURSUANT TO N.J.S.A. 40A:11-4.1 ET SEQ. – On motion by Mayor DeLanzo seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.

NOW THEREFORE BE IT RESOLVED, by the Township Committee, the Governing Body of the Township of Middle, County of Cape May and State of New Jersey that Joseph P. Baumann, Jr. Esq. of McManimon & Scotland L.L.C. be and hereby are appointed to tabulate the proposals to be taken on September 28, 2011 at 2:00PM at 1037 Raymond Blvd., Suite 400, Newark, NJ 07102 for the following:

REQUEST FOR QUALIFICATIONS AND PROPOSALS FOR A CONTRACT AND MANAGEMENT SERVICES FOR THE TOWNSHIP OF MIDDLE, NEW JERSEY MUNICIPAL WASTEWATER SYSTEMS PURSUANT TO N.J.S.A. 40A:11-4.1 ET SEQ

26. RESOLUTION NO. 350-11 – APPROVE CHANGE ORDER NO. 3 – SHELLBAY, SHUNPIKE, GOSHEN ROAD AND CREST HAVEN ROAD SANITARY SEWER PROJECT (SSGC) – On motion by Committeemember Lockwood seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.

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

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 #3 for the project awarded to FW Shawl & Sons Inc. be and is hereby approved in the amount of \$122,213.00.

27. RESOLUTION NO. 351-11 – CLOSED SESSION – POTENTIAL LITIGATION – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.

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

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

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

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

- 1.) The public shall be excluded from the discussion of an action upon the hereinafter specified matter: POTENTIAL LITIGATION
- 2.) The general nature of the subject matter to be discussed is as follows: POTENTIAL LITIGATION
- 3.) It is anticipated at this time the above subject matter will be made public as follows:
WHEN THE MATTER IS RESOLVED
- 4.) This Resolution shall take effect immediately.

28. PUBLIC COMMENT:

Committeemember Doughty commented on the numerous events taking place during the summer months at the Goshen Rec. Complex.

Mayor DeLanzo commented on the recent controversy that came about regarding the American Flag.

Committeemember Lockwood read from a pamphlet "flag etiquette" and also the definition of patriotism.

Betty McGurk asked questions on the master plan and setbacks.

Carl Carmelowitz expressed that he agreed that the items located on the restaurant in Rio Grande were pendants. He also stated that there is a proper manner of displaying a flag. He agrees the township was right.

Ed Taylor spoke of illegal fireworks in the area of Wynndemere.

There being no further business, the meeting was adjourned at 7:50pm.

Kimberly Krauss, Twp. Clerk