

Cape May Court House, NJ  
March 21, 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. PROCLAMATION – YOUTH ART MONTH
2. 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.)

*Michelle Salfi asked for further information on sewer rate ordinance. Reason why?*

*Committeemember Doughty indicated that the last increase was in 1993 and at this point in time we need to do it.*

*Michelle Salfi – Does that money stay in sewer budget or roll over into General budget?*

*Committeemember Doughty – stays in sewer budget*

*Committeemember Doughty referred to Glen Ortman to answer various other questions regarding the sewer line item in the budget.*

*Michelle Salfi – agreements on the agenda for use of Senior Center.. is there a fee? Does everyone pay the same?*

*Mayor DeLanzo indicated that yes there is a fee and everyone pays but the fee is based on usage.*

*Committeemember Lockwood stated that it is fair to say that some people use it a bit more and we might look at that in way of a “bulk contract”.*

*M. Salfi – Is emergency temporary amendment so township can continue to pay bills until budget is adopted. Are these bills all for the month of April?*

*Tracey Taverner explained.*

*M. Salfi – what is purpose for Defer School Tax resolution*

*Glenn Ortman explained it is the same exact amount as last year. He elaborated on the purpose of this resolution due to township being on calendar year and school on fiscal year.*

*Steven O’Connor – asked for more information on item #12*

*Glen Ortman – indicated that it allows the township to go from 2 % in spending to 3.5% in spending. The main purpose though is to create a cap bank in case you need it the following year. You are not actually seeing the cap.. you are actually 2 million under the cap but it allows you to bank it in case of an emergency. If you do not pass ordinance you are not permitted to bank any monies. (etc.)*

*O’Connor – item #35*

*James Pickering – settling the litigation of Middle v. Albrecht & Heun which is part of the action filed under the title Ravitz Romm v. Township of Middle & Albrecht & Heun. This is a resolution to settle the case. The matter has been heard by the special master who has issued a draft opinion and a second final opinion. The matter was pending before Judge Armstrong. Shortly after the opinion was issued the parties entered into some discussions on ways to resolve this matter and essentially there has been some agreement in how to resolve the matter and to end the litigation expenses and the risk.*

*O’Connor – has the Special Masters recommendation been accepted in total?*

*Pickering – it has not .. the Special Master initially issued a draft opinion which awarded the Township \$35, 017.67. The township argued that amount and the judge reconsidered the amount*

*and amended his decision to award the township \$188,477.67 to which there would be certain credits we knew would be issued and we knew Albrecht & Heun would fill an objection that we would have to litigate further. So rather than to expend further funds .... The parties have come to a discussion and have come to a resolution.*

*O'Connor – what is that resolution...*

*Pickering – the resolution is that Albrecht & Heun will pay to the Township of Middle \$140,000.00 .. which is \$20,000.00 by this June 1<sup>st</sup>, \$20,000.00 by December 31<sup>st</sup> of this year and \$20,000.00 for the next 5 years. And in addition they will not seek further credits from the Township of Middle for a parcel purchased by the Township. (etc.)*

3. RESOLUTION NO. 142-11 – APPROVING PAYMENT FOR BILLS – BILL LIST A (General Bills) – 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 payment for the following bills in the amounts indicated are hereby approved:

Current Acct.     \$ 2,001,598.70

4. RESOLUTION NO. 143-11 – 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. Committeemember Doughty 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.     \$ 113,297.84

5. RESOLUTION NO. 144-11 – 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. Committeemember 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.     \$ 965.00

6. RESOLUTION NO. 145-11 – APPROVING MINUTES FROM PREVIOUS MEETINGS – On motion by Mayor DeLanzo seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.

7. REPORTS: The following departments have submitted their reports for the months indicated:  
None

8. ORDINANCE NO. 1376-11 – AN ORDINANCE ESTABLISHING THE COMPENSATION OF THE OFFICERS AND EMPLOYEES OF THE TOWNSHIP OF MIDDLE - Following second reading, hearing, and consideration for adoption, Ordinance 1376-11 was adopted on motion by Mayor DeLanzo seconded by Committeemember Lockwood and passed on roll call. Complete Ordinance is on file in the Clerk's Office.  
No Public Comment.

9. ORDINANCE NO. 1379-11 – AN ORDINANCE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY TO PURCHASE RIGHT OF WAY FOR STREET OR ROAD – On motion by Committeemember Doughty seconded by Committeemember Lockwood and passed on roll call, Ordinance No 1379-11 passed first reading. Second reading, public hearing and consideration for adoption will be held on 04/18/2011 at 6:00 p.m.

WHEREAS, The Township of Middle believes that it is in the public interest to extend Honeysuckle Road so that it connects Shellbay Avenue and West Johnstown Lane because such a road extension will offer an alternate route for traffic normally and in emergency situations, including for ambulance and fire service, and also as an alternate route when other roads are not passable due to flooding or drainage difficulties; and

WHEREAS, to make the improvements, certain right-of-way needs to be purchased from the current owners of Block 168, Lot 43, and specifically being the length of the lot (approximately 1,650 feet) and being 50 feet wide; and

WHEREAS, the owners of Block 168, Lot 43 have indicated that they will sell the land to the Township for \$1.00; and

WHEREAS, the Township of Middle has sufficient funds in its capital account to construct this road extension; and

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

SECTION 1

1. The Township of Middle shall purchase right of way from the owners of Block 168, Lot 43, which right of way shall be 50 feet in width along the boundary shared by Block 168, Lot 43, and Block 348, Lot 3 (owned by the Atlantic City Electric Company); and

2. Consideration shall be for \$1.00; and

3. Due to the price sought by the Sellers, the Township of Middle does not deem it necessary to incur the costs of appraisals on the right of way; and

4. It is a condition of the sale of the right of way that upon construction of the road that the Township of Middle shall also construct a fence along the right of way, but on Seller's property; and

5. The appropriate Township of Middle officials are hereby authorized to carry out the purpose and intent of this ordinance, including preparing and executing any and all documents necessary including but not limited to contracts, applications, and deeds.

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.

10. ORDINANCE NO. 1380-11 – AN ORDINANCE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY REGARDING GOOD ORDER AND PEACE – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, Ordinance No 1380-11 passed first reading. Second reading, public hearing and consideration for adoption will be held on 04/18/2011 at 6:00 p.m.

CHAPTER 159. GOOD ORDER AND PEACE

§159-1 LITTERING.

It shall be unlawful for any person to discard, except in receptacles provided therefor, containers or any other item made of glass, tin, foil, cellophane, cardboard or any other trash material or substance, including cigarette butts, upon the streets, pavements, alleys, highways, in any public or quasi-public places or upon private property.

§159-2 OBSTRUCTION

A. No person shall intentionally obstruct pedestrian or vehicular traffic upon the public streets, public sidewalks, public pavilions, public parks or other public places. Acts authorized as an exercise of one's Constitutional right to picket or legally protest and acts authorized by a permit issued pursuant to the Code of the Township of Middle shall not constitute obstruction of pedestrian or vehicular traffic.

B. No person shall sleep in or on any public street, public sidewalk, public pavilion, public park or other public place so as to obstruct or interfere with the passage of any person or persons lawfully being on or upon said streets, sidewalks, pavilions, parks or public places.

C. It shall be unlawful to sleep in any parked vehicle, either day or night, within the Township limits or to sleep or lie upon any public or quasi-public bench or seat or to usurp the use of such bench or seat for the storage of bundles or other objects so as to prevent the reasonable use thereof by others.

§159-3 ILLEGAL ENTRY

It shall be unlawful and illegal to enter, without legitimate and reasonable errand or business, upon any private property, hotel, rooming house, lodging place or other place of public accommodation, and not having previously obtained express or implied permission of the owner or person lawful control and possess sign of such places above described, to make use of the furniture, showers, toilets or other like facilities there installed, or wander or roam about the premises.

§159-4 DISTURBING GOOD ORDER AND PEACE

A. It shall be unlawful and offensive conduct for any individual, either alone, or in the company of others, to revel, quarrel, brawl, disport or behave in a noisy, boisterous manner, emitting loud cries and other noises, or jostling those about them, or causing inconveniences to those about them, or to otherwise disrupt and disturb the public peace and dignity, in any public or quasi-public place, public rights-of-way, public sidewalk, public park, or in any building open for the accommodation of the public for entertainment, or for room accommodations.

B. It shall be unlawful and offensive to enter upon any public or quasi-public place or private property without the consent of the owner or person in lawful control and possession thereof and to their picnic, change apparel, dress or undress or to urinate or defecate upon the premises or commit any other nuisance.

§159.5 VIOLATIONS AND PENALTIES

Any person of association or persons convicted of a violation of any provision of this Chapter 159 shall, upon conviction thereof, be subject to a fine not exceeding \$2,000.00, or 90 days imprisonment in the City or county jail, or for a period of community service not exceeding 90 days, or any combination of the three.

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. 1381-11 – AN ORDINANCE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY TO AMEND CHAPTER 38 OF THE TOWNSHIP CODE IMPLEMENTING ARTICLE III REGARDING ELIGIBILITY FOR HEALTH CARE BENEFITS UPON RETIREMENT – On motion by Mayor DeLanzo seconded by Committeemember Doughty and passed on roll call, Ordinance No 1381-11 passed first reading. Second reading, public hearing and consideration for adoption will be held on 04/18/2011 at 6:00 p.m.

WHEREAS, New Jersey statutes authorizes local governments such as the township of Middle, to pay the cost of medical and health insurance coverage for eligible retired employees as defined therein; and

WHEREAS, the statutory authorization to pay for such coverage extends both to municipalities which are members of the New Jersey State Health Benefits Commission, pursuant to N.J.S.A. 52:14-17.38 and to those that are not members, pursuant to N.J.S.A.40A:10-23; and

WHEREAS, The Township of Middle, then a member of the New Jersey State Health Benefits Commission, has committed itself to paying the cost of such coverage for eligible retirees, their spouses and dependents; and

WHEREAS, in 1973, N.J.S.A.52:14-17.38 stated that retiree health benefits were available upon retirement from a State or locally administered retirement system ... based on 25 or more years of service credited in such retirement system'; and

WHEREAS, in 1999, N.J.S.A. 52:14-17.38 was amended to allow a municipality to provide such coverage for employees who had aggregated 25 years of service credit in one or more State or locally administered retirement systems, unless the municipality adopted a resolution requiring that all or a portion of up to 25 years of service, be with the Township of Middle; and

WHEREAS, in 2001, N.J.S.A. 52:14-17.38 was amended to allow the aggregation of nonconcurrent service; and

WHEREAS, the Township of Middle did not adopt a resolution restricting service to the Township of Middle, arguably allowing the nonconcurrent aggregation of service credit from one or more State or locally administered retirement systems in determining retiree's eligibility for such coverage; and

WHEREAS, the Township of Middle withdrew from the New Jersey State Health Benefits Commission in 2010, and the Township Committee approved a contract to provide medical and health insurance coverage to both current employees and eligible retirees through Horizon Blue Cross/Blue Shield of New Jersey, pursuant to N.J.S.A. 40A:10-23; and

WHEREAS, N.J.S.A. 40A:10-23 authorizes retiree benefits similar to that permitted under N.J.S.A. 52:14-17.38; and

WHEREAS, the cost of providing medical and health care has become increasingly prohibitive; and

WHEREAS, pursuant to N.J.S.A. 40A:10-23, the Township of Middle can pay the cost of medical and health insurance coverage for employees, including their dependents and the premium charges under Part B of the Federal Medicare Program, who have retired after 25 or more years of service credit ... and a period of up to 25 years with the (Township) at the time of retirement, such period of service to be determined by the (Township) at the time of retirement, such period of service to be determined by the (Township), and set forth in an ordinance or resolution as appropriate; and

WHEREAS, the Township Committee reaffirms its commitment to pay the cost of providing medical and health insurance coverage and the premium charges under Part B of the Federal Medicare Program, but now only to employees who retire after at least 25 years of credited service, and with 25 years of actual service with the Township of Middle at the time of retirement, pursuant to N.J.S.A. 40A:0-23; and

WHEREAS, this Ordinance shall apply only to employees hired on or after the effective date of adoption of the Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Middle, County of Cape May and State of New Jersey, that Chapter 38 of the Local Code shall be changed and amended as follows:

SECTION 1: The title of Chapter 38 shall be changed from "PENSIONS" to "PENSIONS AND RETIREMENT BENEFITS".

SECTION 2. Chapter 38 shall be amended as follows:

Article III – Health and Medical Insurance Coverage

38-7 Eligibility for Retiree Medical and Health Benefits.

- A. The Township will pay the cost of medical and health benefits for certain eligible employees, their spouse and dependents, including the premium charges for Part B of the Federal Medicare Program, as defined hereafter, who retire from the Township of Middle, pursuant to N.J.S.A. 40A:10-23.
- B. The amount of payment required, if any, shall be subject to collective bargaining, as appropriate.
- C. 'Eligible employee' is defined as an employee with at least 25 years in a state or local pension system at the time of retirement from the Township of Middle and who has at least 25 years of actual employment service with the Township of Middle.
- D. The requirement of at least 25 years of actual service with the Township of Middle, will only apply to new employees, hired after the effective date of the Ordinance.

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

SECTION 4. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining 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 5. This Ordinance shall become effective immediately upon final passage and publication, according to law.

12. **ORDINANCE NO. 1382-11 – ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)** – On motion by Committeemember Doughty seconded by Committeemember Lockwood and passed on roll call, Ordinance No 1382-11 passed first reading. Second reading, public hearing and consideration for adoption will be held on 04/18/2011 at 6:00 p.m.  
WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.0% unless authorized by ordinance to increase it to 3.5% over the previous year’s final appropriations, subject to certain exceptions; and,  
WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,  
WHEREAS, the Township Committee of the Township of Middle in the County of Cape May finds it advisable and necessary to increase its CY 2011 budget by up to 3.5% over the previous year’s final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,  
WHEREAS, the Township Committee hereby determines that a 3.5% increase in the budget for said year, amounting to \$612,832.33 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,  
WHEREAS, the Township Committee hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.  
NOW THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Middle, in the County of Cape May, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2011 budget year, the final appropriations of the Township of Middle shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$612,832.33, and that the CY 2011 municipal budget for the Township of Middle be approved and adopted in accordance with this ordinance; and,  
BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,  
BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,  
BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

13. **ORDINANCE NO. 1383-11 - ORDINANCE OF THE TOWNSHIP OF MIDDLE TO AMEND THE CODE OF THE TOWNSHIP OF MIDDLE, CHAPTER 204 THEREOF ENTITLED SEWERS** – On motion by Mayor DeLanzo seconded by Committeemember Doughty and passed on roll call, Ordinance No 1383-11 passed first reading. Second reading, public hearing and consideration for adoption will be held on 04/18/2011 at 6:00 p.m.  
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. Section 204-7 Schedule A of the Code of the Township of Middle is hereby amended and supplemented to read as follows:

SCHEDULE “A”

TYPE OF USER	DOLLAR COST
Single Family Dwelling	\$560.00
Multiple family dwellings, boarding houses, guest houses and the like, but excluding motels/hotels	
Metered	\$.00644 per gallon
Unmetered	\$560.00 per unit
Minimum	\$560.00
Commercial establishments, including motels/hotels	
Minimum	\$.00735 per gallon \$640.00

SECTION 2. All other Ordinances in conflict of 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 provision of this Ordinance are hereby declared to be severable.

SECTION 4. This Ordinance shall become effective July 1, 2011.

14. RESOLUTION NO. 146-11 – CANCELLATION OF RECEIPT OF BIDS – RECONSTRUCTION OF BEACH AVENUE – On motion by Mayor DeLanzo seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted. WHEREAS, the Township Committee by way of Resolution No. 121-11 formed a tabulation committee and solicited bids for the Reconstruction of Beach Avenue, and WHEREAS, it later came to light that performance of the proposed contract could not be completed due to physical conditions to the road; and WHEREAS, the appropriate township officials cancelled the bid opening in light of this news, and notified all who had taken a bid package and by placing notice on the door of the room where bid openings were to occur, and returned unopened any bid packages received, and 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 bid tabulation committee appointed pursuant to Resolution No. 121-11, and the bids solicitation is hereby cancelled, and the action taken by the municipal engineer, clerk and solicitor is hereby approved.
15. RESOLUTION NO. 147-11 – CONFIRMING SALE OF LAND – BLOCK 228 LOT 8 – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted. WHEREAS, the Township of Middle approved by Resolution the public auction of certain lands, including Block 228, Lot 8; and WHEREAS, at said auction, the high bidder on said lot was Edward L Unger who bid \$2,000.00; and WHEREAS, because this is an isolated undersized lot, adjacent property owners enjoy a right of first refusal pursuant to N.J.S.A. 40A:12-13.2 and 40A:12-13(b)(5); and WHEREAS, pursuant thereto, the municipal solicitor sent letters by certified mail, return receipt requested to each of the adjacent property owners, some of whom did not reply, and one of whom indicated that she wanted Mr. Unger to own the property; and WHEREAS, it being necessary by the statute that the Township Committee confirm the sale of the land; NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Middle, that:
1. It hereby extends the period within which the sale can be confirmed, which extension was made necessary by the need to notify the individual adjacent property owners and give them time to exercise or not their right of first refusal; and
  2. Sale of the property to Mr. Edward L. Unger is hereby confirmed; and
  3. The municipal solicitor, Mayor, and all staff members are hereby authorized to prepare and sign any documents necessary to convey this parcel.
16. RESOLUTION NO'S 148-11 THROUGH 153-11– RATIFY LEASE AGREEMENT – MIDDLE TOWNSHIP SENIOR CITIZEN CENTER (ITEMS A THROUGH F) – On motion by seconded by and passed on roll call, the following resolution was adopted.
- (A) (148-11) BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the agreement between the Middle Township Democratic Club and the Township of Middle for usage of the Middle Township Senior Citizen Center from January 1, 2011 through December 31, 2011, be and is hereby ratified. FURTHER RESOLVED, that the appropriate officials are hereby authorized and directed to sign any and all documentation necessary to carry out the purpose and intent of this resolution.
- (B) (149-11) BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the agreement between the War Gamers and the Township of Middle for usage of the Middle Township Senior Citizen Center from January 1, 2011 through December 31, 2011, be and is hereby ratified. FURTHER RESOLVED, that the appropriate officials are hereby authorized and directed to sign any and all documentation necessary to carry out the purpose and intent of this resolution.
- (C) (150-11) BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the agreement Burgess Hamer and the Township of Middle for usage of the Middle Township Senior Citizen Center from March 1, 2011 through December 31, 2011, be and is hereby ratified. FURTHER RESOLVED, that the appropriate officials are hereby authorized and directed to sign any and all documentation necessary to carry out the purpose and intent of this resolution.
- (D) (151-11) BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the agreement between the Civil War Roundtable and the Township of Middle for usage of the Middle Township Senior Citizen Center from January 1, 2011 through December 31, 2011, be and is hereby ratified. FURTHER RESOLVED, that the appropriate officials are hereby authorized and directed to sign any and all documentation necessary to carry out the purpose and intent of this resolution.
- (E) (152-11) BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the agreement between the Federation of Democratic Women and the Township of Middle for usage of the Middle Township Senior Citizen Center from January 1, 2011 through December 31, 2011, be and is hereby ratified. FURTHER RESOLVED, that the appropriate officials are hereby authorized and directed to sign any and all documentation necessary to carry out the purpose and intent of this resolution.

(F) (153-11) BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the agreement between the Marine Corps. League and the Township of Middle for usage of the Middle Township Senior Citizen Center from January 1, 2011 through December 31, 2011, be and is hereby ratified.  
 FURTHER RESOLVED, that the appropriate officials are hereby authorized and directed to sign any and all documentation necessary to carry out the purpose and intent of this resolution.

17. RESOLUTION NO. 154-11 – REFUND OF TAXES – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.

Refund due to overpayment by lien investor

BLOCK	LOT	OWNER/LOCATION	AMOUNT	ck#
2369	118.02	18 Jablonsky, Marsha J 513 Avalon Blvd	1372.41	

Refund payable to:

Royal Tax Lien Services LLC  
 179 Washington Lane  
 Jenkintown, Pa 19046

BE IT RESOLVED by the Township Committee of the Township of Middle, County of Cape May, that the Chief Financial Officer be instructed to draw checks in the above noted amounts payable to the above mentioned parties, as a refund of 2011 taxes.

BE IT FURTHER RESOLVED that a certified copy of this resolution be given to the Chief Financial Officer of the Township of Middle.

18. RESOLUTION NO. 155-11 – CLOSED SESSION – PENDING LITIGATION (LIBERTY & PROSPERITY V. MIDDLE; RAILROAD PARTNERS V. MIDDLE; CONIFER V. MIDDLE) – On motion by Committeemember Lockwood seconded by Mayor DeLanzo 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: PENDING LITIGATION (LIBERTY & PROSPERITY V. MIDDLE; RAILROAD PARTNERS V. MIDDLE; CONIFER V. MIDDLE)

2.) The general nature of the subject matter to be discussed is as follows: PENDING LITIGATION (LIBERTY & PROSPERITY V. MIDDLE; RAILROAD PARTNERS V. MIDDLE; CONIFER V. MIDDLE)

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.

19. RESOLUTION NO. 156-11 – ACKNOWLEDGEMENT OF RESIGNATION – On motion by Mayor DeLanzo seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.

BE IT RESOLVED, by the Township Committee, the Governing Body of the Township of Middle, County of Cape May and State of New Jersey that the following resignation listed below is acknowledged.

EMPLOYEE	BOARD POSITION	EFFECTIVE
Leola S. Francis	Senior Citizen Advisory Council	Board Secretary 02/01/2011

20. RESOLUTION NO. 157-11 – ESTABLISHING: 1. FAIR AND OPEN PROCESS FOR CONTRACTS 2. CRITERIA TO BE CONSIDERED IN AWARDING CONTRACTS; AND 3. POSITIONS FOR WHICH PROPOSALS SHALL BE SOLICITED AND FURTHERMORE REJECT PREVIOUSLY RECEIVED PROPOSALS FOR SAID POSITION – On motion by Mayor DeLanzo seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.

WHEREAS, N.J.S.A. 19:44A-20.4 et. seq. requires that contracts with a value exceeding \$17,500 be awarded pursuant to a “fair and open” or “non-fair and open” process; and

WHEREAS, the Township Committee feel the best interests of the residents of Middle Township would be best served by the Township requesting proposals and qualifications, and considering and awarding contracts by use of a Fair and Open process; and

WHEREAS, it has been deemed necessary to reject previously received proposals for the position of Planning Board Solicitor and furthermore it has necessary to re-solicit for the position; and

WHEREAS, the Township Committee desires to establish the Fair and Open Process; and

WHEREAS, the Township Committee desires to establish the criteria for the consideration of proposals and qualifications, and the award of a contract submitted in accordance with the Fair and Open Process; and

WHEREAS, the Township Committee desires to establish the following position, which for the year 2011 shall be subject to the Fair and Open Process and also where stated below additional criteria for certain position; and

WHEREAS, the Township Committee has decided to go beyond what is required by the state statute and to submit all professional services contracts to the Fair and Open process, even those that are below the \$17,500.00 threshold;

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

1. THE FAIR AND OPEN PROCESS

A. The Township Committee of the Township of Middle has determined that the following procedure constitutes a fair and open process and shall be the manner in which requests for proposals and qualifications are sought, accepted, and awarded:

1. A request for proposals and qualifications shall be publicly advertised on the Township of Middle's internet website ([www.middleborough.com](http://www.middleborough.com)) beginning on March 22, 2011 and continuing on the website through April 5, 2011.
2. The Township shall accept proposals until 1:00 o'clock on April 5, 2011.
3. Proposals shall be in a sealed envelope addressed to:  
Kimberly Krauss  
Township Clerk - Township of Middle  
33 Mechanic Street  
Cape May Court House, NJ 08210

**The envelope shall also state the name of the person or entity submitting the proposal and the position for which the proposal is submitted.**

4. The envelope shall contain one original and two copies of the proposal.
5. The proposal shall include (**this is mandatory**) at a minimum, a statement of the following:
  - A. Qualifications and Experience of person or entity specifically with regard to the position sought
  - B. Scope of Services proposed to be provided
  - C. Contact Information, including name, address, phone number, email address
  - D. Fee Proposal including a "Not To Exceed"  
Amount
  - E. Office Staffing Plan and Resources
  - F. Location of Office from which services shall be provided
  - G. References
  - H. Potential Conflicts
6. On April 5, 2011 at 1:00pm, the Township Clerk or representative shall open each of the proposals and shall announce the proposals received by name, and a short summary of the proposal and qualifications.
7. The proposals shall be submitted to Township Committee for consideration and the governing body may award a contract by approving a resolution. If a majority votes to seek interviews, interviews may be held between Township Committee and the person or entity that submitted proposals. Township Committee may send proposals to Township Board's or Agency's for consideration and approval as is appropriate.

2. CRITERIA BY WHICH REQUESTS FOR PROPOSALS AND QUALIFICATIONS SHALL BE EVALUATED

A. The Township of Middle hereby discloses in writing that all of the submissions in response to the Request for Proposals and Qualifications submitted through the fair and open process described above, will be evaluated by the Township Committee of the Township of Middle and awarded or rejected on the basis of the following criteria. Proposals will be evaluated by the Township Committee of the Township of Middle on the basis of the most advantageous, price and other factors considered. The evaluation will consider:

1. Experience and reputation in the field
2. Knowledge of the Township of Middle and the subject matter to be addressed under the contract
3. Availability to accommodate any required meetings of the agency
4. Compensation proposal
5. Other factors if demonstrated to be in the best interest of the Township of Middle

- B. The following criteria, found under the competitive contracting rules at N.J.A.C. 5:34-4.2, if determined to be of assistance, may also be considered by Township Committee. These criteria are not intended to be limiting or all-inclusive, and they may be adapted or supplemented in order to meet the Township Committee's needs. No criteria will unfairly or illegally discriminate or exclude otherwise capable vendors.

I. Technical criteria:

- a. Proposed methodology:
  - i. Does the vendor's proposal demonstrate a clear understanding of the scope of work and related objectives?
  - ii. Is the vendor's proposal complete and responsive to the specific RFP requirements?
  - iii. Has the past performance of the vendor's proposed methodology been documented?
  - iv. Does the vendor's proposal use innovative technology and techniques?
  - v. Are sound environmental practices such as recycling, energy efficiency, and waste reduction used?

II. Management criteria:

- a. Project management:
  - i. How well does the proposed scheduling timeline meet the agency's needs?
  - ii. Is there a project management plan?
- b. History and experience in performing the work:
  - i. Does the vendor document a record of reliability of timely delivery and on-time and on-budget implementation?
  - ii. Does the vendor demonstrate a track record of service as evidenced by on-time, on-budget, and contract compliance performance?
  - iii. Does the vendor document industry or program experience?
  - iv. Does the vendor have a record of moral integrity?
- c. Availability of personnel, facilities, equipment and other resources:
  - i. To what extent does the vendor rely on in-house resources vs. contracted resources?
  - ii. Are the availability of in-house and contract resources documented?
- d. Qualification and experience of personnel:
  - i. Documentation of experience in performing similar work by employees and when appropriate, sub-contractors?
  - ii. Does the vendor make use of business capabilities or initiatives that involve women, the disadvantaged, small and/or minority owned business establishments?
  - iii. Does the vendor demonstrate cultural sensitivity in hiring and training staff?

III. Cost criteria:

- a. Cost of goods to be provided or services to be performed:
  - i. Relative cost: How does the cost compare to other similar proposals?
  - ii. Full explanation: Is the price and its component charges, fees, etc., adequately explained or documented?
- b. Assurances of performance:
  - i. If required, are suitable bonds, warranties, or guarantees provided?
  - ii. Does the proposal include quality control and assurance programs?
- c. Vendor's financial stability and strength:
  - i. Does the vendor have sufficient financial resources to meet its obligations?

III. REQUEST FOR PROPOSALS AND QUALIFICATIONS ARE SOUGHT FOR THE FOLLOWING POSITIONS

A. Planning Board Solicitor - Attorney representing the Planning Board. The Planning Board meets two evenings a month.

21. RESOLUTION NO. 158-11 – ESTABLISHING: 1. FAIR AND OPEN PROCESS FOR CONTRACTS 2. CRITERIA TO BE CONSIDERED IN AWARDING CONTRACTS; AND 3. POSITIONS FOR WHICH PROPOSALS SHALL BE SOLICITED – On motion by Committeemember Doughty seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.

WHEREAS, N.J.S.A. 19:44A-20.4 et. seq. requires that contracts with a value exceeding \$17,500 be awarded pursuant to a "fair and open" or "non-fair and open" process; and WHEREAS, the Township Committee feel the best interests of the residents of Middle Township would be best served by the Township requesting proposals and qualifications, and considering and awarding contracts by use of a Fair and Open process; and WHEREAS, it has been deemed necessary to reject previously received proposals for the position of Planning Board Solicitor and furthermore it has necessary to re-solicit for the position; and WHEREAS, the Township Committee desires to establish the Fair and Open Process; and

WHEREAS, the Township Committee desires to establish the criteria for the consideration of proposals and qualifications, and the award of a contract submitted in accordance with the Fair and Open Process; and

WHEREAS, the completion of the project requires additional engineering services related to construction management and inspection services, and

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

1. **THE FAIR AND OPEN PROCESS**

A. The Township Committee of the Township of Middle has determined that the following procedure constitutes a fair and open process and shall be the manner in which requests for proposals and qualifications are sought, accepted, and awarded:

1. A request for proposals and qualifications shall be publicly advertised on the Township of Middle's internet website ([www.middleborough.com](http://www.middleborough.com)) beginning on March 22, 2011 and continuing on the website through April 5, 2011.
2. The Township shall accept proposals until 1:00 o'clock on April 5, 2011.
3. Proposals shall be in a sealed envelope addressed to:

Kimberly Krauss

Township Clerk - Township of Middle

33 Mechanic Street

Cape May Court House, NJ 08210

**The envelope shall also state the name of the person or entity submitting the proposal and the position for which the proposal is submitted.**

4. The envelope shall contain one original and two copies of the proposal.
5. The proposal shall include (**this is mandatory**) at a minimum, a statement of the following:
  - A. Qualifications and Experience of person or entity specifically with regard to the position sought
  - B. Scope of Services proposed to be provided
  - C. Contact Information, including name, address, phone number, email address
  - D. Fee Proposal including a "Not To Exceed" Amount
  - E. Office Staffing Plan and Resources
  - F. Location of Office from which services shall be provided
  - G. References
  - H. Potential Conflicts

6. On April 5, 2011 at 1:00pm, the Township Clerk or representative shall open each of the proposals and shall announce the proposals received by name, and a short summary of the proposal and qualifications.

7. The proposals shall be submitted to Township Committee for consideration and the governing body may award a contract by approving a resolution. If a majority votes to seek interviews, interviews may be held between Township Committee and the person or entity that submitted proposals. Township Committee may send proposals to Township Board's or Agency's for consideration and approval as is appropriate.

2. **CRITERIA BY WHICH REQUESTS FOR PROPOSALS AND QUALIFICATIONS SHALL BE EVALUATED**

A. The Township of Middle hereby discloses in writing that all of the submissions in response to the Request for Proposals and Qualifications submitted through the fair and open process described above, will be evaluated by the Township Committee of the Township of Middle and awarded or rejected on the basis of the following criteria. Proposals will be evaluated by the Township Committee of the Township of Middle on the basis of the most advantageous, price and other factors considered. The evaluation will consider:

1. Experience and reputation in the field
2. Knowledge of the Township of Middle, the Shellbay, Shunpike, Goshen Road, Crest Haven Road ("SSGC") Sewer Project and the subject matter to be addressed under the contract
3. Availability to accommodate any required meetings of the agency
4. Compensation proposal
5. Other factors if demonstrated to be in the best interest of the Township of Middle

B. The engineering firms responding shall provide qualifications for the following minimum threshold criteria as follows:

- 1.A multi-disciplinary Engineering Firm licensed to provide engineering services in the State of New Jersey for a minimum of ten (10) years;
- 2.Licensed N.J. Professional Engineers on staff shall have at least ten (10) years of experience in the design and construction of sanitary sewer collection systems and in the design of publically owned and operated sewage pump stations with discharge rates in excess of 200-gallons per minute and collections systems in excess of 10,000 linear feet constructed under a USDA-RD program. The firm shall demonstrate that licensed staff members shall include electrical engineers, instrumentation engineers and civil engineers. The firm shall also demonstrate staff experience in environmental sciences such as wetland specialists and geologists.
- 3.The Engineering Firms shall demonstrate their experience in Cape May County with design and construction management of large sanitary sewer system construction projects of 12-inch or larger over the past five (5) years.
- 4.The Engineering Firm shall demonstrate experience with the design and or construction management of sanitary sewer projects within the Township of Middle in the past five (5) years.

5. The Engineering Firm shall demonstrate experience with governmental entities and particularly, NJDEP Divisions and Bureaus pertaining to wastewater facilities, land use regulation and water supply.
6. The Engineering Firm shall demonstrate their experience with and knowledge of USDA-RD with regards to their Rules and Regulations for funding, design and construction supervision requirements.
7. The Engineering Firm shall demonstrate that they have maintained a functioning office and staff within Cape May County for over ten (10) years and their office location in relationship to the Township of Middle will allow an ability to respond to construction field issues as well as to accommodate any required meetings of the Township.
8. The engineer shall submit resumes of the anticipated support staff to be utilized to conduct the proposed activities, with the minimum requirement of construction administration utilizing a NJ licensed engineer with previous experience within the last five (5) years with an active USDA-RD project; and a minimum NICET Level 4 lead field inspector and support inspectors with a NICET Level 2 or NJ Municipal Engineering Construction Inspection Program Certification with specific experience in sanitary sewer installation inspection.
9. The engineering firm shall have the ability to mobilize the required field staff within one week of contract award and authorization to proceed.

C. The following criteria, found under the competitive contracting rules at N.J.A.C. 5:34-4.2, if determined to be of assistance, may also be considered by Township Committee. These criteria are not intended to be limiting or all-inclusive, and they may be adapted or supplemented in order to meet the Township Committee's needs. No criteria will unfairly or illegally discriminate or exclude otherwise capable vendors.

- I. Technical criteria:
  - a. Proposed methodology:
    - i. Does the vendor's proposal demonstrate a clear understanding of the scope of work and related objectives?
    - ii. Is the vendor's proposal complete and responsive to the specific RFP requirements?
    - iii. Has the past performance of the vendor's proposed methodology been documented?
    - iv. Does the vendor's proposal use innovative technology and techniques?
    - v. Are sound environmental practices such as recycling, energy efficiency, and waste reduction used?
  - II. Management criteria:
    - a. Project management:
      - i. How well does the proposed scheduling timeline meet the agency's needs?
      - ii. Is there a project management plan?
    - b. History and experience in performing the work:
      - i. Does the vendor document a record of reliability of timely delivery and on-time and on-budget implementation?
      - ii. Does the vendor demonstrate a track record of service as evidenced by on-time, on-budget, and contract compliance performance?
      - iii. Does the vendor document industry or program experience?
      - iv. Does the vendor have a record of moral integrity?
    - c. Availability of personnel, facilities, equipment and other resources:
      - i. To what extent does the vendor rely on in-house resources vs. contracted resources?
      - ii. Are the availability of in-house and contract resources documented?
    - d. Qualification and experience of personnel:
      - i. Documentation of experience in performing similar work by employees and when appropriate, sub-contractors?
      - ii. Does the vendor make use of business capabilities or initiatives that involve women, the disadvantaged, small and/or minority owned business establishments?
      - iii. Does the vendor demonstrate cultural sensitivity in hiring and training staff?
  - III. Cost criteria:
    - a. Cost of goods to be provided or services to be performed:
      - i. Relative cost: How does the cost compare to other similar proposals?
      - ii. Full explanation: Is the price and its component charges, fees, etc., adequately explained or documented?
    - b. Assurances of performance:
      - i. If required, are suitable bonds, warranties, or guarantees provided?
      - ii. Does the proposal include quality control and assurance programs?
    - c. Vendor's financial stability and strength:
      - i. Does the vendor have sufficient financial resources to meet its obligations?

**III. REQUEST FOR PROPOSALS AND QUALIFICATIONS ARE SOUGHT FOR THE FOLLOWING POSITIONS**

- A. The work being solicited involves provision of construction management and qualified inspection services related to a sanitary sewer project being constructed under a capital improvement program funded by the USDA-RD. The sanitary sewer contract includes gravity sanitary sewers, low pressure sewer systems, a pump station, force main, horizontal directional drilling (HDD) and restoration of roadways.

The design plans and specifications for this project were prepared by Hatch Mott MacDonald and construction of the project is being undertaken by F. W. Shawl and Sons Construction. The

contract was awarded to F. W. Shawl and Sons Construction in September 2010 and construction is currently in progress.

22. RESOLUTION NO. 159-11 – AMENDING RATIFIED SHARED SERVICES AGREEMENT BETWEEN TOWNSHIP OF MIDDLE AND CAPE EDUCATIONAL COMPACT – On motion by Mayor DeLanzo seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.

WHEREAS, the Township of Middle currently has a shared services agreement with Cape Educational Compact for usage of the Martin Luther King Center, and  
 WHEREAS, Cape Educational Compact has requested additional usage of the Clarence & Georgiana Davies Sports Complex.

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 Shared Services Agreement between the Township of Middle and Cape Educational Compact shall hereby be amended to include authorization for usage towards both the Martin Luther King Center and also the Clarence & Georgiana Davies Sports Complex.

23. RESOLUTION NO. 160-11 – APPOINTMENTS – On motion by Mayor DeLanzo seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.

BE IT RESOLVED, by the Township Committee, the Governing Body of the Township of Middle, County of Cape May and State of New Jersey that the following person be and are hereby appointed to the term of office opposite their name:

NAME	POSITION / BOARD	TERM AFFECTIVE	TERM EXPIRES	SALARY
Dawn Stimmel	Environmental Commission/ Board Secretary	03/21/2011	12/31/2011	\$850.00
Barbara Montgomery	Senior Citizen Advisory Council / Board Secretary	03/21/2011	12/31/2011	\$850.00
Sarah Sharpe	Member, Board of Health	3/21/2011	12/31/2012*	N/A

\* Filling unexpired term

24. RESOLUTION NO. 161-11 – SUPPORTING NO PASSING ZONE – NJ ROUTE 147 – On motion by Committeemember Doughty seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.

WHEREAS, the Bureau of Traffic Engineering and Investigations has completed an investigation along NJ Route 147 in Middle Township, and  
 WHEREAS, based on this investigation, it has been recommended to revise the centerline pavement markings to a No Passing Zone along Route NJ 147 throughout the entire length of Middle Township, and

WHEREAS, the New Jersey Department of Transportation requires a resolution of support from the municipality in order to promulgate a Traffic Regulation Order.

NOW THEREFORE BE IT RESOLVED, that the Township Committee of the Township of Middle, the governing body thereof, does hereby support the revision of centerline pavement markings to indicate a “No Passing Zone” along Route NJ 147 throughout the entire length of Middle Township.

25. RESOLUTION NO. 162-11 – ADOPTING AMENDED PERSONNEL POLICIES AND PROCEDURES MANUAL – 2011 - On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the Personnel Policies and Procedures Manual amended March 2011 is hereby adopted.

FURTHER RESOLVED, that should any section, paragraph, sentence, clause or phrase of this manual be declared unconstitutional or invalid for any reason, the remaining portions of said manual shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of mentioned manual are hereby declared to be severable.

FURTHER RESOLVED, this manual shall become effective immediately upon approval of this resolution and all other manuals in conflict or inconsistent with the updated version dated March 2011 are hereby repealed, to the extent of such conflict or inconsistency.

26. RESOLUTION NO. 163-11 – APPROVE CHANGE ORDER NO. 1 – VARIOUS DRAINAGE IMPROVEMENTS – On motion by Committeemember Doughty seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.

WHEREAS, Albrecht & Heun Inc. was awarded the “Various Drainage Improvements” project, within the confines of the Township of Middle.

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 Albrecht & Heun Inc. be and is hereby approved in the amount of \$8,275.00.

27. RESOLUTION NO. 164-11 – 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 Doughty

seconded by Committeemember Lockwood 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 (\$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.
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).
28. RESOLUTION NO. 165-11 – AUTHORIZING THE ISSUANCE AND SALE OF UP TO \$3,663,000 OF GENERAL OBLIGATION BONDS, 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.
- 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 number 1223-06, as amended and supplemented by 1267-07, each duly and finally adopted and published in accordance with the requirements of Local Bond Law (collectively, the "Bond Ordinance"), 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 Ordinance, 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 \$3,642,400 of its Bond Anticipation Notes of 2011, Series A ("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
- 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 bonds (collectively, the "Project"); and
- WHEREAS, pursuant to Local Bond Law and the Bond Ordinance, it is the intent of the Township 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 Ordinance, 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 2011B" ("Bonds"), in an aggregate principal amount of up to \$3,663,000 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 Bonds are hereby awarded to the United States of America ("Purchaser") at the price of \$3,663,000 and at an interest rate not to exceed 4.25% per annum, payable in the amounts set forth in Exhibit "B" 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 Ordinance, 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 21st day of March, 2011.

29. RESOLUTION NO. 166-11 – EMERGENCY TEMPORARY BUDGET AMENDMENT – On motion by Committeemember Lockwood seconded by Committeemember Dougherty and passed on roll call, the following resolution was adopted.

WHEREAS, an emergent condition has arisen and no adequate provision has been made in the 2011 temporary appropriations for the aforesaid purpose; and NJSA 40A:4-20 provides for the creation of an emergency appropriation for the purpose above mentioned, and  
 WHEREAS, the total emergency temporary resolutions adopted pursuant to the provisions of Chapter 96 PL 1951 (NJSA 40A:4-20) including this resolution total \$9,167,203.58  
 NOW THEREFORE BE IT RESOLVED (not less than two-thirds of all members thereof affirmatively concurring) that in accordance with NJSA 40A:4-20

1. An emergency temporary appropriation be and the same is hereby made in the amount of \$9,091,203.58. That said emergency temporary appropriation shall be provided for in the 2011 budget under the title of:  
See Attached List
2. That one certified copy of this resolution be filed with the Director of Local Government Services.

**GENERAL GOV.**

General Administration	<b>S&amp;W</b>	30,000.00
	<b>OE</b>	3,000.00
Public Affairs	<b>S&amp;W</b>	
	<b>OE</b>	
Human Resources	<b>S&amp;W</b>	12,000.00
	<b>OE</b>	
Mayor & Committee	<b>S&amp;W</b>	14,000.00
	<b>OE</b>	
Municipal Clerk	<b>S&amp;W</b>	20,000.00
	<b>OE</b>	8,000.00
Codification	<b>OE</b>	2,500.00
Records Management	<b>OE</b>	
Financial Admin	<b>S&amp;W</b>	30,000.00
	<b>OE</b>	10,000.00
Grants Admin	<b>S&amp;W</b>	10,000.00
	<b>OE</b>	24,000.00
Bond Registrar	<b>OE</b>	
Information Technology	<b>OE</b>	32,000.00
Audit Services	<b>OE</b>	16,000.00
Tax Collector	<b>S&amp;W</b>	30,000.00
	<b>OE</b>	6,000.00
Tax Assessor	<b>S&amp;W</b>	25,000.00
	<b>OE</b>	3,000.00
Liquidation of TTL's	<b>OE</b>	
Legal Services	<b>S&amp;W</b>	500.00
	<b>OE</b>	289,500.00
Engineering Services	<b>S&amp;W</b>	
	<b>OE</b>	55,000.00
Smart Growth	<b>OE</b>	25,000.00
Planning Board	<b>OE</b>	
Zoning Board	<b>S&amp;W</b>	30,000.00
	<b>OE</b>	3,000.00
Code Enforcement	<b>S&amp;W</b>	10,000.00
	<b>OE</b>	-300.00
Construction	<b>S&amp;W</b>	30,000.00
	<b>OE</b>	3,000.00
Demolition of Substandard Bldgs	<b>OE</b>	
Electrical Inspector	<b>S&amp;W</b>	8,000.00
Surety Bond Premiums	<b>OE</b>	
Other Insurance Premiums	<b>OE</b>	153,900.00
Worker's Compensation Insurance	<b>OE</b>	358,000.00
Group Insurance Premiums	<b>OE</b>	1,500,000.00
Dental Insurance	<b>OE</b>	-22,000.00
Prescription Insurance	<b>OE</b>	-125,000.00
Health Care Waiver	<b>OE</b>	8,000.00
Unemployment Compensation	<b>OE</b>	40,000.00
Public Bldgs & Grounds	<b>S&amp;W</b>	25,000.00
	<b>OE</b>	10,000.00
Police	<b>S&amp;W</b>	1,000,000.00
	<b>OE</b>	50,000.00
Communications	<b>S&amp;W</b>	100,000.00
	<b>OE</b>	
Emergency Management	<b>S&amp;W</b>	3,000.00
	<b>OE</b>	
Rescue Squad	<b>S&amp;W</b>	100,000.00
	<b>OE</b>	30,000.00

Contributions to 1st Aid Squads	OE	35,000.00
Volunteers In Medicine Donation	OE	1,250.00
Fire Protection	S&W	5,000.00
Prosecutor	S&W	9,000.00
Gypsy Moth Control	OE	
Public Works Department	S&W	200,000.00
	OE	30,000.00
Shade Tree	OE	
Garbage & Trash Removal	OE	228,000.00
Sanitation	OE	
Recycling Contractual	OE	228,000.00
Motor Pool	OE	50,000.00
Board of Health	S&W	-1,150.00
	OE	500.00
Environmental Commission	OE	2,500.00
Animal Control	S&W	15,000.00
	OE	3,000.00
Animal Shelter	OE	31,500.00
PATF Contribution	OE	500.00
Recreation	S&W	30,000.00
	OE	
Senior Center	S&W	10,000.00
	OE	6,000.00
Beach Restoration	OE	
Terminal Leave	OE	125,000.00
Electric	OE	260,000.00
Street Lighting	OE	
Postage	OE	
Telephone	OE	102,000.00
Natural Gas	OE	33,000.00
Fuel Oil	OE	
Gasoline	OE	165,000.00
Manit & Service Policies	OE	125,000.00
Sanitary Landfill	OE	270,000.00
Contingent	OE	
PERS (In Caps)	OE	399,125.00
Social Security	OE	100,000.00
PFRS (In Caps)	OE	1,070,901.00
DCRP	OE	
PERS Employer Liability	OE	
PFRS Employer Liability	OE	
Safe & Secure Grant	OE	56,381.00
Interlocal CMC Tech School	OE	70,000.00
Interlocal Fire District 2 JIF	OE	34,487.00
Municipal Court	S&W	50,000.00
	OE	6,000.00
Public Defender	S&W	5,000.00
Capital Improvement Fund	OE	100,000.00
JAG Grant with Wildwood	OE	24,298.00
SFSP District Payment Grant	OE	6,437.00
Police Body Armor	OE	6,029.97
Cops In Shops	OE	1,200.00
BPU Clean Energy Audit	OE	9,467.00
Alcohol Educ & Rehab	OE	3,267.75
Clean Communities	OE	6,851.87
Over the Limit Under Arrest	OE	4,075.00
Click It or Ticker	OE	3,450.00
Emergency Management Grant	OE	5,000.00
Recycling Tonnage Grant	OE	68,695.86
FEMA Reeds Beach Project Grant	OE	24,460.13
NJ DOT Main Street	OE	153,377.00
NJ DOT Bike Path Shellbay to Shun	OE	320,000.00
NJ DOT Curbs Sidewalks Main St	OE	200,000.00
Matching Grant Fund for MAC	OE	
Reconstruction of Boyd Street	OE	
Total		8,652,703.58

**TEMP.UTILITY**

Operating Budget	<b>S&amp;W</b>	60,000.00
	<b>OE</b>	30,000.00
User Charges	<b>OE</b>	300,000.00
Capital Outlay	<b>OE</b>	
Pers	<b>OE</b>	5,000.00
Group Insurance Premiums	<b>OE</b>	30,000.00
Other Insurance Premiums	<b>OE</b>	20,000.00
Dental Insurance	<b>OE</b>	-9,000.00
Prescription Insurance	<b>OE</b>	-4,500.00
Social Security	<b>OE</b>	7,000.00
Total		438,500.00

30. RESOLUTION NO. 167-11 – DEFER SCHOOL TAX – On motion by Committeemember Lockwood seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.  
WHEREAS, by statute, when a municipality raises school taxes on a school year basis, an amount of not more than 50% of the levy may be deferred to the following year; and  
WHEREAS, 50% of the school tax levy of the Township of Middle School District is \$11,922,336.50;  
NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Middle desires to defer school taxes to the year 2011 in the amount of \$9,676,265.00.

31. RESOLUTION NO. 168-11 – RESERVE FOR UNCOLLECTED TAXES – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.  
WHEREAS, the Township of Middle, County of Cape May, realized 96.96% of Current Tax Collections for the year 2010; and  
WHEREAS, without the cancellations of 2010 taxes by the Cape May County Board of Taxation and appeals by major taxpayers in 2010 in the sum of \$313,280.30, the Township would have collected approximately 97.66%; and  
WHEREAS, the percentage of current tax collections for the prior three years were as follows:

<u>Year</u>	<u>Percentage of Collection</u>
2008	97.98%
2009	98.04%
2010	96.96%

and

WHEREAS, the Township Committee of the Township of Middle believe the Tax Collections for the year 2011 will greatly improve over the year 2010 because the properties which had abnormal cancellations and appeals in 2010 will not recur since the respective assessments have been corrected and appeals negotiated for the year 2011;  
NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Middle in the County of Cape May that permission be requested by the Director of Local Government Services to permit the Township to anticipate a current tax collection experience of 97.48% for the year 2011.

32. RESOLUTION NO. 169-11 – INTRODUCTION OF BUDGET BY TITLE ONLY – On motion by Committeemember Doughty seconded by Committeemember Lockwood and passed on roll call, the following resolution was adopted.  
BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the 2011 Budget for the Township of Middle by introduced, approved and given first reading by title only.

33. RESOLUTION NO. 170-11 – APPROVING PARTICIPATION WITH THE STATE OF NEW JERSEY IN A SAFE AND SECURE COMMUNITIES PROGRAM ADMINISTERED BY THE DIVISION OF CRIMINAL JUSTICE, DEPARTMENT OF LAW AND PUBLIC SAFETY – On motion by Mayor DeLanzo seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted.  
WHEREAS, the Township of Middle wishes to apply for a project under the Safe and Secure Communities Program, and  
WHEREAS, the Township Committee of the Township of Middle has reviewed the application and has approved said request, and  
WHEREAS, the project is a joint effort between the Department of Law and Public Safety and the Township of Middle for the purpose described in the application.  
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that:

1. As a matter of public policy the Township of Middle wishes to participate to the fullest extent possible with the Department of Law and Public Safety.
  2. The Attorney General of New Jersey will receive funds on behalf of the applicant.
  3. The Division of Criminal Justice shall be responsible for the receipt and review of the applications for said funds.
  4. The Division of Criminal Justice shall initiate allocations to the applicant as authorized by law
34. RESOLUTION NO. 171-11 – RELEASE PERFORMANCE BOND – COALITION AGAINST RAPE AND ABUSE, INC. – On motion by Committeemember Lockwood seconded by Committeemember Doughty and passed on roll call, the following resolution was adopted. WHEREAS, \$171,450.00 is being held as a performance guarantee of C.A.R.A. for Block 333 Lot 10; 800 Route 9 South, CMCH  
WHEREAS, the Engineer for the Township of Middle has conducted his inspection and certified that all improvements have been completed, and  
WHEREAS, the Zoning Officer for the Township of Middle has recommended that the performance bond be released, and  
WHEREAS, the Land Use Law of the State of New Jersey (NJS 40:55D-1 et seq) requires such a release upon recommendation by the Township Engineer,  
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the bond in the amount of \$171,450.00 is hereby released.
35. RESOLUTION NO. 172-11 – AUTHORIZING SETTLEMENT OF LITIGATION – On motion by Committeemember Lockwood seconded by Mayor DeLanzo and passed on roll call, the following resolution was adopted.  
WHEREAS, the Township of Middle (“Township”) has been a party to litigation instituted in or about May 2007 in an action entitled Joseph Ravitz and Lee Romm, trading as R&R Associates, v. The Township of Middle, Township Committee of The Township of Middle; Albrecht & Heun, Inc., a New Jersey Corporation; and Future Mining and Recycling, a New Jersey Corporation, and John and Jane Does, 1-10, Superior Court of New Jersey, Law Division, Cape May County, Docket No. CPM-L-303-07; and  
WHEREAS, the Township was successful in having all claims against it and the Township Committee brought by Plaintiffs Joseph Ravitz and Lee Romm trading as R&R Associates dismissed; and  
WHEREAS, during the course of the litigation, the Township filed a crossclaim seeking host community benefits from the co-defendants, Albrecht & Heun, Inc. and Future Mining and Recycling (“A&H/FM”); and  
WHEREAS, by Order entered on August 10, 2009, the Honorable Valerie H. Armstrong, Assignment Judge of the Superior Court, appointed retired Chancery and Appellate Division Judge George L. Seltzer to serve as a Special Master in an effort to facilitate a less expensive means of resolving the differences between the Township and A&H/FM over past due host community benefits; and  
WHEREAS, during the course of these proceedings before the Special Master, the Special Master first proposed a recommendation pursuant to which A&H/FM would pay the Township the sum of Thirty-Five Thousand, Seventeen Dollars and Sixty Seven Cents (\$35,017.67); but upon reconsideration, the Special Master recommended that A&H/FM pay the sum of Two Hundred, Eighty- Eight Thousand, Four Hundred, Seventy Seven Dollars and Sixty Seven Cents (\$288,477.67), but also recommended that there were certain issues raised by A&H/FM that might best be returned for further proceedings, either before the Special Master, or to the Law Division, which could substantially reduce that sum if proofs were adduced to support A&H/FM’s claims, most significantly, whether the amount should be reduced by \$35,000.00 for land purchased by the Township from A&H/FM years ago, and also by the amount of tipping fees for leaves that could have been charged to the Township but were not; copies of the draft report from the Special Master, and his final report are attached hereto as Exhibits A and B; and  
WHEREAS, A&H/FM filed formal objections to the Special Master’s report, which objections, if approved by the Superior Court of New Jersey, Law Division, would have resulted in additional litigation, additional discovery between the parties, the taking of additional testimony and depositions, and a likely trial of the matter before the Court, all of which would have resulted in extraordinary further expense to the Township; and  
WHEREAS, following the receipt of the revised recommendation from the Special Master, and after numerous discussions and settlement conferences between the parties, it has been recommended that the Township Committee give consideration to settling this matter without resort to further litigation; and  
WHEREAS, the Township Committee has determined that a settlement pursuant to which A&H/FM pays the Township One-Hundred, Forty Thousand Dollars (\$140,000.00), and foregoes any credit for land sold to the Township (Thirty Five Thousand Dollars (\$35,000.00)) for property purchased by the Township in 1999; and  
WHEREAS, the Township’s Special Counsel, and counsel for A&H/FM have proposed the attached “Settlement Agreement and Release of Claims” (Exhibit C) for consideration by the parties, and the Township Committee deems it to be in the best interest of the residents and citizens of the Township to end this litigation, avoid future costs and expense of legal fees, expert witness fees, and deposition costs, and an uncertain result;  
NOW, THEREFORE, BE IT RESOLVED by the Township of Middle, County of Cape May, and State of New Jersey that the Mayor and Clerk be and are hereby authorized and directed to execute the attached “Settlement Agreement and Release of Claims”, which is attached hereto and made part of this Resolution;

BE IT FURTHER RESOLVED that Special Counsel is hereby directed to advise the Court of the execution of this settlement, and to execute on behalf of the Township any documents needed to end the litigation.

36. PUBLIC COMMENT:

Vilma Pombo – informed committee that there is a water meeting on April 6<sup>th</sup>. (She gave information to the Mayor)

Pickering – indicated that Orlando was aware of the meeting. Mr. Orlando explained amendments to the “208 Plan” and requirements with the State.

Vilma – asked if the township has begun making changes to Master Plan.

Orlando – Yes.. committee has been formed. Next meeting tomorrow at 5pm in Zoning Office.

Steve O’Connor – asked how significant the percentage of uncollected taxes was and how critical it is to be met.

Ortman – pretty significant and this recent drop was due to a lot of tax appeals. Not terrible percent but it dropped from 98.4%.

Mary Ann White indicated that she believes that if the township is going to have someone monitor the false alarm in the township that company should be in the area. Last storm her alarm went off and now she is faced with a fine.

Chief Leusner reassured Mrs. White that a resident can appeal to the local police department and the department will take the weather situation into consideration. The chief further explained the reasons and process of the false alarm system within the township.

Township Committee went into Closed Session.

No official action was taken. There being no further business the meeting was adjourned at 8:35pm.

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Kimberly Krauss, Township Clerk.