

Cape May Court House, NJ
May 28, 2013 – 9:00AM
SPECIAL MEETING
FLAG SALUTE
THIS MEETING IS BEING RECORDED:

This Special Meeting was called pursuant to the provisions of the Open Public Meeting Law. Notices of this meeting were emailed to the Cape May County Gazette, Atlantic City Press and the Cape May County Herald on May 24, 2013. In addition, copies of notices were posted on the bulletin board in the Municipal Building and filed in the office of the Municipal Clerk on aforementioned date. Notices on the bulletin board have remained continuously posted.

The Township Committee met on the above date at 9:00AM at the Middle Township Municipal Building. Members present were Mayor Lockwood, Committeemember Donohue, Committeemember DeLanzo, Township Business Administrator Connie Mahon, Township Clerk Kimberly Krauss, Municipal Solicitor Marcus Karavan.

Committee opened up the discussion regarding item number 1.

Marc Karavan explained that as a condition of Conifer funding, they will receive a more favorable review if some of the items that we were going to give them outright, or forgive, are recast instead as a loan to the developer. In other words the COAH trust fund monies that we were going to give them outright will be cast under this agreement as a loan from the township, and certain fees which we were going to waive such as building construction fees and sewer connection fees are also going to be treated as an advance on the loan which will be paid back to the township. We modifying the original agreement to provide for a mortgage that the township will secure on the property to get those monies back.

Committeemember Donohue – we are not giving them anymore money then we already promised to give them correct?

Karavan – No.

Committeemember Donohue - We are basically just giving them goods and services ...

Karavan – we are reclassifying things that we were gonna walk away from or monies given under the spending plan as a loan. Basically it's a win for the township. It's money that we would have not got back under the original loan.

Committeemember Donohue wanted to clarify that when the agreement reads “that the amount shall be increased from \$850,000.00 to \$981,000.00” that the township is not giving more money.

Karavan – no this is in accordance with what we had originally planned to do. The original agreement was adopted prior to the spending plan being adopted and certain modifications needed to be done to it... so this makes it comply with our spending plan. We are not agreeing to give them additional funds.

Mayor Lockwood – I am not familiar with any fees other than sewer connection fees that we were going to waive.

Karavan stated building permit fees in the amount of \$ 180,000.00 ...

Mayor Lockwood stated he wasn't aware of any permit fees that were waived under the previous agreement.

Sewer connection fees were discussed and the waiving of such.

Karavan stated he believes that this is a substantial benefit to the township. It is monies that the township wouldn't have ordinarily received.

Committeemember Donohue I think the point Dan is trying to make is if you read this someone could assume that we had intended to waive construction or sewer fees, which we never agreed to. We never discussed waiving construction fees and now if you read this we are saying we are waiving that and in lieu of that they are getting extra value and they would pay us back for something we never said we would do.

Mayor Lockwood can we for the record can we clarify what “payback” means? Does it come back to construction fees?

Karavan – COAH monies go back to COAH trust fund, other monies back to the current account.

Mayor Lockwood – over 30 years?

Karavan – at the end of 30 years.

Committeemember DeLanzo asked if language in agreement “we would do anything we can to help project” could be misconstrued to include waiving construction fees.

Karavan – does not believe so.

Mayor Lockwood asked what the difference is between the \$850,000.00 and the \$981,000.00?

Karavan – we increased the amount under the spending plan but the agreement was never modified to reflect that.

Mayor Lockwood – offset by the PILOT.

Karavan – increased to 10%.

Committee recessed at 9:23pm to review previous agreement.

Reconvened at 9:42pm.

Karavan – what would occur by this is that those fees under the original agreement would be paid back.

Committeemember Donohue – can in 30 years the engineer come to us for escrow fees?

Mayor Lockwood – no they would have to escrow fees for engineering. We have no control over that.

Karavan – so the concern is as the project is ongoing how will the engineer be compensated?

Mayor Lockwood – yeah. We are not paying the engineer.

Karavan – and normally the function of the permit fee....

Committeemember Donohue – permit is a separate cost...

Karavan – agreement does not exclude them from engineering cost for inspection, however this may be a good time to clarify that.

Committeemember Donohue – my concern is that it is not costing us any additional money and we aren't doing anything that we didn't already promise to do. Language does however need to be clarified.

Mayor Lockwood questioned the line regarding reserving sewer capacity.

Karavan – there was a time when the MUA (1987-88), where they required a reservation of sewer capacity because developments were exceeding the ability of the then system to supply. Current MUA has plenty of capacity. I don't understand this to be an issue now, but at one point in time you couldn't build without reservation of capacity.

Committeemember DeLanzo is there anyway of having some sort of funds deposited to insure that we are not waiting until the end, or they need an extension to pay this.

Karavan – I don't know that they are going to deposit those monies now, not sure that has been contemplated. If we are going to go into those negotiations, and based on the time constraints committee has today, then we should probably recess this meeting until later in the day... if there is a desire.

Mayor Lockwood questioned the waiving of the fees and State inspections. Expense attached to this, not just a revenue item. Fees associated with this...

Mayor Lockwood and Committeemember Donohue spoke of electrical inspections and construction inspections.

Committee once again decided to recess to review the fee clause in agreement. Committee recessed until 2:00pm in the 2nd floor conference room. Prior to recess they voted on the following:

1. RESOLUTION NO. 283-13 - APPROVING PAYMENT FOR BILLS – BILL LIST A (GENERAL BILLS) – On motion by Committeemember DeLanzo seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that payment for the following bills in the amounts indicated are hereby approved:
Current Acct. \$ 2,349,961.92

RECESS

Motion to Recess Meeting:

1st Mayor Lockwood

2nd Committeemember DeLanzo

Roll Call Vote: Committeemember DeLanzo, Committeemember Donohue, Mayor Lockwood

Meeting was recessed at 9:57am.

Motion to reopen Meeting:

1st Mayor Lockwood

2nd Committeemember Donohue

Roll Call Vote: Committeemember DeLanzo, Committeemember Donohue, Mayor Lockwood

Meeting was adjourned at 2:16pm.

Committee reconvened at 2:16pm where they then received a briefing from Mr. Karavan and further voted below:

M. Karavan discussed conversation with Charles Lewis and Davis Oberlander relative to this issue and the prime concern is the payment of the State fee and waiving these fees. Conifer has agreed that they will revise agreement to reflect they will pay State fee on demand. Engineer fees paid in plan review. This is being done in connection with first mortgage financing. Mortgage will be recorded so we will have a lien on the property.

Committeemember Donohue questioned 30 years from CO?

M. Karavan – split up fee wise so 30 years from issuance of each CO. Mirror mortgage.

Committeemember DeLanzo – questioned State inspections.

Mayor Lockwood – commented on his conversation with Construction Office and state review versus municipal review.

2. RESOLUTION NO. 284-13 – AUTHORIZING MAYOR TO EXECUTE AMENDMENT TO DEVELOPER’S AGREEMENT TO COMMIT MT. LAUREL TRUST FUNDS PURSUANT TO PUBLIC LAW 2008 C46 BY AND BETWEEN MIDDLE TOWNSHIP AND CONIFER REALTY, LLC -

On motion by Mayor Lockwood seconded by Committeemember Donohue and passed on roll call, the following resolution was adopted.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee, of the Township of Middle, County of Cape May and State of New Jersey, that the that the appropriate officials are hereby authorized to sign any and all documents in connection therewith.

PUBLIC COMMENT:

No Public Comment

Motion to Adjourn Meeting:

1st Mayor Lockwood

2nd Committeemember Donohue

Roll Call Vote: Committeemember DeLanzo, Committeemember Donohue, Mayor Lockwood

Meeting was adjourned at 2:25pm.

Kimberly D. Krauss, Township Clerk