

Cape May Court House, NJ  
April 20, 2009  
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 Doughty, Committeemember Barry, Township Business Administrator Mark Mallett, Township Clerk Kimberly Tomkinson, Attorney James Pickering, and Engineer Vincent Orlando. Committeemember DeLanzo was absent.

1. QUESTION/ANSWER PERIOD ON AGENDA (This question and answer session shall relate only to items as outlined and pending on current agenda. Issues and concerns not related to agenda item shall be withheld to public comment portion at the conclusion of meeting.)

*Eileen Fausey: I just want to ascertain that since March Madness is over that we won't be adjourning early and people won't be left with their hands in the air for the public comment period, because the last meeting was adjourned early and a lot of people were left without having their questions answered, so we will continue upon people having questions?*

*Mayor Doughty: Thank you. We will take that under advisement.*

*Sam Kelly: As much as Susan was so.....she aligned herself with the audience here the last time and she is missing this time, you guys didn't do something did you?*

*Steve Barry: She is fine, she went to pick up her mother. All is well.*

*Miles Truesdell: On 7 A for signs on the construction fees, it appears that is for permanent signs I would assume, is there also a fee for temporary signs.*

*Jim Pickering: Mayor if I can. It is to be introduced tonight, there will be a public hearing at a later date, but Mr. Truesdell, my understanding is that this would be for permanent signs, because there is a separate ordinance regarding temporary signs.*

*Miles Truesdell: So there is another ordinance coming up?*

*Jim Pickering: I don't know that it will be coming up, I believe there is an existing, and you are really trying my memory here, but I believe there is an existing ordinance here regarding temporary signs.*

*Miles Truesdell: Could I call for a copy of that ordinance.*

*Vince Orlando: It is online.*

*Jim Pickering: That doesn't mean that there is a fee for a temporary sign, I just don't know the answer.*

*Miles Truesdell: From my understanding there is a fee, but it is pretty minimal.*

*Jim Pickering: This is a construction fee, is there a construction fee for temporary signs?*

*Vince Orlando: I believe this is a construction fee for permanent signs, there is a temporary sign ordinance which does require a fee for signs.*

*Miles Truesdell: I guess on the permanent it is just a onetime fee, it is not a yearly fee?*

*Vince Orlando: It is a one time fee.*

*Steve Barry: I am happy to tell you, that if everything works as we expect, 3 summer camps. The Concerned Citizens are sponsoring one at the MLK Center, the Township has got an organization in place where we are going to sponsor one in which we hope will have at least 60 children at the Davies Center and a lady named Lori Fleming, some of you may have gone to sort of a song and dance Christmas Pageant she put on last year, is going if she can get enough kids to put on an art and dance camp for young talented children, or at least children whose parents believe they are talented and that will be held at Elementary #2.*

*One of the things that we should be thinking about, and any input on would be great is our trash collection contract is up this year, and it is a huge part of our budget and it is something that we will really be looking for comments on.*

Next, I told everybody at the Work Session, and let me give you some dates again, on May 6<sup>th</sup> at 7:00 PM we are going to have a public meeting, not a formal public meeting in the sense of any action being taken, but to address and educate on the COAH issue. I expect that that meeting will be held at the Rio Grande Fire House, but we haven't been able to finalize those arrangements yet. What I would ask everyone who is interested in coming to do is to the extent that you have questions or concerns about COAH, email them here to Jill Zaharchuck, she is our point person for COAH, among other things, and Jill's email address is [mtgrants@middletownship.com](mailto:mtgrants@middletownship.com). At that meeting, and the reason we hope to have it in Rio Grande, is because we can fit about 300 people there so that hopefully we won't run into an overflow problem. Like most towns, Middle Township has a COAH attorney because it is such a bizarrely complicated never changing mess and he is going to make a presentation on the history, how we, the citizens of New Jersey, have gotten where we are since Mt. Laurel was decided in 1975 and where we are today. He will try to answer the key questions that come in and then the plan is that he will take additional questions in written form so that we can compile some of your questions and then it is really intended as an educational session. The next date that we have set is June 4<sup>th</sup>, about a month later, at 7:00 PM and I hope that will also be at the Rio Grande Fire Department and the topic will be the same, that is COAH, but it is intended, we will just have our planner there, Marcia Shiffman, and that is intended to focus on the 4 or 5 big questions which were confronted with COAH because they are more than one. Bob Noel will be there to run both of these meetings. What we will try to do is get together the thinking of the community, I think it is called visioning the planners call it. What is the vision that people have, what are the useful views that people have to deal with that problem. We are going to have a couple more on Smart Growth, generally, but we have scheduled those 2, May 6<sup>th</sup> and June 4<sup>th</sup>, 7:00 PM. As of right now we think it is the Rio Grande Fire House, if that changes I will let you know, we will put it on our website, if that is confirmed, we will also let you know. So, I urge you all to complete your reading assignment from 2 weeks ago, you will have to go to the library to that unless you know lawyer with an up to date set of books and read the New Jersey Practice article on Mt. Laurel and COAH. And please, all the questions and concerns that you have, email them to [mtgrants@middletownship.com](mailto:mtgrants@middletownship.com) so that our COAH Council will have a good sense of what the most salient questions are and how we can most clearly address them in hopes of reaching our overall understanding and consensus on how to proceed forward. I think that is enough for today.

Mayor Doughty: Thank you, I basically only have one thing, this Saturday is the opening day at the baseball field. The Cape Regional Medical Center is a sponsor of this event and on their field, they are a kind sponsor of Middle Township recreation and that will be this Saturday, and that is about all I have. At this point and time we will open it up to the public. Please raise your hand and give your name.

2. RESOLUTION NO. 195-09 – APPROVING PAYMENT FOR ALL BILLS – On motion by Mayor Doughty seconded by Committeemember Barry 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:

Dedicated Trust	\$ 15,858.35
Current Acct.	\$ 3,663,160.70

3. RESOLUTION NO. 196-09 – APPROVING MINUTES FOR PREVIOUS MEETING – On motion by Committeemember Barry seconded by Mayor Doughty and passed on roll call, the following resolution was adopted.
4. REPORTS: The following departments have submitted their reports for the months indicated: Treasurer for the month of March; Municipal Court for the month of March;
5. ORDINANCE NO. 1320-09 – TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK – Following second reading, hearing, and consideration for adoption, Ordinance 1320-09 was adopted on motion by Committeemember Barry seconded by Mayor Doughty and passed on roll call. Complete Ordinance is on file in the Clerk's Office.  
**No public comment**
6. ORDINANCE NO. 1322-09 – TO AMEND THE CODE OF THE TOWNSHIP OF MIDDLE, CHAPTER 212-2 THEREOF, ENTITLED “CONSTRUCTION CODES, UNIFORM FEES” – On motion by Committeemember Barry seconded by Mayor Doughty and passed on roll call, Ordinance No 1322-09 passed first reading. Second reading, public hearing and consideration for adoption will be held on 05/18/2009 at 6:00 p.m.
7. ORDINANCE NO. 1323-09 – ESTABLISHING THE COMPENSATION OF THE OFFICERS AND EMPLOYEES OF THE TOWNSHIP OF MIDDLE – On motion by Committeemember Barry seconded by Mayor Doughty and passed on roll call, Ordinance No. 1323-09 passed first reading. Second reading, public hearing and consideration for adoption will be held on 05/18/2009 at 6:00 p.m.
8. RESOLUTION NO. 197-09 – PROMOTION – ANDREW SMITH – ASSISTANT SUPERVISOR PUBLIC WORKS – On motion by Mayor Doughty seconded by Committeemember Barry and passed on roll call, the following resolution was adopted.

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

NAME	TITLE	SALARY	EFF. DATE
Andrew Smith	Assistant Supervisor Public Works	\$35,000.00	4/20/2009

9. RESOLUTION NO. 198-09 – AUTHORIZING PARTICIPATION OF ONLINE AUCTIONS – GOVDEALS – On motion by Mayor Doughty seconded by Committeemember Barry and passed on roll call, the following resolution was adopted.  
WHEREAS, the Township of Middle is the owner of certain surplus property, from time to time, which is no longer needed for public use; and  
WHEREAS, Township Committee is desirous of selling said surplus property in an “as is” condition without express or implied warranties.  
NOW THEREFORE, be it RESOLVED by the Township Committee of the Township of Middle County of Cape May, State of New Jersey, as follows:
- (1) The sale of the surplus property shall be conducted through GovDeals pursuant to State Contract A-70967/T2581 in accordance with the terms and conditions of the State Contract. The terms and conditions of the agreement entered into with GovDeals is available online at govdeals.com and also available from the Township Committee.
  - (2) The sale will be conducted online and the address of the auction site is govdeals.com.
  - (3) The sale is being conducted pursuant to Local Finance Notice 2008-9.
  - (4) A list of the surplus property to be sold shall be listed on a case by case basis via resolution prior to auction.
  - (5) A legal newspaper advertisement informing the public as to the nature of items being sold and how to obtain more information on the sale will be placed pursuant to N.J.S.A. 40A:11-36. Said advertisement will be published in conjunction with **each** authorizing resolution. The advertisement will be published in the township’s official newspaper and shall:
    - a. Announce the auction and that the item(s) will be sold online.
    - b. Include the internet address for the sale that is being advertised.
    - c. Include the date and time of the auction, and a general description of the surplus personal property intended to be sold. Specific information for particular items, such as the VIN for vehicles, is not required to be included in such newspaper advertisements.
    - d. Include a statement that bidders must pre-register with the approved vendor and the internet address with registration information.
  - (6) The surplus property as identified shall be sold in an “as-is” condition without express or implied warranties with the successful bidder required to execute a Hold Harmless and Indemnification Agreement concerning use of said surplus property.
  - (7) The Township Committee reserves the right to accept or reject any bid submitted.
10. RESOLUTION NO.’S 199-09 THROUGH 202-09– SOCIAL AFFAIRS PERMIT (ITEMS A THROUGH D) – On motion by \_\_\_\_\_ seconded by \_\_\_\_\_ and passed on roll call, the following resolution was adopted.
- a. Middle Twp. Baseball Assoc – May 15<sup>th</sup> Stone Harbor Golf Club
  - b. Wildwood Golf – June 19<sup>th</sup> Wildwood Golf Club
  - c. Wildwood Golf – June 3<sup>rd</sup> through 7<sup>th</sup> Wildwood Golf Club
  - d. Wildwood Golf – May 15<sup>th</sup> Wildwood Golf Club
11. RESOLUTION NO. 203-09 – RELEASE OF PERFORMANCE BOND - STREET OPENING – MARVIN AUSTIN, INC. – On motion by Mayor Doughty seconded by Committeemember Barry and passed on roll call, the following resolution was adopted.  
WHEREAS, \$5,000.00 is being held as a performance guarantee for Marvin Austin Inc. for the street opening located on 8 Walton Street, and  
WHEREAS, Certified Public Works Manager has conducted his inspection and determined that all improvements have been completed, and  
WHEREAS, it has been recommended that the performance guarantee for the above stated project be released.
12. RESOLUTION NO. 204-09 – AWARD OF BID – MIDDLE TOWNSHIP GOSHEN SPORTS COMPLEX – TOILET ROOMS (PLUMBING WORK) – On motion by Mayor Doughty seconded by Committeemember Barry and passed on roll call, the following resolution was adopted.  
WHEREAS, it has been deemed necessary and desirable to solicit bids for Toilet Rooms (Plumbing Work) for the Middle Township Goshen Sports Complex, and  
WHEREAS, sealed bids were received on Wednesday, March 25, 2009 at 10:00 am, and  
WHEREAS, it appears that the following bid submitted represents a figure equal to the lowest bid received, which complies with specifications.

NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the Contract for Plumbing Work for the Toilet Rooms at the Middle Township Goshen Sports Complex shall be awarded to:

HP HOMESTEAD PLUMBING AND HEATING, INC. in the amount of \$25,600.00  
 FURTHER RESOLVED, that this award is conditioned upon submission of Treasurer's Certification of availability of funds.

13. RESOLUTION 205-09 – REJECT BIDS – MIDDLE TOWNSHIP GOSHEN SPORTS COMPLEX TOILET ROOMS (ELECTRICAL WORK AND LUMP SUM BIDS) AND AUTHORIZE TABULATION COMMITTEE (ELECTRICAL WORK ONLY) – On motion by Committeemember Barry seconded by Mayor Doughty and passed on roll call, the following resolution was adopted.

WHEREAS, following public advertisement, bids for Electrical Work and Lump Sum Bids towards the Middle Township Goshen Sports Complex Toilet Rooms, were received by the Township of Middle on March 25, 2009 at 10:00a.m at the Township Hall, and  
 WHEREAS, the lump sum bids for the entire project exceed the budgeted amount for this project, and

WHEREAS, the bid submitted for the electric services did not fit and follow the specifications as requested, and therefore needs to be rejected.

WHEREAS, it appears to be in the best interest of the Township to reject the bids and rebid the electrical work for said project only.

NOW THEREFORE BE IT RESOLVED, by the Township Committee, the Governing Body of the Township of Middle that the lump sum bids and the bid submitted for electrical work are hereby rejected, and

BE IT FURTHER RESOLVED that Chief Finance Officer Tracey Taverner, Township Clerk Kimberly Tomkinson, and Business Administrator Mark Mallett, be and hereby are appointed to tabulate the bids to be taken on Wednesday May 20, 2009 at 10:00 AM in the Middle Township Municipal Building, 2<sup>nd</sup> Floor Conference Room, 33 Mechanic Street, Cape May Court House, NJ for the following:

MIDDLE TOWNSHIP GOSHEN SPORTS COMPLEX TOILET ROOMS (ELECTRICAL WORK)

14. RESOLUTION NO. 206-09 – ACKNOWLEDGEMENT OF RESIGNATION – On motion by Committeemember Barry seconded by Mayor 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	POSITION	DEPARTMENT	STIPEND	EFFECTIVE
Rosie Jefferson	Deputy Registrar of Vital Statistics	Vital Statistics	\$2,500.00	06/30/2009

15. PUBLIC COMMENT:

Dan Lockwood: I was down in Whitesboro for the event a couple of weeks ago and I noticed that there were still no lights on the playground down there. In fact, when that was put in those were promised, or I would say that the people that were interested in that playground project were concerned about having lights and they were given every indication that those would be done quite some time ago. Is there anything going on with those?

Mayor Doughty: Yes, it will be done, but I can't give you exactly when.

Dan Lockwood: Ok, as long as they haven't fallen by the wayside. There is also a need for an outside water fountain at that complex. Kids play there all summer and we are putting water in theory at a dog park, and when the center is closed after hours the kids have no way to get a drink. In the recreation department also, I have heard the leaves rustling that there has been problems with the baseball association and the relationship with the rec department. Is there any parting of ways, I guess, between the ....

Steve Barry: I haven't heard anything about that.

Mayor Doughty: Bigger and stronger than ever.

Dan Lockwood: Bigger and stronger than ever?

Mayor Doughty: Yes.

Dan Lockwood: Is the rec department going to start overseeing the football league?

Mayor Doughty: Yes.

Dan Lockwood: Because they haven't in the past.

Mayor Doughty: That is correct. Now every sport out there will be under a person overseeing that sport.

Dan Lockwood: I dare ask, will there be a football commissioner?

Mayor Doughty: That is correct.

Dan Lockwood: There will be a football commissioner?

Mayor Doughty: Yes, that is correct.

Dan Lockwood: Will that be a paid position?

Mayor Doughty: No

Dan Lockwood: No, just give somebody the title.

Mayor Doughty: Mr. McMichael's to be exact.

Dan Lockwood: Ok, I will move on. I like the ideas of the COAH meetings to inform, but I still have some questions for the committee regarding the Housing Element Fair Share Plan after looking into it. On the first page it says that it has been adopted, but in general it says that it would like to acknowledge the preparation, review and adoption by the Township of Middle Housing Element Fair Share Plan. Who adopts the Housing Element Plan?

Steve Barry: It is a multistep process. It is put together by the Plan Endorsement Committee and was adopted both by the Planning Board and the Township Committee basically under the gun from COAH and it is now in front of COAH, subject to community and advocacy group responses and also subject to amendment.

Jim Pickering: Just to be clear, most elements of the Master Plan are solely within the province of the Planning Board. Typically this would be in the province, that element would be solely in the province of the Planning Board. What happened here is because there is this other step involved, Township Committee had to agree to send that up to Trenton as their petition.

Dan Lockwood: So the Planning Board and the Committee basically adopt this plan, is that the short answer to it.

Jim Pickering: My recollection is that is what happened, yes.

Dan Lockwood: Because within that I am confused about the Committee's position that they can't influence the Zoning Board and their decision about this low income housing project, or both low income housing projects, yet this petition is adopted by both Planning and Committee and says in several places that zoning amendments will be given to certain projects in order for them to move forward.

Steve Barry: That is mixing apples and oranges. Every pending application, whatever it might be before the zoning or the planning board, is entitled to a fair and balanced and unbiased hearing, no matter how any particular person may feel about it, for or against it. To that end, if you or anyone here or anyone at all applies for approvals from one of the boards, it would be, I think in our view here, improper to try and influence that and to tip the scales in favor of one side or another. When things like this are developed, ordinances, zoning, master plan type ordinances, they come through the planning board. It is not a joint enterprise, if that helps you. It comes from there, we don't tell them what to do.

Dan Lockwood: I don't think the planning board has the authority to grant zoning variances do they.

Steve Barry: Yes

Jim Pickering: They have the authority to grant certain types of variances, C Variances not D, meaning they can't grant Use Variances. Each board has separate jurisdictions although they do share some types of jurisdictions.

Steve Barry: There is overlap.

Dan Lockwood: Ok, so that can't grant a use variance, which is what this basically indicates, that they will be given a use variance because they are not in the appropriate zone.

Jim Pickering: No, that is not what that indicates at all.

Dan Lockwood: A zoning amendment will be adopted to support the proposed.....

Jim Pickering: That means that there will be an actual zoning change in the zoning code as opposed to a variance from that, from the code.

Steve Barry: Which is one of the things we will be discussing.

Dan Lockwood: Ok, so it doesn't say that, it says a zone amendment, but I guess that can be taken....so the planning board has already anticipated a zoning change to allow for these projects.

Jim Pickering: No, firstly no one here knows what the zoning board is thinking because they are thinking it, not anybody here.

Dan Lockwood: The planning board....

Steve Barry: No.

Jim Pickering: No, and what that petition essentially states is that if that is approved, then there could be changes to the zoning code to allow certain types of development to happen. Throughout this process, what the Township's obligation has been, and I know we spoke about this at meetings before, is to create a code that will encourage or allow for the number to be reached however that might be. COAH has certain obligations or certain zoning requirements in it. Now that doesn't mean that we have to adopt them and I doubt that that would happen quite frankly.

Steve Barry: For any zoning changes to be adopted they have to be adopted by the Township Committee. There are none in front of us right now and the kind that concern you apparently are a.....

Jim Pickering: A long ways away...

Dan Lockwood: That confuses me, you are saying that the master, the Master Plan has changed, will that be a zoning change?

Steve Barry: No, they are different things.

Dan Lockwood: The Planning Board, ok, go ahead, I am confused because this is the planning board and this is the committee, this doesn't talk about the zoning board, but you are telling me about zoning board decisions....

Steve Barry: Or Planning Board decisions...on applications. Zoning Boards just hear applications and they hear.....planning boards both hear applications and do planning so they have a broader function. What I am trying to say to you is that for a Master Plan to ultimately be adopted, for example, or for the zoning ordinance to be changed in a specific way or in a global way requires action by Township Committee. That action is not before us now and I don't anticipate the kind of changes that you are concerned about happening.

Dan Lockwood: My understanding is the last time that we revisited or revised or redid our Master Plan, that the Committee did not have dominance. There was no ordinance, there was no resolution.

Jim Pickering: It is accurate to state that the Master Plan process requires only that the Planning board approve it, adopt it, whatever language you want to use. At that point there is nothing for the Township Committee to do, they don't have to approve a resolution saying thank you Planning Board, we adopt we agree.

Dan Lockwood: Are you saying Steve is wrong?

Jim Pickering: I don't think I ever said....he didn't say anything inconsistent with that.

Dan Lockwood: He just told me that the Township Committee would have to....

Steve Barry: Change the zoning...

Jim Pickering: Change the zoning...you are mixing apples and oranges here Mr. Lockwood.

Dan Lockwood: I think you guys are helping me.

Jim Pickering: Not at all...just hear me out and I will try to explain this as simply as possible. There is a difference between a Master Plan and zoning code. The Master Plan is this idea of what we want the community to happen, to look like. This is what, these are the problems we identify and these are certain recommendations we make, ok. There are many different subsets of the Master Plan, all sorts of stuff that has to get done by the Planning Board in order to adopt it. They adopt it. That doesn't mean...now that is one document, the Master Plan. The Township's zoning code is a completely and totally different document. The Township committee can, if it desires, approve ordinances that are consistent with the Master Plan. If it approves ordinances that are inconsistent with the Master Plan, then it has to do so by a super majority vote and some other provisions. They are 2 different documents, you keep thinking...you keep using the terms interchangeably and they are not interchangeable. There is a Master Plan that is adopted by the Planning Board, period; there is a zoning code which is adopted by the Township Committee, which is also at times sent to the Planning Board to review and offer comment back to the Township Committee, but the Township Committee adopts zoning codes.

Dan Lockwood: And how do you decide where the zoning codes apply?

Jim Pickering: I don't understand that question.

Dan Lockwood: Well, how do you know what zone you are in.

Jim Pickering: Because there is a map and on the map it says this is the zone that you are located in and that map is adopted by Township Committee.

Dan Lockwood: That is called a ....

Jim Pickering: That is called a zoning map.

Dan Lockwood: Ok, so the zoning map and the Master Plan are different.

Jim Pickering: Yes they are. That doesn't mean that they can't be consistent, it doesn't mean that they can possibly also be inconsistent, but they are different documents.

Dan Lockwood: That clarifies quite a bit, it is 2 different maps....

Jim Pickering: No, no, not 2 different maps, 2 different documents.

Steve Barry: One of which has a map. Both could have a map.

Dan Lockwood: It still doesn't explain why the Planning Board is saying that zoning will be granted though and this document and the committee.

Jim Pickering: Because when that petition, I think it is called the Fair Share Plan, or whatever it is, is submitted to the State, we have to be able to say, or the municipality has to be able to say here is our plan and if these projects are approved or they are not approved or if this plan gets accepted, then we will implement it. You can't send.....if they decide that this doesn't have any likelihood of getting done then they are not going to approve it, but that doesn't mean that the Township doesn't have an intent of changing or amending or finding better ways or anything, and is frankly what I think was the process.

Dan Lockwood: I only bring this up because apparently the attorney for the Conifer Project, Mr. Schmidt has a difference of opinion.

Jim Pickering: I am sure that may be, that he does, but I am not going to comment on that one way or the other .....I don't believe that.....

Dan Lockwood: Maybe I commented on his comment, but please comment on the ability for the Township to defend themselves in this regard on our behalf, that is what I want to know.

Jim Pickering: Well, the main thing that the Township has been doing is protecting this community from a Builders Remedy Lawsuit, which if it did not submit this plan, it would be open to, which would mean significant difficulties, hazards, expense to this community, so by submitting this plan, getting it in, the rules were done I think on October 20<sup>th</sup> of 2008, and we had to have a plan in by December 31, 2008, otherwise we would have been subject to a Builders Remedy Action, which is a horrendous result and a horrible burden on a community. So, the Township has taken a position that they would rather protect the taxpayer of the municipality and get this petition in, get it in by 12/31 knowing full well it is probably going to require an amendment and any other number of things, perhaps require amendment, but you know you are asking questions which, um, the Township Committee can't really....well no, the Township Committee can respond because these documents are important and they are protecting the municipality. You might want to tear them down and say that we shouldn't have these documents, but if you did, we would be essentially bare, we wouldn't have any protection from the developer who wanted to come in, such as these developers.

Steve Barry: You didn't do your reading assignment.

Dan Lockwood: I think that our protection would have been adequate without saying that we are granting zoning.....

Jim Pickering: What protection would that have been since you are the expert now?

Dan Lockwood: It would have been the same as what you are professing.

Jim Pickering: I can only tell you I am not an expert in the COAH law, ok

Dan Lockwood: You just told us you were protecting us and now you are telling me....

Jim Pickering: I fully believe that is the case, because when I speak to the people who are the experts in the COAH Law, and I have done so repeatedly, they have insisted that we had to get something in by the 12/31 deadline or we would have been bare, we would not have had the protections, period. And that is why almost every municipality in the state, or the majority of municipalities in the state, did get their petitions in by 12/31, precisely because they wanted to be protected.

Dan Lockwood: Other than maybe municipalities like Lower Township who didn't get theirs in and they have no pending Builders Remedies.

Jim Pickering: Well, maybe they don't have any pending Builders Remedies suits, maybe there is going to be one filed tomorrow or the next day or 6 months from now...

Dan Lockwood: The sky may be falling....

Steve Barry: Well, this is a serious problem that we have dealt with as serious adults, Dan, and I appreciate this is new to you, but try to be respectful because this is a very difficult problem that we have all been working very hard on.

Dan Lockwood: I am sorry, .... to you Mr. Barry?

Steve Barry: Yes, to everybody...

Dan Lockwood: Your demeaning tone is not necessary...

Steve Barry: Well, I certainly don't mean anything by my tone, I appreciate what a difficult topic this is, it is really very hard.

Dan Lockwood: I understand.

Steve Barry: And I do appreciate that.

Dan Lockwood: And I have some basic questions and I am learning and I think it is fair to say this is worth discussing instead of having a seminar on it by the attorney.

Steve Barry: Well, I think it will be a high quality seminar to the extent that you have questions and I hope each one is full, fully answered.

Dan Lockwood: Ok, in addressing the serious issue about affordable housing, why don't we have, as a community, some sort of active housing board or something that addresses this issue about who are we trying to house within our community verses catering to the state and to COAH projects.

Jim Pickering: You call it catering to the state, but if we don't, this is the real world, it is the way that it is, we can't deal with the world the way we want it to be, the way it is, is that COAH exists and the state says these are what the regulations are, this is what is for real and if you don't do it you are subject to all sorts of dire problems, dire consequences, so it is not a matter of catering to the state, it is a matter of this is what the regulations are and they are telling us these are the consequences. The municipality could certainly say we are not going to participate in this COAH stuff, but the consequences of doing that are pretty draconian, so that is why most municipalities are complying.

Dan Lockwood: Well, the state also said we only had a 636 unit obligation and we said no it is 360 and it is more than that and we raised our own....I discussed it with Vince and he gave me an explanation so I understand a part of that. But I still have been told with one hand that this document is just to protect us from....it is to get the ball rolling and to protect us from Builders Remedies suits and it is part of the Master Plan, it is subject to change and on the other hand it is subject to change by us, to our detriment to some extent, but that still doesn't answer my housing needs question.

Jim Pickering: Your housing question is....I can tell you that COAH has regulations as to which people are who can get on the list, what their income levels, limits can be, that is who they are trying to provide housing for.

Dan Lockwood: I am talking about just a local volunteer type board for....to address our community's housing needs, not the state's housing needs.

Jim Pickering: So now you want the municipality to take on a housing plan or what?

Steve Barry: You mean like you want us to have public housing?

Jim Pickering: Do you want the municipality and its taxpayers to pay for housing for people?

Dan Lockwood: No, I wanted to maybe have a proactive approach to this, to try to seek out and help people that are in need of housing. Who needs homes here and the children that they have that need homes or maybe its children alone. Again, at a recent event I was told that Cape May County is dead last in a list of counties in the state on the health and the welfare of their children. I don't have the facts to support that statement, but taking it at face value I see it may be an issue, but yet it is unaddressed. It doesn't have to cost money, I have talked to numerous people that said that they would volunteer for a board that would address our housing needs. My understanding is there is a community of church leaders and clergy in Whitesboro and surrounding areas that are already trying to address this issue. So, is there anything available from the state that can be given to these people to live in our homes that we have here already.

Jim Pickering: One of the things that I do know is that Middle Township has consistently supported Habitat for Humanity over the years. There has been a long term relationship with them, I believe the municipality, before I was here, donated lots to build Habitat homes. I know right now we are in the process of trying to convey 2 lots to them. We have been in that process where they have reviewed the sites and hopefully we will be able to make that transfer in the not too distant future. We have supported the association for retarded citizens and their homes and their projects here.

Dan Lockwood: So there is no need in your mind for a....

Jim Pickering: Nobody said there is no need....

Steve Barry: Well, you are standing right next to Mr. Noel who is the head of our Plan Endorsement Committee and for a largely residential community like Middle Township, the whole Smart Growth and Plan Endorsement issue centers around housing and appropriate development and meeting of our housing needs, so it is in fact an ongoing process. Unfortunately what has happened is that we are the victim to some degree of warning state agencies, the Department of Community Affairs, the DEP and Smart Growth and COAH has become the tail that is wagging the dog and is really threatening to break the process apart for many, many municipalities like ours. So, we actually are doing it, that is what Plan Endorsement is all about, planning for a community that adequately houses and transports and provides services to all the residents that we have. I think we are doing it, certainly any group that wants to figure out and work on how to close the gap between what it cost to create a unit of livable housing, and what a person, let us say who is at 50% of the income median, which is where COAH prices things, at 50% of the median, closing that gap is an enormous challenge, it is a very large dollar gap and yes we need all the help we can get in closing that gap.

Dan Lockwood: I guess my last comment would be I constantly hear about how we are at the mercy of COAH, but yet Senator VanDrew recently that COAH is going through a reform that could happen as soon as June.

Steve Barry: He introduced Senate #2524, which I am sure you have had an opportunity to review it and if that is enacted and there is a companion Assembly Bill, it will make a lot of our problems go away.

Jim Pickering: Some of the problems, make no mistake we are still going to have a big number, we are still going to have to go through this whole COAH process, but it will greatly help.

Dan Lockwood: Thank you very much.

Sam Kelly: A couple of things here. I feel so bad for Dan. You guys are a rough dare to get when you are out here alone and you are kind of picking us off. You say that Township Committee does not have to give an ordinance to something from planning, and that's for sure. But if you don't, then planning did nothing and planning and zoning are nothing but a reflection of a local government body. I didn't make that up, that is reality. We have a reputation here within this community, we are the only one community in Cape May County, a vacation destination full of box stores and a mall. We have paid half this thing. Next door to my home is 23 homes on clear cut lots, totally clear cut. Reputation from Township Committee don't stand well right now for us to sit and feel real good about looking at this document that is defining Conifer within it, and yet we are led to believe when we speak to members here, like nobody ever knew a thing was coming, but we see Conifer defined in there several times so it is hard for me to think that someone on committee did not encourage, did not lead these people to believe that there was a good opportunity for that type of housing, which we are absolutely rejecting. And I am saying to you again, when he says to you about your zoning, your planning, we have a Master Plan that was adopted, you made a promise to me, what were the 2 things you kept saying to me, Sam, what do we need to do in Rio Grande or in Middle, we need to get green. Two things were going to happen, one we got to get a Master Plan and two we got to get teeth to the one we got. We never gave those teeth to the one we got, so we got none. If Township Committee doesn't do anything, than those people have no document. They can, can do a doc, but we got nothing. The reputation, the reality, this real world that I just heard you talk about, this is the real world....the real world is that Middle is just paving itself from end to end, and the contractors', we watched a...watches role away, take a resolution that

defined, what am I trying to say here, when you through out the resolution on the impact studies...we watched that happen from this committee. You guys don't have the best standing here for the public's view of protecting our interest to not pave this thing from one end to the other. And then if you sit up there and you take this guys questions that are as legitimate as the day is long, we are not attorney's, we don't know this piece of business, but we are here and we are really truly concerned and what we have seen is not pretty. Rio Grande is not a pretty place, it is just not a pretty place. I came to you guys, I remember when you called me an errand boy for the DEP because I said look, we have a development opening on this end and over on this end it kind of looks to me like we are going wind up with 40, but we will still be able to avoid CAFRA on the thing. But, no one up here really cared. We haven't run into anyone who really cared. We've seen the developers be protected within this community, we've seen so much happen in a long period of time and now you are asking us to just trust you, and that is a hell of a thing for any of us to do. And then the sarcasms that come from up there collectively, it is just a shame, I feel sorry for you Dan, I really do buddy, the beating was unnecessary, and it was unnecessary guys, it really was. Thank you very much.

Vilma Pombo: Would you track for me the COAH plan that you submitted in December 31<sup>st</sup>, in March COAH certified it as complete, what was that fee, it was around the 9<sup>th</sup> or 19<sup>th</sup> or something that it was certified.

Kim Tomkinson: I don't recall. If it is the same letter that I .....I have it upstairs, if you call me tomorrow I will have it on my desk.

Vilma Pombo: But the public has had the possibility of making comments until April 23<sup>rd</sup>, is that correct?

Jim Pickering: There is a date that they can make comments until, yes.

Kim Tomkinson: It is 45 days, if I am not incorrect, from the day it is actually advertised, I think.

Vilma Pombo: From the date that it is advertised or the date that it is certified?

Kim Tomkinson: No, that it is advertised. Then again, it is upstairs, if you call me I will give you a copy tomorrow.

Vilma Pombo: Ok, but most of the public didn't know that, most of the public doesn't read the public ads, especially when they are in the Press, and I know you are under pressure by the state where it gets put and when, but it would have been a nice gesture if you would have also given a local press release for a paid ad in a local paper.

Kim Tomkinson: The State outlined where, when, what language we had to put in the news. They indicated that we had to put it in the Press of AC, the Courier Post or I think the Newark Star Ledger.

Tracey Taverner: If you ever look at the bottom of those ads they are extremely expensive, all of our ads.

Kim Tomkinson: So, we chose the Press of Atlantic City because that is the one best for our municipality.

Ralph Shuman: My question goes to Steve. Steve it has been said to me a couple of times, right, do you visit the gym that Doug Fulford has at his house.

Steve Barry: Yes.

Ralph Shuman: Ok, I know that there is some kind of relationship with Doug Fulford and Fred Schmidt on the Conifer project, do you feel that you are conflicted in any way by using the gym over at his place.

Steve Barry: Yes, but the Conifer Project, I have conflicted myself out of it.

Ralph Shuman: Ok, because my other question was, you know, you being a lawyer, have you and Fred Schmidt ever worked together, but you have already said you are stepping aside on the Conifer project.

Steve Barry: Yes, I already did, I mean lawyers sort of work together all the time, sometimes it is working against each other, but I have dealt with him for 33 years.

Ralph Shuman: Is the committee going to have a different lawyer, is Mr. Pickering conflicted too?

Steve Barry: No.

Ralph Shuman: You are answering for him.

Steve Barry: Yes

Jim Pickering: Why would I, I can't think of a conflict I have with either Conifer, or Mr. Fulford or anybody.

Ralph Shuman: I just figured that was a fair question.

Steve Barry: Yes, it is a fair question.

Steven O'Conner: I must apologize, I don't quite understand. The Conifer Project, has that already been included in the COAH proposal to the state?

Jim Pickering: It was made part of the Fair Share Plan, yes.

Steve O'Conner: And was that discussed publicly or ...

Jim Pickering: I'm sure, well there were public hearings on the Fair Share Plan, yes.

Steven O'Conner: And that was discussed in the public hearing?

Steve Barry: Many times, I was there.

Jim Pickering: I believe so, yes.

Steve Barry: There is an unstated question, let me anticipate it and answer it, you know with COAH there are different rounds of obligations, and if you look at the submissions, some of these proposals, it is not that Township Committee or the Plan Endorsement Committee likes those proposals or supports those proposals or the suggestions from developers that they might do those things, but if they are put in there for satisfaction of the second round, if they happen, and in some respects with maybe with some projects we hope they don't, some we hope they do, I don't make a comment on that, we are much better off having a project if it is built included in the second round or the third in terms of satisfying our COAH obligations. So, there is a very powerful incentive since they're floating around out there to essentially mention them so that, should God forbid from some people's point of view they come to pass at least we got bigger COAH's credit for them.

Steven O'Conner: At least, I'm sorry, what was that again?

Steve Barry: I understand from some folks point of view, and I make no comment about whether any particular project is a good one or a bad one, but if people, if developers have said, you know we are thinking about this, that or the other project, and it is included in that submission, it can be included as meeting the second round obligation, and what that does is it doesn't increase our third round obligation, because our third round obligation is a function of how much is built. So we save ourselves from building additional COAH units by including it in the second round. I realize that sounds crazy, but ...

Steven O'Conner: So the Conifer Project will go to the Zoning Board now, that is their next step, correct?

Jim Pickering: It is up to them, that is where they decided to go. That is where they submitted the application, yes.

Steven O'Conner: Ok, and the Zoning Board will approve it or disapprove it?

Jim Pickering: It is up to them. If it gets to the end and there is a vote, they'll either vote it up or down or approve it with conditions or whatever other things they can do.

Steven O'Conner: Say either way, say it is approved, would it go then to Township Committee for their approval or if disapproved would it go to Township Committee on an appeal.

Jim Pickering: No, what could happen is if it is disapproved it does not come to the Township Committee, it would go to Superior Court, ok, if the applicant wanted to appeal that decision. If it is approved, they have indicated that they would come, the Land Use Approval does not come to Township Committee, ok. But, what they have indicated is that they would then come to Township Committee to ask for something totally different than the Land Use Approval, they would ask for something called a payment in lieu of taxes, and that is the issue, along with a couple of other issues that would come to Township Committee.

Steven O'Conner: So if the Conifer people decided to drop the tax issue, they would not have to come to Township Committee ?

Jim Pickering: They probably would also have to ask for, I think there is a Resolution of Need, that they would require from a municipality, but the payment in lieu is really the big issue that they would have to come to the Committee for.

Steven O'Conner: Alright, I would just, you know, I would just say that I think COAH is going to change and our Senator has already indicated that he intends to try and change it and I would say that this Township or any Township should proceed with caution because I think you are trying to meet regulations that may very well not exist 6 months from now.

Jim Pickering: Well, I don't think there is any doubt, most people would agree that we had to get something in by 12/31. Make no mistake, this Township Committee hasn't done anything to encourage those projects or to do anything further on this COAH issue. That 12/31 application is in, we have been able to protect the community from the Builder's Remedy Action. You know, these other applications are not Township official business, these are individuals, entities, that have come and applied to the Zoning Board, and the fact that they have to go to the Zoning Board is an indication that it is not permitted under our local ordinance.

Steven O'Conner: Well I don't have any problem with what has happened already, I think it was the best thing to do considering the alternatives of Builder Remedies, I am just saying that at this point I don't think the Township is under any pressure to meet the regulations because I think the regulations are going to be quite different 6 months from now than they are today. I don't think the Township has to do anything else.

Jim Pickering: What is happening right now is this is the comment period on our plan and after the comment period ends the COAH people will take the comments and they will respond and then they send us a letter. At that point we can amend or we can respond, whatever the process is, whatever Township Committee would choose to do. So, there is still a long road ahead before we ever get to the point of doing.....

Steve Barry: And we don't want to travel it quickly.....

Jim Pickering: For the reasons you are stating..

Steve Barry: We see this exactly as you do.

Elijah Scull: I am worried, and I am wondering if you guys are perhaps worried now. When we submitted the Master Plan to the state and it looks like if we are attempting to conform with COAH regulations in the future if they do remain to exist, wasn't that a mistake? Isn't that not essentially saying that we are a community that could make COAH fit. We do have enough jobs here and we do have enough market rate housing and the commercial growth to support everything that COAH needs to exist. It seems like the

Master Plan that you submitted suggests that this would work, yes we have room for more people to come here, we have room for the low income, we have a need.

Steve Barry: You know, Sam was criticizing just a minute ago, that really is an excellent question because what you are saying is what if COAH survives. What if the monster lives? COAH ignores some really, really important things. Remember I talked 2 weeks ago about that fair share housing shouldn't destroy the fabric of your community, or alter the fabric of your community and that is really exactly what we are threatened with because the whole concept of Mt. Laurel and COAH really comes from different source of communities. Smaller communities that are at war with each other to keep the poor people from one community that, or so the richer people think and it is sort of this economic stratification. We've never had that here. We really didn't have much in the way of rich people and quite a few people of modest means, so COAH doesn't care, although it should that there aren't a lot of jobs down here, they don't care that by moving people around they burden school districts. They don't care that they really, Rio Grande for example, one of these projects that is proposed is on mile post 4 of the Parkway. I just came down the Parkway on Saturday and it just gives you, when you are up around mile 160, 140, 130, that is where all the people are, there is nobody down here in comparison. So, COAH thinks we need to build 115,000 affordable units by 2018, which is you know, 9 years away, or at least create the realistic opportunity to build these 115,000 affordable units. And not to get too bogged down to this whole numbers thing, but if you really use their numbers, they want to put just under 1% of them in Middle Township. That is completely nuts, but they don't care that there are no jobs here. They just don't care. We have sort of an unfavorable problem where there is quite a bit of land near sewer here in Middle Township, so what we have to do is fight this a bit like General Washington fought the Revolutionary War, he didn't go out and win battles, he survived to fight another day, and that is really what we have to do. We have to survive until the bureaucrats and reality finally sinks in in Trenton. Now reality sinking in in Trenton may seem like a fantasy, and maybe it is a fantasy, but we have to fight to survive another day. They hold all the cards over us and if we just say we dare you to come and get us, then we are just naked to folks who want to have these projects just going right to Atlantic City Superior Court and getting what they want with a burden to the taxpayers of hundreds of hundreds of thousands of dollars and a complete loss of control on our part. And a complete loss of control on our part of what the COAH plan will be, because if we don't have a COAH plan, and we get hit with a Builders Remedy lawsuit, not only do we get stuck with a development that we don't want, we pay hundreds of thousands in legal fees and planners fees, because a special master gets appointed, and we still have to do a plan and that plan is dictated to us by a Superior Court Judge and a planner picked by the Superior Court Judge, who are talking to COAH and completely ignoring us. You asked the perfect question. Sure, if we keep fighting the battle and ultimately the good guys win and they go this is insane, we can't do this to Middle Township, wonderful. But what if, God forbid, the monster lives.

Elijah Scull: It is their battle, our battle, and if there are 2 people in a battle, to me, if it was my battle, I would fight to win the battle the first round, not do something that allows another round!

Steve Barry: How do you envision that?

Elijah Scull: It would be mine to prove that there are not enough jobs here to sustain the growth that they suggest that fits our community. We need to prove that we don't have those jobs and probably really don't have the commercial growth...we might gain 3, but we lose 1. To me it is all about numbers really.

Steve Barry: It is.

Elijah Scull: And we need to put our numbers together and say no, we don't fit, this is not Mt. Laurel and not say, maybe we do fit and maybe we can change our zoning so it might work for you guys, I don't think that is the way to go.

Steve Barry: We are actually fighting that war on a different front already and have been for over the last 6 to 8 months. We jointed a coalition of municipalities that have appealed all of these regulations and that is one of the basis of the appeal. We have said they don't make sense. Just to give you a taste of just how completely and totally nuts this is, guess what city has a Fair Share Housing obligation that they are supposed to, through zoning, create the opportunity for construction of affordable housing. It would be the last town in the state that you would think of. Camden...Camden is supposed to build affordable housing. We are dealing with people who....exactly what you suggest the League of Municipalities is already doing.

Elijah Scull: Well the law stated that all municipalities must, they didn't exclude anybody unless you have a unique situation

Steve Barry: Right, and what Mt. Laurel is about was Mt. Laurel trying to keep people from Collingswood moving from Mt. Laurel and Collingswood was trying to keep people from Camden from moving to Collingswood. But you are absolutely right, and that is one of the things that we have been doing since the middle of last year is fighting exactly on that front, and so are dozens of other towns.

Betty McGurk: On that note Steve, I have spoken to different people at COAH, our Case Manager, Judy Adams, who is actually on maternity leave, so it is now another gentleman and with speaking with COAH the only thing, and I have to agree with Mr. Scull on this a little bit, is when I was speaking with them I stated the county's unemployment rate of 16.1. They did not know that. And then when I stated to them, well how could you possibly....that's part of your calculations and things and she said it is up to your township to tell us. I said well have they told you and she said absolutely not we have had not one....

Jim Pickering: I can tell you that she is lying to you because I have sat down with the Commissioner himself, I have spoken with Lucy Vandenberg, head of the whole thing and I went through this point by point and they are flat out lying to you and you can quote me on that!

Steve Barry: I was there, you absolutely told them.

Betty McGurk: Ok, like you said....that's good to know because when I was trying to state to them about yes, you get stores like Stop N Shop, well they were built within that time but of course they do a lot of blaming of the Township because they said they were expecting 300 and some houses, I forget what it was, for the past round, the one that has.....

Jim Pickering: The obligation for one and two is 454 units.

Betty McGurk: Well they said what had happened is that they were anticipating when they had done their future anticipation that we had like doubled it. Instead of like 386 units or something, we actually built 900 and some and that is the reason why we have such high numbers now...um

Steve Barry: That would be the 3<sup>rd</sup> round you are talking about, right?

Betty McGurk: Yes, for the third round. It was because we have almost 3 times of what they anticipated. But, included in that were things that that time table liked, the Stop N Shop which is now empty, and there are so many commercial buildings right now that are sitting empty. We have all those on Indian Trail, that good to know because they told me when I was telling them and relaying this they said they did not have any idea that that type of situation was existing down here.

Steve Barry: No only do they know, they very politely, remember I talked about, they were very polite people Betty and very politely they told us they didn't care.

Jim Pickering: They smile when they say it. It is not a factor. The jobs that we can employ these people in is not a factor as far as they are concerned when the number is calculated.

Steve Barry: Which is stupid.

Elijah Scull: Is that a factor in court, if it ever had to go to court?

Jim Pickering: Not under the regulations, it is not a factor. It is one of the absurdities of the process is where are these people going to be employed to live in workforce housing and the jobs aren't there, they don't consider that as a factor.

Elijah Scull: Is that a factor in the Builders Remedy lawsuit? Would that not be a factor?

Jim Pickering: I don't believe it is, no because it is not in the regulations, its got to be in the regulations and it is not there.

Steve Barry: And that is another great question, it is something we talked about today with our COAH Council and it is something really good to ask them about specifically on May 6<sup>th</sup>, that very issue. That is what points can you hope to succeed within the Builders Remedy and what can't you. What are your odds and where can the case take a turn your way.

Jim Pickering: The biggest absurdity to me in this whole process is that it is supposed to be so that you stop people from being....you stop discriminatory zoning and you encourage a type of low to moderate affordable housing. But, they don't even consider that your existing zoning might not discriminate against low/mod housing. So under the 2000 Census here in Middle Township, I believe that it was over 20% of our units fit within the low/mod designations, but they don't care. They don't factor that in at all, that we never did discriminate, that we had zoning that encouraged low/mod units and that we still have a significant number of our units that are still low/mod units. They don't consider that at all, it is not a factor for them. It is a parallel universe, it is bizarre, it doesn't make any sense. But, like I said, that is the world that we have got to deal with, not the one that we wish existed, it is the one that does.

Eileen Fausey: I am just here to a, the Middle Township Tax Association asked me to deliver this to you. They would like it read into the record.

**MIDDLE TAXPAYERS ASSOCIATION  
Middle Township, NJ  
RESOLUTION**

DATE: April 15, 2009

**WHEREAS**, the Middle Township Committee and Planning Board submitted a Fair Share Housing Plan to the NJ Department of Community Affairs, Council of Affordable Housing (COAH) dated December 30, 2008, and

**WHEREAS**, thereafter the Middle Township residents became aware of the amount of affordable housing that Middle Township had obliged itself to construct by the year 2018, and

**WHEREAS**, it became obvious that in order to fulfill the COAH obligation as outlined in said Fair Share Plan, it would be necessary to have a multiple number of variances given in order to accomplish the construction of the various projects outlined in the said plan, and

**WHEREAS**, due to the environmental issues, economic issues, labor issues, and infrastructure of Middle Township, that the Township would be unable to sustain the services needed without putting a huge tax burden on the Middle Township taxpayers, and

**WHEREAS**, there is presently affordable housing in Middle Township but not considered as such by present COAH regulations, and

**WHEREAS**, there has been a public outcry against the type of affordable housing outlined in the Fair Share Plan by Middle Township taxpayers, and

**WHEREAS**, the Middle Taxpayers Association is aware of proposed legislation that may change present requirements of COAH, and

**WHEREAS**, the Middle Taxpayers Association acknowledges the need for affordable housing in the Township that is equitable to current residents, and would not endanger persons already living in affordable housing in the Township to be forced out of their residences by an unfair tax burden to facilitate the addition housing contained in the Fair Share Plan, and

**WHEREAS**, the Middle Taxpayers Association voted unanimously on April 15, 2009, to adopt a Resolution to require the Middle Township Committee to immediately amend its current Fair Share Plan and to challenge present requirements of the NJ Department of Community Affairs Council on Affordable Housing and to not act on any pending applications for affordable housing until such time as all pending matters concerning such are resolved.

**NOW, THEREFORE, BE IT RESOLVED**, the Middle Taxpayers Association shall present to the Middle Township Committee a Resolution requiring it to immediately amend its current Fair Share Plan and to challenge present requirements of the NJ Department of Community Affairs Council on Affordable Housing and to not act on any pending applications for affordable housing until such time as all pending matters concerning such are resolved.

**MIDDLE TAXPAYERS ASSOCIATION**

  
Eileen Fausey, President

  
Betty McGurk, Vice President

Attest:   
Vilma Pombo, Secretary

Steve Barry: Are you sending a copy of that to the COAH as one of the comments on the plan?

Eileen Fausey: Yes, I will.

Steve Barry: Great, thanks.

Larry Newbold: It wouldn't be a good night unless I brought up the Frenchman's property. This is like the 4<sup>th</sup> time, I have already brought it up to Code Enforcement 3 times. The last time I was here is suggested that possibly a letter going to the French Embassy. Mr. Pickering is very good at writing. I am sure a letter from him to the French Embassy asking whether this guy was alive or dead would be very interesting.

Jim Pickering: I can't speak French though.

Larry Newbold: I am sure they have interpreters. The place looks like hell, and has been and as far as affordable housing, my god, you have places like this that you can move into right now. Of course the mildew is probably so bad that after 20 years that it is probably a health problem. You bring up all of this affordable housing, I got some real concerns about especially Rio Grande, it is bad enough in Cape May Court House, which is abominable, both of them are, both of which you are going to have to supply some water, especially in Rio Grande. And, guess where it is going to come from. Wildwood Water Works. Wildwood Water Works has already had some concerns about arsenic and chlordane in their water supply. Arsenic was used to embalm Civil War soldiers and send their dead bodies home so they wouldn't rot. They didn't have refrigeration. This is the same water supply that will be supplied to these people if this gets approved. If it gets approved and the water supply is not up to standard, guess what? Middle Township can build a new water supply system down there. This is all coming from the Brodesser dump, which is immediately behind the Wildwood Water Works. Patolic water from the dump actually hit the intakes of the Wildwood Water Works. This lady down in Wildwood that has reverse osmosis on her kitchen sinks and the results are absolutely atrocious. And, to really top it off, the other day the Philadelphia Inquirer, Joe Hart got a copy of this, the Governor and the DEP is now considering that any polluter that has already polluted can hire their own engineer to clean up and their own engineer will certify that it is clean. This is again classic fox party chicken poop. On July 1<sup>st</sup> of 02, Lisa Jackson, who headed up the State of New Jersey DEP commissioned a water study for \$2.2 million dollars to study Cape May County's water supply July 1<sup>st</sup> of 02. I guess we can all buy party hats and noise makers and on July 1<sup>st</sup> we can celebrate 7 years and we still haven't seen the water supply study. I mean it is nice to put in a development and everything else, but where

is the water supply going to come from. We have some atrocious problems in Cape May County, it is not only salt water intrusion. We have the dump out on Indian Trail there and every place you turn around. I got phone calls from everybody, I still do, I just gave out a phone number tonight to somebody that's got problems, but for a lot of people and we are talking about a lot of data, a lot of reports, a lot of studies since back in 62. A lot of water has gone over the dam since then, but almost no action on anything as far as water is concerned. What we have to do is just watch the history channel and read about some of the atrocious problems that we got all over the world. Water shortages, water problems, luckily we haven't gotten to that point yet, but we are heading for it real quick and 2 guesses who is going to pay for it folks. You're it. I hear constantly the builders say we can always to desalinization units. Who is going to do them, who is going to pay for them. Who is going to pay for the energy necessary to run a desalinization plant hence forth and evermore? I'm anxious to see what the French Embassy says about the Frenchman, whether he is still alive or dead, whether he croaked after I met him 20 years ago. Haven't seen him, nobody visits the house, nobody inspects the house, nobody cuts the grass, nobody does diddlyquat. Nate Doughty used to cut the grass, I guess he got paid for it, so I guess maybe the checks were bouncing, I don't know. Found better things to do I guess with his time, but a....I was also talking to somebody the other day that sort of scared the hell out of me. They were saying about the number of lawsuits that are currently pending in Middle Township. Mr. Pickering maybe you could give me some idea of just how many lawsuits are currently pending against us as taxpayers.

Jim Pickering: The exact number I don't know, I know a short while ago I compiled a list with the assistance with the then Administrator and our JIF and MEL representatives. Most of the actions are being defended through our carriers, the JIF and MEL. There are a few which are not. Mr. Barry had been carrying around a list of these.....

Steve Barry: I carried around the list for months. When this first came up there were about 50 cases, which sounds like a lot.

Larry Newbold: That is more than I heard...

Steve Barry: But it is one of those things that sounds bad and really aren't. Overwhelmingly the largest number, about half, were technically lawsuits, but what they are, are condemnation actions for when the sewer went in Rio Grande, so there are little bits of ground here and there, so you look at it, oh my God, 25 cases, so

Larry Newbold: We the taxpayers pay for it, we pay for the lawyers, Mr. Pickering has certainly found the goose that laid the golden egg here....there's going to be lots of business Jim

Steve Barry: Listen, I don't mind explaining this, but whenever you put in something like a sewer, some public works projects, there a number of condemnation actions that have to be filed. That made up about half. Another, at least a quarter, were tax appeals. Every year there is a certain number of tax appeals, and they count. Then there were, and I am doing this from memory and I may be wrong with the number, there were 7 or 8 what amounts to personal injury lawsuits, you know the dog catcher was in a car accident, that type of stuff. There were several car accidents, and sometimes people are disgruntled at the way their case comes out and they sue the police department. There is always a few of them, they didn't amount to much. Mr. Ravitz has a couple of cases and that was about it. That is about it.

Larry Newbold: If there are over 50 in Middle Township I can imagine Wildwood must have 5000.

Steve Barry: Well that is just Mr. DiMarzo's cases.

Larry Newbold: Ok, well I am anxious to hear what the Frenchman has to say here, what the embassy has to say.

Mayor Doughty: The only report that I have gotten back and we have, you know where and I said give me a specific name where neighbors happen to take their leaves and branches over and put them on the guys front yard, we can't prove that but you know....

Larry Newbold: A neighbor put a whole bunch over there yesterday so there are a bunch of leaves out there yet to be picked up. The place looks like a dump so why not keep on dumping there. Nobody cuts the grass, nobody picks up sticks other than me and drags them off of the property and puts them out front. Nobody visits the house, nobody has visited the place in 20 years. No car pulls in, nobody checks it. I can't believe that it is not a health hazard to begin with, a fire hazard or all of the above. That is what you guys get paid for is to enforce this kind of stuff. Apparently you don't have the power to do this or don't have the will to do it. I don't know what goes on, but you know, the time lapse here has been so long, I don't think there are any excuses. I want more action.

Mark Mallett: Our code enforcement official and construction official went out there; I guess last week and also a couple of weeks before that. They said there are no code enforcement issues, there are some leaves and branches in the yard, but nothing that is a code enforcement issue. In addition they walked around the house to see if there were any broken windows, any wet carpets, any mold on the walls or the ceilings by looking through the windows. There were no issues.

Larry Newbold: How about the gas tanks that are out there in the back of the shed? That's not a code enforcement?

Mark Mallett: According to Jim Amenhauer, there are no code enforcement issues.

Larry Newbold: Gas tanks in the back.

Jim Pickering: What kind of gas tanks, you mean for your lawnmower?

Larry Newbold: Yeh, red cans. I don't know what's in them, I just see them back there. The place looks like hell, Jim. Take a ride, go back there. Get out of your car and walk back, take a look. I don't see anything like that next to your house up in South Seaville. You got a beautiful place up there, you wouldn't put up with this kind of stuff. Why do we have to put up with it. I am anxious for some response. How

many times do I have to bring it up here. There are other things to do other than come to this meeting to keep an eye on you guys.

Madelyn Filipski: I would like to continue on with Sam's theme because first I would like to say that I don't think that there is anybody in this room that does not understand how challenging it can be to be working on a project all day long, doing your best, creating what you think is a wonderful vision in the community and then have somebody not have all the facts and then come up here and question you about it. So I can understand how it must feel, it must feel like a pain in the neck many times, but we are your neighbors, and there are many times that we are spoken to in ways that are not neighborly and probably going back the other way. But I would like to return to the work session this afternoon Mr. Doughty and your basically flagellation of the population in this room by accusing us of not wanting to expend our money on \$18,000 premade rocks. You could have very easily, prior to the discussion of those rocks, said what was wonderful that you had worked to earn to get them here for us as a donation. Instead, you used it as an opportunity to bash us and say we are scrounging for pennies and people that really care about Middle Township would be bricking it in over there. It would have been a courtesy to us, first of all to tell us all the wonderful things that you are getting donated for free here. I think that is a wonderful thing and you deserve credit for it. And it would have been wonderful, instead of the tirade you did, if you had in the beginning said this is really great what we have gotten for our kids over here; somebody is going to donate what is a wonderful opportunity. We all sat through listening to our school superintendent telling us we are number 11 in spending in 70 school districts. You may think the Taxpayers Association would like that, but we want our kids to have things. I don't want to spend \$18,000 on a fake rock for them to climb. I want to spend \$18,000 that they need in the schools and maybe bump us up to number 20 while we spend on our kids. And I don't think that means I don't love my town or that I am scrounging for pennies. So, you turned what could have been a very beautiful moment into flagellation of the people in this community that are trying to work with you and I think we all need to take a deep breath and treat each other decently.

Elijah Scull: Somebody paid the taxes on that property over there right?

Mayor Doughty: Yes

Elijah Scull: Do we not have ordinances that the grass can only be so high....

Mayor Doughty: Yes, it is all spelled out.

Elijah Scull: It should look prim and proper, so if it is not, then can we not send a township worker over there to clean it up and bill them?

Mayor Doughty: That is correct.

Jim Pickering: If there is a violation.

Elijah Scull: Couldn't we change our ordinances so the whole community could look a little bit better, somehow, I don't know. I go through Avalon and Stone Harbor and it looks great, but they are no different than us. Why can't we have all of our yards look nice. It doesn't cost a lot of money to keep it clean. We got recycle trucks, trash trucks and leaf pickup trucks and it is all great so why should anybody have anything in their yards, and if they do, tax them.

Steve Barry: Our code enforcement officer is pretty good about that...

Elijah Scull: Then how come that one is slipping by him?

Mayor Doughty: It's not.

Steve Barry: Well, if you look at the pictures....the pictures are here so,

Mayor Doughty: There it is right there.

Steve Barry: This came up last summer and I went to look at it and obviously it could be kept up better ....

Elijah Scull: So your answer to that gentleman is it looks fine, you are exaggerating it.

Steve Barry: No.

Elijah Scull: Because he keeps coming back and it is just like tit and tat and tit and tat.

Steve Barry: It is...

Elijah Scull: Well then let's solve it.

Steve Barry: We're not arguing with him I think....

Elijah Scull: No you are not, you are not telling him...

Steve Barry: What he wants to hear...

Elijah Scull: No, no you are not answering him, I didn't hear a response, you didn't say sir it is fine, you are out of line, you are over exaggerating the situation. My house is fine, I will get the address and I will see if it's fine and at the next meeting I will voice my opinion....

Steve Barry: Ok

Mayor Doughty: Thank you.

Steve Barry: What you will see are there are leaves all over the place and some branches on the road...

Elijah Scull: I haven't seen it yet...

Steve Barry: I went and looked at it as a result of one of these complaints...

Elijah Scull: I would tell my neighbor if he had leaves because they would be blowing across and I gotta pick them up or if he had a tarp on his boat, get that thing off because it looks like hell, ya know. We pay a lot of money for taxes and I want the community to look a certain way. I'm not saying that mans property....I don't know how it looks, I didn't look at it yet.

Steve Barry: Well it...

Elijah Scull: I want to do the tour...

Mayor Doughty: Here it is right here.

Steve Barry: 9 Shadow Lane, just off the Court House South Dennis Road.

Elijah Scull: You spent a lot of time on that. I would rather see more time being spent on creating jobs for this community, really.

Steve Barry: Sure.

Elijah Scull: Or regionalizing the school system. Maybe we wouldn't have a COAH issue if we regionalized all the school systems. We would have lower taxes and we could have the best police force and the best of everything and we could make more room for all these other people and all these problems would go away.

Steve Barry: Yes they would. Middle Township's tax base is 3.2 billion dollars. Avalon sends their kids to high school for \$10,000 a pop, which is the average cost. Their tax base is 8 billion dollars and Stone Harbors is 4.3 billion dollars. And when the new high school was built, what around 1960, there was a referendum in all 4 towns, in Dennis Township where you and I grew up, Middle Township, Avalon and Stone Harbor and guess which towns voted to have regional schools and guess which town voted not to. It was no different then, but you are absolutely right.

Elijah Scull: I know, well I spoke to Mr. Kopakowski and he said if we regionalized our taxes would be significantly lower. Let's make it Cape May County, everything a County thing.

Steve Barry: We would have one superintendent of schools instead of 17.

Elijah Scull: I know someone is going to lose a job, that is why they are not going to vote it, but maybe we have to go to the state and say this municipality, we can't handle everything. We need your help now.

Steve Barry: There are more fire trucks on the island that the Wildwoods are on than there are in the City of Trenton.

Elijah Scull: I'm a little worried about fire trucks over here too, are we eventually going to have to have paid fireman. We can't afford stuff now, we let everything go...we just keep stacking our problems, just like this little house thing. We are not even fixing these little problems, then they become big problems.

Steve Barry: Well certainly some....your comments are much appreciated because they are to the point.

Meeting adjourned 7:50 PM

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Kimberly Tomkinson, Twp. Clerk

Minutes prepared By D. Stimmel