

Cape May Court House, NJ  
 August 17, 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 DeLanzo, Committeemember Barry, Township Business Administrator Mark Mallett, Township Clerk Kimberly Tomkinson, Attorney James Pickering, and Engineer Vincent Orlando.

1. PRESENTATION OF RECREATION DONATION – DENNIS ROBERTS BELLEVUE TAVERN
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.)*
3. RESOLUTION NO. 371-09 – PROMOTION – POLICE DEPARTMENT – On motion by Committeemember DeLanzo seconded by Committeemember Barry 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 following employees in the Middle Township Police Department are hereby promoted to the titles opposite their name at the following salaries:*

Name	Title	Salary	Eff. Date
Paul Fritsch	Police Captain	\$112,391.00	08/17/2009

4. SWEARING IN OF OFFICER
5. RESOLUTION NO. 372-09 – APPROVING PAYMENT FOR BILLS – BILL LIST A – On motion by Committeemember DeLanzo 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:*

<i>Dedicated Trust</i>	\$ 8,601.66
<i>Current Acct.</i>	\$ 3,517,676.07
6. RESOLUTION NO. 373-09 – APPROVING MINUTES FOR PREVIOUS MEETING – On motion by Mayor Doughty seconded by Committeemember DeLanzo and passed on roll call, the following resolution was adopted.  
*NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the minutes from the Township Committee meeting August 3, 2009 is hereby approved.*
7. REPORTS: The following departments have submitted their reports for the months indicated: Tax Collector for the month of July; Municipal Court for the month of July; Treasure for the month of June; Treasure for the month of July;
8. ORDINANCE NO. 1329-09 – AMENDING CHAPTER 48, ENTITLED PUBLIC RECORDS – Following second reading, hearing, and consideration for adoption, Ordinance 1329-09 was adopted on motion by Mayor Doughty seconded by Committeemember Barry and passed on roll call. Complete Ordinance is on file in the Clerk’s Office.  
*No Public Comment*
9. ORDINANCE NO. 1331-09 – TO SELL TOWNSHIP OWNED LAND TO HABITAT FOR HUMANITY – Following second reading, hearing, and consideration for adoption, Ordinance 1331-09 was adopted on motion by Committeemember DeLanzo seconded by Committeemember Barry and passed on roll call. Complete Ordinance is on file in the Clerk’s Office.
10. RESOLUTION NO. 374-09 – CLOSED SESSION – CONTRACT NEGOTIATION – POTENTIAL LAND PURCHASE – On motion by Mayor Doughty seconded by Committeemember Barry 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  
NOW THEREFORE BE IT RESOLVED, by the Township of Middle, County of Cape May, State of New Jersey:

- 1.) The public shall be excluded from the discussion of an action upon the hereinafter specified matter: CONTRACT NEGOTIATION – POTENTIAL LAND PURCHASE
- 2.) The general nature of the subject matter to be discussed is as follows: CONTRACT NEGOTIATION – POTENTIAL LAND PURCHASE
- 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.

11. ACKNOWLEDGEMENT OF RETIREMENT: Notification has been received from Officer Michael Harron of his intent to retire effective September 1, 2009.

12. RESOLUTION NO. 375-09 – REFUND OF PAYMENT – SEWER CONNECTION FEE – On motion by Committeemember Barry seconded by Committeemember DeLanzo and passed on roll call, the following resolution was adopted.

*WHEREAS, fees were paid on September 19, 2008 for two units at 12 N. 17<sup>th</sup> Street, Del Haven, otherwise known as Block 393 Lot 5, and*

*WHEREAS, due to economic reasons the units have not been built.*

*NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the following refund is hereby issued in the amount of five thousand (\$5,000.00):*

*DTF Construction Services  
225625 Miller Hill Road  
Cambridge Springs, PA 16403*

13. RESOLUTION NO. 376-09 – LOCAL FINANCE BOARD – ANNUAL AUDIT OF BOOKS, ACCOUNTS AND TRANSACTIONS – On motion by Committeemember Barry seconded by Committeemember DeLanzo and passed on roll call, the following resolution was adopted.

*WHEREAS, N.J.S.A. 40A:5-4 requires that governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and*

*WHEREAS, The Annual Report of Audit for the year 2008 has been filed by a Registered Municipal Accountant with the Township Committee and also Kimberly Tomkinson, Township Clerk, as per the requirements of N.J.S. 40A:5-6, and a copy has been received by each member of the governing body, and*

*WHEREAS, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34, and*

*WHEREAS, The Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled:*

*General Comments  
Recommendations*

*and*

*WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:*

*General Comments  
Recommendations*

*As evidenced by the group affidavit form of the governing body, and*

*WHEREAS, such resolution of certification shall be adopted by the governing body no further than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board, and*

*WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed o the affidavit, as provided by the Local Finance Board, and*

*WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject he members of the local governing body to the penalty provisions of R.S. 52:27BB-52 – to wit:*

*R.S. 52:27BB-52 – “ A local officer of member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than One Thousand Dollars( \$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.”*

*NOW, THEREFORE BE IT RESOLVED, that the Township Committee of the Township of Middle, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said board to show evidence of said compliance.*

14. RESOLUTION NO. 377-09 – RELEASE OF TRUST ACCOUNTS – On motion by Committeemember Barry seconded by Mayor Doughty and passed on roll call, the following resolution was adopted.

WHEREAS, certain monies held in Trust Accounts from time to time may have balances remaining after all fees have been paid, and

WHEREAS, the applicants are entitled to a refund of this money,

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that upon request of the Zoning Officer the following balances in the Trust Accounts as listed on the attached sheets shall be released.

15. RESOLUTION NO. 378-09 – TABULATION COMMITTEE – CONTRACT #2008-13 - HOME REHABILITATION – On motion by Committeemember Barry seconded by Committeemember DeLanzo 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 Township Administrator Mark Mallett, Township Clerk Kimberly Tomkinson, Chief Finance Officer Tracey Taverner, and Grants Coordinator Jill Zarharchuck be and hereby are appointed to tabulate the bids to be taken on Thursday September 10, 2009 at 1:00 PM in the Middle Township Municipal Building, 2<sup>ND</sup> Floor Conference Room, 33 Mechanic Street, Cape May Court House, NJ for the following:*

CONTRACT #2008-13 - HOME REHABILITATION

16. RESOLUTION NO. 379-09 – ACKNOWLEDGEMENT OF RESIGNATION – On motion by Committeemember DeLanzo 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	DEPARTMENT	POSITION	EFFECTIVE
Steven Smearman	Public Safety	EMS Part Time	July 31, 2009

17. RESOLUTION NO. 380-09 – APPOINTMENT – NEW HIRES – PART TIME EMS– On motion by Committeemember Barry seconded by Committeemember DeLanzo and passed on roll call, the following resolution was adopted.

*NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, that the following employee is hereby appointed to the following position at the salaries opposite their names, on an as need basis*

NAME	POSITION	DEPARTMENT	SALARY/WAGE	EFFECTIVE
Katlyn Nolan	EMS P/T	Public Safety	\$10.60 ph	08/17/2009
Daniel Buswell	EMS P/T	Public Safety	\$10.60 ph	08/17/2009

18. RESOLUTION NO. 381-09 – SOCIAL AFFAIRS PERMIT – VOLUNTEER FIRE CO. #1 – MIDDLE TOWNSHIP – On motion by Mayor Doughty seconded by Committeemember Barry and passed on roll call, the following resolution was adopted.

*WHEREAS, Middle Township Volunteer Fire Co. #1 has applied for approval to sell alcoholic beverages at an event to be held at the parking lot adjacent to the new fire house, 112 Hand Avenue, CMCH, on October 3, 2009 from 1:00 p.m. to 6:00 p.m., and*

*WHEREAS, they have provided proper documentation to the Township of Middle,*

*NOW, THEREFORE BE IT RESOLVED, that the Township Committee, in the Township of Middle, does hereby approve the Social Affairs Permit.*

19. RESOLUTION NO. 382-09 – AWARD CONTRACT AND RATIFY AGREEMENT THROUGH NON-FAIR AND OPEN PROCESS – GRANT PREPARATION AND SUBMISSION – PHASE III WHITESBORO WATER PROJECT (2009 SMALL CITIES PROGRAM) - BLAUER ASSOCIATES – On motion by Committeemember DeLanzo seconded by Mayor Doughty and passed on roll call, the following resolution was adopted.

BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the Agreement between Mark Blauer of Blauer Associates, Inc. and the Township of Middle for Grant Preparation and Submission in regards to FY 2009 Small Cities Program / Phase III Whitesboro Water Project, be and is hereby ratified and the contract is hereby awarded through the Non-Fair and Open Process as described in Pay-To-Play Statutes.

NOW THEREFORE BE IT RESOLVED, by the Township Committee, the Governing Body of the Township of Middle, County of Cape May and State of New Jersey, that the following person is hereby appointed to the position designated below.

Blauer Associates – Grant Preparation and Submission –FY 2009 Small Cities Programs – Phase III Whitesboro Water Project - \$17,500.00

BE IT FURTHER RESOLVED that a copy of this Resolution be published in the Herald-Times as required by law.

FURTHER RESOLVED that this contract is contingent upon the certification of availability of funds and submission of State Affirmative Action Certification.

As the Chief Financial Officer of the Township of Middle, I acknowledge the sum of \$17,500.00 (includes \$1500.00 grant application fee and \$16,000.00 service provider fees has been bid for the following service or items grant app. It is further certified that sufficient funds are available from the following appropriation or ordinance to cover this contract : n/a

PO# pending grant

20. RESOLUTION NO. 383-09 – AWARD CONTRACT AND RATIFY AGREEMENT THROUGH NON-FAIR AND OPEN PROCESS – GRANT PREPARATION AND SUBMISSION –DCA PHASE III HOME REHABILITATION PROJECT (2009 SMALL CITIES PROGRAM) - BLAUER ASSOCIATES – On motion by Mayor Doughty seconded by Committeemember DeLanzo and passed on roll call, the following resolution was adopted.  
 BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the Agreement between Mark Blauer of Blauer Associates, Inc. and the Township of Middle for Grant Preparation and Submission in regards to FY 2009 Small Cities Program / Phase III Home Rehabilitation Project, be and is hereby ratified and the contract is hereby awarded through the Non-Fair and Open Process as described in Pay-To-Play Statutes.  
 NOW THEREFORE BE IT RESOLVED, by the Township Committee, the Governing Body of the Township of Middle, County of Cape May and State of New Jersey, that the following person is hereby appointed to the position designated below.  
     Blauer Associates – Grant Preparation and Submission –FY 2009 Small Cities Programs – Housing Rehabilitation Project -- \$17,500.00  
 BE IT FURTHER RESOLVED that a copy of this Resolution be published in the Herald-Times as required by law.  
 FURTHER RESOLVED that this contract is contingent upon the certification of availability of funds and submission of State Affirmative Action Certification.  
 As the Chief Financial Officer of the Township of Middle, I acknowledge the sum of \$ 17,500.00 (includes \$1500.00 grant application fee and \$16,000.00 service provider fees has been bid for the following service or items grant app. It is further certified that sufficient funds are available from the following appropriation or ordinance to cover this contract: R-23-56-880-000-011 PO# pending grant
21. RESOLUTION NO. 384-09 – AUTHORIZE APPLICATION – 2009 DRUNK DRIVING ENFORCEMENT FUND GRANT – On motion by Committeemember DeLanzo seconded by Committeemember Barry 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 approval for the application for the 2009 Drunk Driving Enforcement Fund Grant be and is hereby approved.*  
*FURTHER RESOLVED, that Police Lt. Paul Fritsch is named as the Contact Person and that the appropriate officials are hereby authorized to sign said documents.*
22. RESOLUTION NO. 385-09 – APPROVE CHANGE ORDER NO. 1 – WHITESBORO / EDGEWOOD PHASE I SANITARY SEWER PROJECT – On motion by Mayor Doughty seconded by Committeemember DeLanzo and passed on roll call, the following resolution was adopted.  
*WHEREAS, on November 20, 2008 via Resolution No. 510-08, the above project was approved, and*  
*NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, that the attached Change Order #1 for the project awarded to Perna Finnigan Inc., be and is hereby approved in the amount of \$3,966.86.*
23. PRESENTATION ON COAH – SENATOR VAN DREW AND ASSEMBLYMEN ALBANO AND MILAM
24. RESOLUTION NO. 386-09 – APPROVING INTERLOCAL AGREEMENT BETWEEN TOWNSHIP OF MIDDLE AND CAPE EDUCATIONAL COMPACT – On motion by Committeemember DeLanzo seconded by Committeemember Barry and passed on roll call, the following resolution was adopted.  
 WHEREAS, N.J.S.A. 40:8A-1 et seq. provides municipalities to enter into Interlocal Agreements for Shared Services; and  
 WHEREAS, the Cape Educational Compact is requesting the use of the Martin Luther King Center, 207 West Main Street, Whitesboro, New Jersey; and  
 WHEREAS, they are requesting these services from September 10, 2009 through June 23, 2010; and  
 WHEREAS, the Township of Middle hereby accepts this Interlocal Services Agreement between the Township of Middle and the Cape Educational Compact with the following fees to be paid to the Township of Middle in the sum of Twelve Thousand (\$12,000) Dollars (calculated at \$75/hour for 160 days) to be paid by April 1, 2010 for use of the facility from September 10, 2009 through June 23, 2010; so  
 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 Interlocal Services Agreement be hereby adopted.
25. PUBLIC COMMENT:
- Senator Jeff Van Drew – discussed S2524 and A3697 and the effects of COAH on Middle Twp.
- Daniel Lockwood – asked the difference between this bill and the previous bills. Would it be your conclusion that our development within the State is being driven by housing advocates?
- All agreed that COAH units do not count unless marketed elsewhere outside of region.

Agnes Keenan – what towns have won lawsuits and what basis. If lawsuit comes down what facts have to be addressed?

B. McGurk – affordable housing, many units affordable but with 30 yr deed restriction they cannot count so therefore they never get a true grasp as to what the town has that is affordable. They do not have actual numbers of need. Would love to see legislators change Constitution.

Eric Wechert – stated that the COAH number is absurd with the obligation of 700.

Charles Helwig – stated that the township cannot afford anymore increases. “This is a real burden”.

Eric Springer – 700 units if only have 2 kids that's 25 million dollars in the school system. We are looking at a couple million dollars that the taxpayers would have to pay out. Would DCA have to come out with “formula”? Not most trustworthy.

Jennifer Menz – is there any room for regional consideration for areas that are away from suburban and cities. Are they considering anything? Is a Moratorium completely off the table?

E. Fausey – wasn't COAH done legislatively? “And isn't NJ not the only one of the few states that have something like this”?

J. Pickering – it is not a constitutional requirement that municipalities provide affordable housing.. what the Supreme Court said is that individuals have the right to affordable housing and then after the courts and the legislature have been trying to fulfill those rights. And I think the only way to turn this on its head is for the legislature, for the people of the State, to say that it is not a constitutional right. I have argued that we do not have a constitutional right to things more basic than affordable housing such as food, health care, clothing... so why do we have a right to affordable housing.. I have just not seen that it is there.. but the Supreme Court has said that it is there.

Committeemember DeLanzo – perhaps a petition would be more fruitful if we did it in that venue... if we encourage other towns within the state to have petitions it might be better received.

J. Ravitz – I think Jeff is doing a good thing .. and rehab of existing housing stock will stimulate the economy.

B. McGurk – is it possible to place something on a statewide ballot?

M. McGurk – Discussed Mt. Laurel 1 and 2 findings.

Agnes Keenan – Ordinance 1335-09, land owned sellable to habitat... #4.. might not get credit!?!

E. Fausey – nothing in legislation that eliminates restrictive deeds? If real affordable housing was counted we would meet that in a heartbeat.

Charles Keenan – asked Van Drew to elaborate on Senior Housing and obligation percentage.

Pam Eaves – laws have been put in places that are haphazard. Asked Van Drew to explain process...

Committeemember Barry discussed Special Master George Seltzer for HCB. Order signed about a week ago. Also discussed how anyone interested can have input.

Mayor Dougherty announced Color Guard at Phillies Game

Jay Otto – stated that Walmart is not a campground and there should be an ordinance prohibiting camping in the campground.

Eric Brickert – why hasn't something been done.

E. Scull – if you're working on it.. then if I was to call the police to have them removed then would they come out and make them move? Or is there something that stops them from doing that. What is it?

Mayor – “I am not legal to tell you that .. we are working on it”

Dan Lockwood – Housing Board Meeting .. when.. Public Meetings?

Committeemember DeLanzo - August 25<sup>th</sup>

D. Lockwood – what actions if any has been taken to replace the 2 people that did not want to be on board.

J. Otto – Potholes and overgrown trees on Cook's Beach Road.

V. Pombo – Middle Vision Community Questionnaire .. Talked to a lot of people that were not aware and system was down a day .. Can you extend due date.

B. McGurk – thank you for visionary meetings

Charles Herwig – Please replace Dias Creek Road

V. Orlando – stated it is a county road

Committee went into Closed Session at 8:10pm

---

Kimberly Tomkinson, Twp. Clerk