

**TOWNSHIP OF MIDDLE  
TOWNSHIP COMMITTEE  
WORKSESSION AGENDA  
November 16, 2009 4:00 P.M. (prevailing time)**

**CALL TO ORDER:**

Mayor's announcement: 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). Notice of this meeting was properly given in Resolution No. 26-09 entitled "Establishing Work Session Meeting Nights" which was adopted by Township Committee of the Township of Middle on January 5, 2009

Members present are Mayor Doughty, Committeemember DeLanzo & Committeemember Barry.

Business Administrator Mark Mallett, Township Clerk Kimberly Tomkinson, Municipal Solicitor James Pickering, Municipal Engineer Vincent Orlando.

**FLAG SALUTE:****DEPARTMENTAL REPORTS AND PROJECT UPDATES:****Administration/Finance:****2010 Capital Budget**

Mark Mallett: Back in September we did a wish list for the Capital Plan for 2010. Just wanted to go over again with committee and get their thoughts and comments. We are going to continue to invest in public safety, improve our roadways and infrastructure and maintain and enhance township facilities such as recreation, courts and town hall. For 2010 in total we have \$2.5 million of capital items. Of that, \$1.5 million is coming from paving roadways, improving drainage and redoing the parking lot outback. We have a total of \$493,000 in capital for the police department with around \$200,000 for police radios, it might be a little more, it might be a little less.

Chief Leusner: It is a ballpark number. Waiting for proposal from a company that evaluated our systems to determine what the dollar amount is. A big portion of that is radio relays. Will know in about a week.

Mark Mallett: Next item, shutter system for Township Hall, in total around \$100,000. Cost could be spread out by doing in 2 or 3 phases. Surveillance cameras for the MLK Center. This could be piggy backed onto the surveillance system that the chief has, and it is about \$2400 per camera. Something else we have discussed is a high bodied truck. The fire department does have a high bodied truck to get into some low lying areas, but we believe there would be some value in us having one of our own to be able to work in conjunction with the fire department. Next is E-ticket hardware and software, this is something the officers should have in their cars, which sounds like a great value and a time saver.

Chief Leusner: Right now when an officer writes a ticket he manually writes out the ticket and a copy goes to records and a copy goes to the courts. Our records personnel manually enter the information into the records management system and the court clerks also manually enter them into the state system. Officers would swipe the drivers licenses, all drivers license now have a barcode, it would download to the ticket, they can print the ticket out in their car, the information would dump into the court system and also our database, so it would relieve the data entry on 2 separate locations. Also when officers are doing accident reports, we investigated approximately 960 accidents last year, the officers would be able to swipe the drivers license, which would dump it right into the report.

Jim Pickering: Once the information is in the system, can it be changed?

Chief Leusner: There will still be security levels, but there will be people that can make changes if there has been an error. The State of New Jersey has invested well over \$1 million dollars in supporting the network and the foundation for towns to be able to tap into this so there would be security levels. If an officer swipes a card for a ticket and he wants to try to change it or dismiss it at a later date, he would not have that capability.

Mark Mallett: Renovating the server in the dispatch room was started this year and to complete it we are looking at about \$65,000. Part of that money includes a fire suppression system.

Chief Leusner: The Township has been really good in supporting the police department with technology and now with the camera system that we are going to be up and running with shortly, we are redoing our server room, we are backing up our data and in that room will be fire depression system that will put out the fire as quickly as possible and not damage the equipment.

Mark Mallett: Last items are radar signs and ballistic helmets, we had split that up to do half in 2009 and half in 2010. The helmets are for officers safety and the radar signs have been very helpful throughout the Township with speed limits.

Chief Leusner: It also targets data and the citizen's love it, it takes 15 minutes to put one on a pole.

Mark Mallett: This is just replacing some with newer units. Next, we have a list of 46 roads that have been identified as being in poor condition. Of those, 15 were considered high priority.

Vince Orlando: There are a couple of portions of our community that could eat up a lot of money. Estimates done on Reeds Beach and Stone Harbor Manor would exceed the million dollars if committee decided to go in that

direction. We have other roads that are in much more need of repair than Stone Harbor Manor. The million dollars provides some of the money needed to fix some of the roads.

Mark Mallett: Next item was a truck for public works that they would be able to use a plow on, salt, and still be able to haul things. It would be a truck that is smaller than what they have and would give them greater flexibility. The one they have been using has come to the end of its life. The other thing is a carwash/truck facility which is going to become a DEP requirement in 2011.

Vince Orlando: In 2011 we are going to be required to have wash down facilities for our vehicles. Salt and the oils and the everyday dirt that accumulates on them, right now we wash them down and it goes into our grassy areas. The DEP is requiring a wash down area with safeguard against any of those products getting into the ground water system, so we may have to have a containment unit which may be able to be hooked up to our sanitary sewer there because we do have the sanitary sewer facility. The requirements are very intense.

Jim Pickering: Can you do it for \$25,000?

Vince Orlando: The good news is that we have sanitary sewer there so that we could possibly do some type of recapture system. So far this has only been identified as a requirement, nothing else has been done on it.

Mark Mallett: We have tried to get grant money to do the Town Hall parking lot but did not receive it. This is in poor condition and now that we have the firehouse lot, it is time to sit down and reconfigure it. Vince had done some plans a couple of year's back, which I believe we can continue to use.

Vince Orlando: The only difference is we did not originally utilize the fire company. We can do a reconfiguration and combine those lots to provide additional parking. That is something we talked about doing in house this coming year.

Mark Mallett: We are pretty well on the way in getting the Whitesboro School done. Some components we are looking at to get this done, such as paving the parking lot, getting a new playground and fencing. Cape Human Resources is using the school and they are looking at either doing their own daycare facility there or joining up with Head Start.

Another project is replacing fluorescent lights with LEDs, which would be much more energy efficient. This would be a 2 phase project, doing police this year and town hall next year.

Metal detector for the courts is state mandated and we need to have.

Lastly is refurbishing town hall. It is 20 years since it has been painted and carpeted. We talked about having internal resources do it. We have 2 guys in facilities who are jumping from one thing to another and really don't have the time to devote to doing the painting and switching out the carpet in town hall. Thought is to go outside of town hall and find contractors to do the job.

Looking at recreation, the Goshen Complex, there is no covered pavilion with picnic tables for people to sit under. We have looked at different companies and vendors and we can get a covered area with tables and on the back side have bathrooms attached. The cost would be around \$90,000. Parking lot also needs more lights. Also considering a lightening protection system, which would detect the presence of lightening within a 2 mile radius, that would then set off a siren to get everyone off the fields rather than using the discretion of the coaches. Also would like to install new bleachers on baseball field #1 as ones out there now are safety hazard

Would like more lighting, as well as security cameras at the MLK Center, as well as new tennis courts, which would run about \$50 to \$60,000.

Susan DeLanzo: If you do new tennis courts you would need new fencing because the fencing is open and they ride ATV's on there. You would not invest that kind of money and not protect it.

Mark Mallett: Lastly is replacing the floor in the community room at the MLK Center.

#### **Street lights at Woodland Estate**

Mark Mallett: Has met with Mr. Verity and he advised that the Township said they were going to be installing a number of street lights. We have installed 15 and there are another additional 7 that still need to be installed.

Vince Orlando: Advised this started prior to the Township collecting money for street lights. Electric Company would not allow individuals to put in street lights. Developer paid for the underground wiring and the pole, Township paid to have lights installed on pole. We did agree to install these street lights. We could maybe do a 2 year phasing period in installing these street lights. The question is has anybody else requested these lights other than Mr. Verity and the answer is No, this is Mr. Verity saying I paid for the lights, I want the lights. The poles are not in, it is just the wiring to that location that is in. The poles are paid for, we are just paying for the light fixture.

Susan DeLanzo: What is the estimated cost for the Township to install these lights?

Vince Orlando: We are looking at \$2500.

Susan DeLanzo: Then what is the electric bill?

Mark Mallett: Another \$400 or \$500 dollars per year.

Vince Orlando: I have looked at the plan and am very familiar with that subdivision and where we agreed to put the lights back in 2000 were good locations.

Jim Pickering: Does Committee want to discuss this and determine at a later date?

Vince Orlando: What you have here is a developer who believes in his heart that he has paid for something that he hasn't gotten, be it 10 years later, an agreement was made and I think we have to bite the bullet and just do this.

Mayor Doughty: Do we do 4 this year and 3 the next or do them all?

Vince Orlando: Phase it over 2 years.

Jim Pickering: Essentially you are instructing Mr. Mallett into the 2010 and 2011 budgets.

### **Global Connect**

Mark Mallett: Next is Global Connect. Make talked about their emergency communications systems that they have. They will provide us with all the phone numbers of the houses in the Township and we will be able to target different parts of the Township with any emergency notifications. Police will be able to use it for employee notification when they need overtime that will automatically call the employees houses. There is a \$1,400 set up fee to get the Verizon phone number data base and for year one the cost would be \$3,000 on top of that, so about \$4,400. On an ongoing basis it would be \$4,000 per year, which breaks down to 50 cents per household.

Susan DeLanzo: How do we compensate for people who have given up their home phones for cell phones?

Chief Leusner: Through Emergency Management there has been a lot of work on reaching out to residents. Maybe do a public service campaign saying if you want to register, register with Emergency Management to download the number in there for people who want to use the county.

Susan DeLanzo: When you are using it for the Swat Team, are you using it through the county?

Chief Leusner: Yes and I believe all the school systems have it also.

Mark Mallett: The schools might pay less because it is targeted towards the homeowners who have school aged children. The pricing is based on the number of households.

Susan DeLanzo: It would be important to do a campaign to get people to give out their cell phone numbers for this.

Mark Mallett: Will continue checking into this. Last, Tracey wants to talk about the 2010 pay schedule.

### **Proposed 2010 Pay Schedule**

Tracey Taverner: Discussed the 10 or 11 years that we run into 27 pay cycles. In talking with Glen Ortman, the Auditor, the best way to handle is to shift the pay every 2 weeks by one day for the first 5 pays of the year. By doing that it will take away that one extra payroll we would have had. If we pay 27 pays, the pays will be reduced instead of spread out. Has spoken with a couple from the police department, public works, Chuck McDonnell, no one seems to have a problem with it yet. Some people will have to adjust their automatic payments dates for the first 2 months of the year. Not set in stone, just discussing at this point.

### **Public Works & Engineering:**

#### **Legal:**

#### **Nebrzeski Discussion**

Jim Pickering: This is a matter in Grassy Sounds. In taking a look at the current survey, which has a date of November 25, 2008, you can see that the property identified as a framed dwelling is actually located inside of Township right of way and not on privately owned property. The reason it is here is because Mr. Nebrzeski pulled permits from our construction office to construct roofing, siding and windows. The reval company shows that this property was taken down to the pilings and rebuilt.

Steve Barry: We need to know if new pilings were put in.

Mr. Griffith: New pilings were put in.

Jim Pickering: So the old pilings were actually removed and new ones put in or just new ones put in.

Mr. Griffith: The old ones were cut down.

Jim Pickering: They are here because our construction official has given a citation to Mr. Nebrzeski. He has hired Mr. Griffith to try to get all the necessary compliance and part of this involves a CAFRA Permit. A CAFRA Permit was applied for and withdrawn because when it came to the DEP's attention that the improvement was not on the property, they felt they could not issue the permit. They are here to ask the Township to vacate the streets upon which the improvements sit so they could then reapply for the permits to bring themselves into conformity. We had

a meeting and there were some violations about constructing without permits and now they are asking us to help them fix it.

Steve Barry: I am going to have some questions of Mr. Zebrzeski, which I am going to ask him to answer under oath, which is going to put him in a very difficult position. It is not as if he built this without any permits at all, it really makes it worse.

Mr. McFarland: I am the attorney that represents Mr. Nebrzeski and I was not here with the last work session where he was informed to get counsel. Mr. Nebrzeski paid \$3,000 to the construction office.

Jim Pickering: What was the \$3,000 regarding.

Mr. McFarland: That was regarding an appeal for the citations. In the meantime he has hired several experts to see if the situation could be remedied and legalized by not only you but also the DEP.

Steve Barry: How much a day was Mr. Nebrzeski sited for.

Mr. McFarland: \$2,000 for each violation and an additional penalty of \$2,000 per week.

Steve Barry: How much of the fine has been paid?

Mr. McFarland: To my knowledge no fine has been paid.

Mr. McFarland: Only the compromised sum of \$3,000 for filing an appeal at that time to the Cape May County Board of Appeals.

Jim Pickering: I believe that is a filing fee.

Steve Barry: What I am trying to figure out is whether an appeal to the Construction of the Board of Appeals was ever perfected on this round of problems.

Mr. McFarland: No, it wasn't.

Steve Barry: So the fines now exceed the value of the property.

Jim Pickering: Ok, so that is the status, so what do you want from the Committee.

Mr. McFarland: From what the experts are saying we have to vacate the one portion of the property and we need a Deed of Conveyance for the property that the township owns.

Vince Orlando: My recollection is there were 2 things; one was a street vacation but also was that the town owned a piece of the property that the improvements occurred on.

Hyland Representative: It is multifaceted. We were hired initially to take the first step for Mr. Nebrzerski, which was to try to legalize the structure, which had since been reconstructed as far as the DEP was concerned. We got to the point of a permit very close to being issued and issues of ownership and encroachment came up and they recommended that we withdraw the application until those issues are resolved. Then we looked at the best bet I think to clear all the issues was to request the vacation of that street because historically it appears, according to this 1949 map it shows the property is sitting on property within the Township right-of-way, but it is an obvious discrepancy because the dwelling has been in existence since 1949 in the Township right-of-way. So, it seemed to us requesting the vacation, aside from all other issues regarding fines and construction permits to at least get the property to a point where we could start to move on with the DEP and dealing with all of these other issues. It is not only the vacation, but then the Township would have to agree in some form about selling that piece of land.

Steve Barry: Why would we want to do any of this, obviously this was built secretly and in violation of the law wasn't it?

Jim Pickering: Mr. Nebrzerki, raise your right hand. Do you swear the testimony you are about to give will be the truth, the whole truth and nothing but the truth, so help you God.

Mr. Nebrzerski: Yes

Jim Pickering: You understand you are represented by counsel here today?

Mr. Nebrzerski: Yes.

Jim Pickering; And any rights that you have, you understand as far as potential criminal rights, constitutional rights, any of that kind of stuff, you have had enough time to talk to Mr. McFarland and you are prepared to testify today and answer his questions and any questions from the Township Committee.

Mr. Nebrzerski: I am not sure.

Jim Pickering: There are some potential criminal matters here and we are not in a court room...

Mr. McFarland: I haven't really discussed criminal ramification.

Steve Barry: Let me explain one obvious one. I haven't seen the application for the building permit, but it was an application for a building permit, which I am guessing is at significant variance with what this person did. At the point that is explored on examination, it could put him in a difficult position because he has pending fines against him in a very substantial amount.

Jim Pickering: Do you understand Mr. Nebrzerski or not?

Mr. Nebrzerski: Not 100%, no.

Steve Barry: You may not have been honest with the construction official, maybe you were, maybe you weren't.

Jim Pickering: Some people could conclude from the record as it exists now that essentially you filled out false government documents when you asked for the building permits. By doing that you were essentially lying, defrauding the municipality and avoiding paying sufficient building permit fees. Some could go further and say you were trying to avoid the possibility of your tax assessment going up. Those things essentially constitute crime, you were lying, and you are not supposed to lie. So, before you go under oath and offer testimony from the governing body that is ultimately the one could be prosecuting you. You might want to consult with your attorney as to whether or not you want that to happen. You can decide to proceed or not.

Mr. McFarland: I am not a criminal lawyer expert so maybe it would be best if you want to question him under oath that you have another attorney present regarding any subject matter of that nature. I am only here for the civil situation.

Steve Barry: You know it isn't even just under oath, because there are actions that have happened in the past, applications that were made, things that were done, and even talking about that not under oath creates the same problem.

Jim Pickering: Whether you are under oath or not you are making statements.

Mr. McFarland: And the construction file still exists to my knowledge, right?

Jim Pickering: Yes it does.

Mr. McFarland: The only thing that I did was, I do have the receipt here from the construction office regarding that \$3,000, but basically have been out of the loop for some time.

Jim Pickering: I think the point we are making to you is this is serious. You are asking the municipality to help you out, the municipality that represents all the taxpayers. The committee has some serious concerns about how we got here and I can see us getting in a catch 22 where you are going to have to answer some questions at some point because how else can they consider your request without you answering their questions. Township Committee knows that this problem exists and that it is out there. You have to decide how you want to proceed. You did not appeal the citation so there is nowhere to take that to.

Mr. McFarland: We did appeal.

Jim Pickering: I thought you had indicated that you had not perfected the appeal on the 2<sup>nd</sup>.

Mr. McFarland: When the new citations came out I paid the filing fee here locally. I never heard from the County Board of Appeals later, but at the same time he had another expert working with your construction office informing them, and if I am correct and I wasn't involved in that, and that was Van Note Harvey if I am remembering correctly, who was getting in touch with your construction office more or less asking for a freeze on the hearing or whatever until he was able to get certain things resolved. Then the next thing I know Mr. Nebrzerski gets in touch with me indirectly, because now he has other the experts that are working on the situation, which we have here tonight trying to solve this.

Jim Pickering: Ok, I think that if you decide how you want to proceed, maybe the proper place to proceed is maybe through the Construction Board of Appeals, I don't know. And you and Mr. Nebrzerski have to decide if he needs another counsel that can offer the advice about the potential criminal issue. I think we all understand what you are asking, but I think you get a sense that at this point Township Committee is not excited granting that.

Vince Orlando: At a meeting where myself, Mr. Pickering and Mr. Arndt were there, they outlined the situation about the house being reconstructed and as far as Mr. Arndt was concerned the appropriate permits weren't applied for and it was kind of at a stalemate because I think they can't get a CAFRA Permit until they own the property, and they can't own the property unless the Township vacates the streets and conveys a portion of the property that they own and I think that is where it kind of sits to say if this thing is going to move ahead, would the Township Committee be willing in concept to vacate a street and sell a piece of property and then they will deal with their construction issues with Mr. Arndt to say OK, we know we have to pay fines, but we really don't want to do that until we have our permits. We kind of talked about that at the hearing.

Steve Barry: They are on the hooks for the fines anyway, how can they successfully pretend they didn't build it without permits.

Vince Orlando: They can't.

Susan DeLanzo: I have a question, is this what this looks like today?

Jim Pickering: No, it is done, it is a nice home now.

Vince Orlando: It is a beautiful home that can't be occupied.

Jim Pickering: I will say when we had our meeting you had been using it, habituating in it, or at least vacationing in it, whatever it was. After our meeting I made it very clear that this home was not to be inhabited at all and every report that I have gotten from people who watch these things have indicated that Mr. Nebrzerski has not been living there at all.

Susan DeLanzo: Is this on our tax roles?

Vince Orlando: Not probably under the current configuration.

Mr. Nebrzerski: Yes it is.

Jim Pickering: I believe it is on the tax roles and it is identified as being located on one of the lots and blocks upon which it is actually not located.

Susan DeLanzo: Is it revealed at the current value?

Jim Pickering: Yes it is.

Susan DeLanzo: It was done at the last reval, so this was finished at the last reval and it was reassessed?

Jim Pickering: Actually, I don't know the answer to that. Do you know the current assessment on the property?

Mr. Nebrzerski: Yes, like \$382,000.

Steve Barry: Is this hooked up to the Grassy Sound sewage system?

Jim Pickering: I believe it is, yes.

Mayor Doughty: Do you have a picture of the home in 1949 that was on these stilts? Did you follow the footprint.

Mr. Nebrzerski: Yes, the footprint and the old pilings are still there.

Steve Barry: It sounds to me like somebody went out there and sawed off pilings and drove new pilings, somebody built a house, somebody did plumbing, somebody did electric, all without permits.

Mr. McFarland: That is why we have these new citations.

Steve Barry: Whole different scenario when property is built on land this gentleman actually owns as opposed to being build on land owned by someone else, mainly the Township.

Mr. McFarland: Well there was a mistake there because he did not realize when he built this that he did not own the property.

Jim Pickering: If he would have built the building from the ground up the way that Mr. Barry stated, then he probably would have discovered it because before he put a piling in the ground he would have had to produce a survey. Now the municipality is in an odd situation where it could potentially recover money in fines and owns the house in the end, and it does have an obligation to all the taxpayers in Middle Township. I think what you are going to do as I understand it is take the time to talk to council as you choose, come up with a plan and come back at some point when you are ready to offer a compelling argument to Township Committee as to why they should do this.

#### **Construction/Plan/Zoning:**

#### **Recreation:**

#### **Police:**

#### **Buildings and Grounds**

#### **RESOLUTIONS:**

#### **TRI-PARTY ALLOCATION CATEGORY AGREEMENT BETWEEN JASMINE BUILDING SYSTEMS, SUN NATIONAL BANK AND THE TOWNSHIP OF MIDDLE**

Jim Pickering: Asked Township Committee to authorize him to call the bond on the Jasmine Builders street improvements. This has been going on for a while and involves Mr. Broder and Jasmine has not responded appropriately. Has spoken with the principal one time and advised him this was going to be on agenda, he asked for a couple of day, but has not yet heard back from him.

Vince Orlando: All this would do is allow us to attach the bond to complete the improvements related to the streets. This was not a sub-division but a street improvement plan under an ordinance. We have adequate funds within there

to complete the work. The drainage was never done, the black top was never completed, the right of ways is a disgrace because they have been left to overgrow, but this would not touch the properties that have foundations on them with overgrown matter. It has basically been abandoned. There is some asphaltting and completion of the drainage, completion of the roadside swells, removal of some brush and stumps on the south side within the right of way. Just so the board is clear, this resolution would be to just do those improvements that have not been completed within the right of way.

Jim Pickering: What this does is authorize me to send a letter saying we are going to take your bond.

Susan DeLanzo: How long do they have to respond to your letter?

Jim Pickering: 30 days.

**ORDINANCES:**

**SPECIAL PRESENTATIONS OR DISCUSSIONS:**

**MOTION TO ADJOURN THE MEETING:**

Work Session Adjourned 5:57 PM

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**Kimberly Tomkinson, Twp. Clerk**

**Minutes prepared by D. Stimmel, Deputy Clerk**