

Cape May Court House, NJ  
November 2, 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 – VOLUNTEER OF THE YEAR – BOB NOEL  
*Committeemember DeLanzo presented Bob Noel with a plaque for his dedication towards volunteer boards within the Township of Middle*
2. MAYOR DOUGHTY PRESENTED DONATION TO VOLUNTEERS IN MEDICINE
3. 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.)  
Carol Mattessich – Item 11 asked for further identification on the union negotiation that Township Committee was going into Closed Session for.  
Mark Mallett – PBA, Dispatch and Public Works. Their contracts are ending at end of year.
4. RESOLUTION NO. 464-09 – APPROVING PAYMENT FOR BILLS – BILL LIST A – 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, the governing body thereof, that payment for the following bills in the amounts indicated are hereby approved:

Dedicated Trust	\$ 4,225,833.13
Current Acct.	\$ 26,513.97
5. RESOLUTION NO. 465-09 – APPROVING PAYMENT FOR BILLS – BILL LIST B – On motion by Committeemember DeLanzo seconded by Committeemember Barry and passed on roll call, the following resolution was adopted. Mayor Doughty Abstain  
NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that payment for the following bills in the amounts indicated are hereby approved:

Current Acct.	\$ 7,506.01
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6. RESOLUTION NO. 466-09 – APPROVING MINUTES FOR PREVIOUS MEETING – On motion by Committeemember DeLanzo seconded by Committeemember Barry and passed on roll call, the following resolution was adopted.
7. REPORTS: The following departments have submitted their reports for the months indicated:  
Construction Official for the month of September;
8. RESOLUTION NO. 467-09 – RELEASE OF TRUST ACCOUNTS – On motion by Committeemember Barry seconded by Committeemember DeLanzo and passed on roll call, the following resolution was adopted.
9. RESOLUTION NO. 468-09 – AUTHORIZING CREATION OF LIEN ON PROPERTY – On motion by Committeemember DeLanzo seconded by Committeemember Barry and passed on roll call, the following resolution was adopted.  
WHEREAS, N.J.S.A. 40:48-2.13 authorizes the governing body of every municipality the power to make, enforce, amend and repeal ordinances requiring the owner or tenant of a dwelling or of lands lying within the municipality to provide for the removal or destruction of brush, weeds, debris, etc. constituting fire hazard or injurious to public health or safety and to provide for the imposition of penalties for the violation of any such ordinance, and  
WHEREAS, N.J.S.A.40:48-2.14 authorizes the municipality the right to place a lien against such dwelling or lands to provide for the cost of removing brush, weeds debris, etc., and  
WHEREAS, the Township of Middle has adopted Ordinance No. 316-76 known as Article I of Chapter 193 of the Code of the Township of Middle “Property Maintenance”, and  
WHEREAS, the Township of Middle has noticed the following property owners as indicated below and furthermore these violations had not been remedied.

WHEREAS, in absence of compliance by said owners, the Township of Middle commenced and completed abatement of these violations, and

WHEREAS, the Public Works Supervisor of the Township of Middle has certified the following cost as listed.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that it hereby impose a lien on the properties listed below as indicated.

FURTHER RESOLVED, that a copy of this lien shall be filed in the Office of the Tax Collector of the Township of Middle.

OWNER	PROP. LOCATION	BLOCK / LOT	AMOUNT
Randy & Rachel Yarwasky	811 Goshen Road	52 / 13	\$299.15
Jeffrey & Deborah Bucsek	671 Dias Creek	164.02 / 15	\$200.28
Gregory Skavhaug & Carol McPherson	6 Wayne	56.05 / 3	\$285.29
Richond Pelzer	101 Goshen Road	63 / 6	\$200.28

10. RESOLUTION NO. 469-09 – REFUND OF TAXES – On motion by Committeemember Barry seconded by Mayor Doughty and passed on roll call, the following resolution was adopted. Refund due to the State of New Jersey Homestead Rebate division, as the payment is intended for the former owner of the property listed below.

ACCT	BLOCK	LOT	OWNER/LOCATION	AMOUNT	ck#
13986	1418	4	Kenneth Hill 7 Teal Rd		507.32

Refund Payable and sent to:  
State of New Jersey  
Department of the Treasury  
Division of Taxation  
P O Box 266  
Trenton, NJ 08695-0266

BE IT RESOLVED by the Township Committee of the Township of Middle, County of Cape May, that the Chief Financial Officer be instructed to draw checks in the above noted amounts payable to the above mentioned parties, as a refund of 2009 taxes.

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

11. RESOLUTION – ENDORSING APPROVAL CERTIFICATE FOR USED MOTOR VEHICLE DEALER – DELSEA WOODS COMMUNITY LLC / MOBILE HOME PARK – On motion by seconded by and passed on roll call, the following resolution was adopted. **\*\*NO MOTION TO PASS**

Andrew Phifer on behalf of Delsea Woods MHP

Committeemember Barry – indicated that he spent some time recently in Delsea Woods MHP and there are some very negative conditions. Open sewage in yards and in one case a water pipe in unit was leaking and hole opened up and it was leaking fresh water and the sewage was running into hole with fresh water. Complaints, which I am not in the position to verify on the position of folks having difficulty selling their units then falling into the hands of Delsea Woods so my concern is a very deep serious concern in the overall management and stewardship there. So I certainly, on the face of things, wouldn't support a resolution placing more power and authority in the hands of the operation that might the tenant's lives more difficult than it already is.

Mayor Doughty – I will reiterate what Mr. Barry has said. I agree whole heartedly.

Mr. Phifer – Can I respond?

Committee – sure

Phifer – I realize that the conditions are not the best. Most of the conditions are brought on by the tenants themselves as to the way they keep their houses that sort of thing. We can go ahead and enforce the rules, which we try to, but you're dealing with a certain type of cliental and they have chosen to live that way. I would love to enforce every single rule or have the manager do it but then you will be sitting there with a vacant piece of land. Would you force the people to go?

Committeemember Barry – No you misunderstand.. the water supply ...

Phifer – is regulated by the DEP and is treated. We have spent 10's of thousands upgrading that well. Sewer connection is the tenant's responsibility. If it is turned into the management as a written complaint it is then addressed.

J. Pickering – Sounds to me that there is no one that is willing to make a motion or a second on this resolution item and I don't know if we need to have this discussion now. May be appropriate to meet with Mr. Mallett later.

Phifer – Not going to say there isn't issues

Committeemember DeLanzo – location of this .. where would you place this?

Phifer – all the license allows is if there is a unit that needs to be upgraded in our possession we can do it.

Committeemember Barry – places considerable power in the hands of the park.

Phifer – Not sure how it gives us "considerable power". Right now we have 2 vacant lots and if we had the license we could place two new units in there and sell it.

Committeemember Barry – not the time or place to discuss this we can discuss it later

J.Pickering – why doesn't Mr. Mallett and Mr. Phifer discuss this and narrow it down to a few issues and present it to committee.

Committeemember DeLanzo – I have a lot of questions that I would like to be part of the conversation.

12. RESOLUTION 470-09 – CLOSED SESSION – PERSONNEL MATTERS – UNION CONTRACT NEGOTIATIONS – On motion by Committeemember Barry seconded by Committeemember DeLanzo and passed on roll call, the following resolution was adopted. WHEREAS, the section of the Open Public Meetings Law, Chapter 231, P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances; and WHEREAS, the Township Committee of the Township of Middle, the governing body thereof, is of the opinion that such circumstances presently exist, WHEREAS, the Township Committee of the Township of Middle wishes to meet in closed/executive session regarding union contract negotiations, and WHEREAS, the date of said session shall be as indicated below in the 2<sup>nd</sup> floor conference room of Township Hall:

November 11, 2009 at 4pm

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: PERSONNEL MATTERS - UNION CONTRACT NEGOTIATIONS
- 2.) The general nature of the subject matter to be discussed is as follows: PERSONNEL MATTERS - UNION CONTRACT NEGOTIATIONS
- 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.

Vince Orlando discussed needs for following professional in connection with Marlyn Manor flooding issue:

13. RESOLUTION NO. 471-09 – AWARD CONTRACT AND RATIFY AGREEMENT THROUGH NON-FAIR AND OPEN PROCESS – THOMAS DWYER / EASTERN GEOSCIENCES, INC. – HYDROGEOLOGIC, GEOTHERMAL & GEOPHYSICAL CONSULTING – 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 of the Township of Middle, the governing body thereof, that the Agreement between Eastern Geosciences, Inc. and the Township of Middle for Hydrogeologic, Geothermal & Geophysical Consulting 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. FURTHER RESOLVED, that the appropriate officials are hereby authorized and directed to sign said agreement.  
FURTHER RESOLVED, that the term of this contract shall be from November 2, 2009 through November 2, 2010.  
Eastern Geosciences, Inc. - Hydrogeologic, Geothermal & Geophysical Consulting – not to exceed \$2,000.00

J. Pickering – at the last meeting I was authorized to get title work done on same topic and Mr. Orlando and I took a look at various maps to declare ownership of the property and have ordered titled work to see if there is any easement in favor of the township.

Carol Grey – What exactly are you talking about?

J. Pickering – at the last meeting there was a discussion to the extent that there are some properties that have some drainage problems...

(audience members calling out ... )

K. Tomkinson reminded audience that you are to present questions one at a time and state your name for the record.

J. Pickering – at the last meeting it was brought to our attention and understanding the severity of the situation and Township Committee’s desire to do something about it they have authorized Mr. Orlando to find someone who is a professional in the area, which I think we can all agree it is pretty esoteric or subset of engineering. Mr. Orlando is not an expert therefore we need to find someone that is so therefore the township has hired a hydro engineer.

(Mrs. Grey interrupting) ..

J. Pickering – (asking to be able to finish sentence...)

C. Grey – I just want to interject right here .. that Mr. Orlando only issued two properties...

J. Pickering – and I corrected him ..

C. Grey – then you said only four properties ..

J. Pickering – These are two different topics Ms. Grey ..

Committeemember Barry – We are getting ahead of ourselves. There are three kinds of problems at least in your area and this only addresses one of the three.. and we will talk about all three.

C. Grey – Well first of all .....

J. Pickering – I guess Mayor at this point we are now in the public portion of the meeting...

C. Grey - .... For everyone's information .. Marlyn Manor. The streets involved are Fourth Street, not Avenue, Linden Lane, Maryland Avenue and Marlyn Drive. Cause you don't even seem to know the names of our streets.

V. Orlando – I wasn't sure if it was Marlyn Terrace or Drive but I have been there a number of times.

C. Grey – So this is one problem that you are addressing tonight with the hydro whatever!?!?

J. Pickering – It is not

Committeemember Barry – We will take about all the problems tonight and Mr. Orlando will be reporting on all of them.

K. Tomkinson asked committee if they want to finish up prior to opening it up to the public.

Mayor Doughty stated he wanted to finish the agenda as normal prior to opening up to the public.

Committeemember DeLanzo – Festivities wonderful last couple of weeks. Thank you. Hope everyone enjoyed. Personal thanks to all that helped.

Committeemember Barry – First, spent time in Eagle Scout Court with Troop #103. Most productive of any troop anywhere. Bob Grace attended. "Such a remarkable accomplishment". Two major issues in Marlyn that they are aware of. Third issue, water "welling up from ground" even when not running off from Beazer property. Bringing in professional.

Mayor Doughty – Hockey Rink Ribbon Cutting at 10am last week. Great asset.

Mayor Doughty opened to public:

#### 14. PUBLIC COMMENT:

Ralph Shuman – Question to committee and V. Orlando – See "them drilling" on parkway testing soil borings. Any borings in "that" area to find out what's been filled in and what hasn't? For \$2,000.00 I can't see how anything can be solved by I guy just walking around.

V. Orlando – They are going to do some soil logs and additional evaluation. Do not know methodology they are going to use.

Pickering – This is probably the first of what will be another appropriation to determine what is happening from the bottom up with the ground water table.

Carol Moore – brought pictures to get an idea of what they are dealing with. From the second storm. Been there for many years never dealt with anything like this.

Committeemember Barry – How long have you been there?

Unknown Audience Member – Since 65'

C. Moore – We are all wondering how come Beazer was allowed to build so high. Was it an issue with the ground water to begin with? Where do we go from here?

Orlando – Zoning Board of Adjustment did approve the plans and I am their engineer. Reason that the roads and homes are higher than Marlyn Manor development is that ... storm water regulations imposed by the State of New Jersey and this project had to get certain DEP approvals and one of the permits is this storm water management permit. And they need to stay a certain.. a minimum of 2ft above ground water table... When Marlyn Manor occurred there were no storm water standards.

C. Moore – Never had a problem with the draining.. not like this..

Orlando – I have been the municipal engineer here for about 21 years and this year is the worse not only in Marlyn Manor but everywhere.

The second issue is with the pond and the easement and what right the twp. has with it. He has ordered title reports to see what easements if any the twp. has in there to do some work within that pond area.

J .Pickering – Explains easements with lake.

V. Orlando – Third issue – two homes constructed across from 4<sup>th</sup> Street on Beazer’s property. After the two rainfalls recently it was evident to me that the grading was done very poorly and I had a discussion with project manager, they indicated they would take a look at it. Beazer is to review and remediate the area.

Joanne Masserel – Commented on the stockpiling of the “land fill”. Wants to know who issued the permit?

Orlando – Cape Atlantic Soil Conservation

Masserel – Presented Committee with pictures of 204 Linden Lane

Carol Grey – Thanked Orlando. Thanked Committee

Pickering – Discussed easements on lake

Carol Grey – Discussed the mound of dirt on Beazer Homes.

Mr. Duffy – Presented pictures to committee.

Kenneth Markee – Discussed his crawl space and the water accumulated during storm.

Jim Mensel – Discussed drainage in front of his home at 4<sup>th</sup> and Linden.

Brian Dickinson – Has no heat in house due to flooding. Circuit shot due to all the water

Mr. Moore – Street collapsed by pipe in Marlyn Manor.

E. Fausey – Discussed Van Drew and Affordable Housing; Taping of Meetings for Internet and TV; Health Care Benefits.

Betty McGurk – Discussed Fair Housing Meeting. Asked when next meeting is.

Committeemember Barry – Early December

B, McGurk – Asked for Conifer Project appeal details.

J. Pickering – No schedule yet

C. Mattessich – Discussed Taping of meetings, Citizen Commission, and asked questions regarding the Albrecht & Heun Check on bill pay.

Mattessich – Opposed purchasing from A & H based on HCB issue is cleared up and asked if there was an update.

J. Pickering – Special Master has been issued. Special Master to issue report.

Mattessich - What kind of proactive role is the commission going to take in asking Judge Seltzer to take certain testimony or evidence. And I would like to hear that from the committee members.

Pickering – This is still a matter of litigation as you know so I do not think it would be appropriate to ask committee members to discuss in public their litigation, thoughts or strategies in a public forum. And I think we have asked and announced that if people wanted to discuss this with Judge Seltzer that they should give their name to the municipality and the municipality will forward it to the judge.

Mattessich – what standards did you use to determine that the park was not currently operating in a sufficient fashion?

Pickering – I do not believe that there are any written standards or criteria that Twp. Committee has to use to consider anything. They are vested and charged to use their best discretion and ever matter is treated differently. And I am not going to allow them to get boxed in to list criteria by which they will judge ever matter that comes before them. That is not what governing or legislating is about.

Mattessich – Troubled over some campaign mailers that have gone around including a current Twp. employee....

Look into alternative to Solicitor , one without conflict. Someone that can serve as an independent solicitor. Suggested township to high fulltime solicitor.

D. Lockwood – Binding ruling by Special Master but still in litigation. Are we doing both?

Pickering – Explained purpose of Special Master

Ralph Shuman – Is the check given to A& H a monthly or quarter check?

Mark Mallett – Explained the RFP’s for Class B recycling and process utilized for getting quotes on recyclable materials.

S. Shuman – Asked about stumps and leave drop off.

There being no further business the meeting was adjourned at 7:50pm

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Kimberly Tomkinson, RMC