

Cape May Court House, NJ
March 5, 2012
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 Lockwood, Committeemember Donohue, Township Business Administrator Mark Mallett, Deputy Township Clerk Dawn Stimmel, Municipal Solicitor Marcus Karavan, and Township Engineer Marc DeBlasio.

*Committeewoman 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.)

Carol Mattessich questioned Item #13 on the agenda a Resolution AUTHORIZING PAYMENT TO TOWNSHIP PROFESSIONALS FOR WORK ASSOCIATED WITH SEWER PROJECTS WITHIN THE TOWNSHIP OF MIDDLE.

Mayor Lockwood explained that had to do with the Whitesboro Sewer Project.

Vilma Pombo wanted to know what property was being sold to the Nature Conservancy.

Mayor Lockwood stated parcels in Whitesboro adjacent to current owned properties by the Nature Conservancy.

2. RESOLUTION NO. 116-12 – APPROVING PAYMENT FOR BILLS – BILL LIST A (GENERAL BILLS) – On motion by Committeeman Donohue seconded Mayor Lockwood and passed on roll call, the following resolution was adopted.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that payment for the following bills in the amounts indicated are hereby approved:

Current Acct. \$4,434,937.90

3. RESOLUTION NO. 117-12 – APPROVING MINUTES FROM PREVIOUS MEETINGS – On motion by Committeeman Donohue seconded by Mayor Lockwood 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 following minutes are approved: Work Session 02/22/2012; Regular Meeting 02/22/2012, Closed Session 02/22/2012.

4. REPORTS: The following departments have submitted their reports for the months indicated:
Municipal Clerk for the month of February;

5. ORDINANCE NO. 1404-12 – AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF MIDDLE. CHAPTER 211, THEREOF ENTITLED SKATEBOARD PARK – Following second reading, hearing, and consideration for adoption, Ordinance 1404-12 was adopted on motion by Committeeman Donohue and seconded by Mayor Lockwood and passed on roll call. Complete Ordinance is on file in the Clerk's Office.

BE IT ORDAINED, by the Township Committee of the Township of Middle in the County of Cape May and State of New Jersey as follows:

SECTION 1

Local Ordinance Section 211-3 shall be amended to read as follows:

211-3 RULES, SUBSECTION 1

1. This facility is for skateboard and in-line skating only. The use of bicycles, of any type, is expressly prohibited.

SECTION 2. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.

SECTION 3. Should any section, paragraph, sentence, clause or phase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

SECTION 4. This Ordinance shall become effective immediately upon final passage and publication, according to law.

Brenda Messick wanted to know what other arrangements had been considered. Would it be possible for them to ride their bikes at the skateboard park at least one day a week.

Mayor Lockwood explained that it is mostly a safety and damage component they are trying to address. Over the past few months there have been several injuries that have occurred at the park, with 2 of them resulting in the victims being airlifted out.

Matt Bloom, who has been riding his bike for at the park since it opened, said he has learned so much at the park. He said kids are going to get hurt, he has gotten hurt, he calls them his battle scars.

Chuck McDonnell, Middle Township Recreation Director, told Committee that after doing research with other municipalities, the majority do not allow bikes because of the safety and yearly cost that it increases in maintenance. Some municipalities are even tearing down their skateboard parks. He said he also received a letter from the company that designed the park stating there would be a 10% increase in the yearly maintenance fees because of the wear and tear that the bikes cause.

Deputy Mayor Donohue said he understood what the bikers were saying, but there have been issues ever since the park opened. He suggested the bikers get together to help develop a better solution to the problem and to meet with Chuck McDonnell on their findings.

6. ORDINANCE NO. 1405-12 – AN ORDINANCE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY TO SELL TOWNSHIP OWNED LAND TO THE NATURE CONSERVANCY– On motion by Committeeman Donohue and seconded by Mayor Lockwood and passed on roll call, Ordinance 1405-12 passed on first reading. Second reading, public hearing, and consideration for adoption will be held on 04/02/2012 at 6:00 pm. Complete Ordinance is on file in the Clerk’s Office.

BE IT ORDAINED by the Township Committee of the Township of Middle, County of Cape May and State of New Jersey it desires to sell land to The Nature Conservancy.

SECTION 1.

WHEREAS, New Jersey Statute 13:8C, otherwise known as The Garden State Preservation Trust Act, allows a municipality to sell land to a tax exempt nonprofit organization, provided that (1) the lands will continue to be preserved and used for recreation and conservation purposes, (2) any restrictions on the lands when they were held by the local government unit are maintained by the new owner, and (3) at least one public hearing on the proposed conveyance is held by the local government unit at least 90 days prior to final approval thereof by the local government unit; and WHEREAS, the statute further provides that the municipality must provide to the Commissioner of the DEP (1) at least 30 days advance written notice of any public hearing to be held on any such conveyance, (2) within 90 days after final approval of the conveyance by the local government unit, written proof that any such public hearing was held, and (3) written notice of the conveyance within 90 days after it has been executed; and

WHEREAS, the Township desires to sell, and The Nature Conservancy desires to purchase land identified in an option to purchase attached hereto and made a part hereof as Exhibit “A” in three phases for a total price of \$109,300.00 to be paid in three parts or less for 49.324 acres, more or less;

NOW, THEREFORE, BE IT ORDAINED,

- 1. The Township Committee of the Township of Middle shall enter into an agreement Purchase of Real Estate, attached hereto as Exhibit A, for the sale of 49.324 acres, more or less, to The Nature Conservancy, with a total purchase price of \$109,300.00;and*
- 2. The lands will be preserved and used for conservation purposes, and for recreation purposes limited to deer hunting and other types of recreation activities within the guidelines set by The Nature Conservancy; and*
- 3. There are not any restrictions on the land as it is held by the Township of Middle; and*
- 4. There shall be a public hearing on the proposed sale held by the Township Committee of the Township of Middle on April 2 at 6:00 p.m. in the meeting room at Township Hall, 33 Mechanic Street, Cape May Court House, New Jersey; and*

7. RESOLUTION NO 118-12– ADOPTION OF REVISED MIDDLE TOWNSHIP ZONING MAP – On motion by Committeeman Donohue seconded by Mayor Lockwood 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 revisions to the Middle Township Zoning Map are hereby adopted as presented.

8. RESOLUTION NO 119-12– ACKNOWLEDGING RESIGNATIONS AND APPOINTMENTS OF VARIOUS VOLUNTEER BOARD MEMBERS – On motion by Committeeman Donohue seconded by Mayor Lockwood and passed on roll call, the following resolution was adopted.

WHEREAS, various volunteer board members have resigned and it is the intent of the governing body to fill said vacancies.

NOW THEREFORE BE IT RESOLVED, by the Township Committee, of the Township of Middle, County of Cape May and State of New Jersey, that the following board resignations are hereby acknowledged:

<i>Member</i>	<i>Volunteer Board</i>
<i>Steve Russell</i>	<i>Environmental Commission</i>

BE IT FURTHER RESOLVED, that the following individuals shall be appointed and/or reappointed to the terms and boards as indicated:

<i>Member</i>	<i>Volunteer Board</i>	<i>Term Expiration</i>
<i>Vilma Pombo</i>	<i>Environmental Commission – Move from Alt. Member #1 to voting member</i>	<i>12/31/2012</i>

* filling
unexpired term of
Christine
Kobielnik

Jeff Schafer

Environmental Commission –
Move from Alt. Member #2 to voting member

12/31/2013*
filling unexpired
term of Steve
Russell.

9. RESOLUTION NO 120-12 – APPOINTMENT – NEW HIRES – On motion by Mayor Lockwood seconded by Committeeman Donohue and passed on roll call, the following resolution was adopted.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, that the following employees are hereby appointed to the following position at the salaries opposite their names:

NAME	DEPARTMENT	TITLE	SALARY	EFFECTIVE
Brian Allegretto	Public Safety	EMT P/T	\$ 10.60 ph	03/05/2012
Pamela Brannon	Public Safety	EMT P/T	\$10.60ph	03/05/2012
Krystal Hill	Public Safety	EMT P/T	\$10.60ph	03/05/2012

10. RESOLUTION NO 121-12– AUTHORIZING RIO GRANDE RESCUE SQUAD TO SOLICIT FUNDS IN THE ROADWAYS OF THE TOWNSHIP OF MIDDLE – On motion by Committeeman Donohue seconded by Mayor Lockwood and passed on roll call, the following resolution was adopted.

WHEREAS, Ordinance 1009-98 permits application to made to the Township of Middle by charitable organizations to solicit funds in the roadway of the Township of Middle, and

WHEREAS, Rio Grande Rescue Squad has submitted an application to the Municipal Clerk as required per said ordinance, and

WHEREAS, the dates and times of the charitable solicitation are listed within the written application submitted by the Rio Grande Rescue Squad and attached to this Resolution, and
WHEREAS, the Chief of Police of the Township of Middle has reviewed the application of Rio Grande Rescue Squad and has determined that there is no public safety reason for the Township of Middle to deny this application,

NOW, THEREFORE, BE IT RESOLVED by the Township Committee, of the Township of Middle, County of Cape May, State of New Jersey, hereby grants permission for the Rio Grande Rescue Squad to solicit funds on the roadways of Middle Township.

11. RESOLUTION NO 122-12– CONSOLIDATION OF EXISTING BANK ACCOUNTS – AFFORDABLE HOUSING – On motion by Committeeman Donohue and seconded by Mayor Lockwood and passed on roll call, the following resolution was adopted.

WHEREAS the Township Of Middle has established several bank accounts for the purpose of depositing monies relative to the Affordable Housing Trust Account and related Affordable Housing matters , and

WHEREAS the Committee believes it is in the best interest of the Township to consolidate said accounts for the purposes of ease of fund management and to simplify accounting procedures.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, and State of New Jersey that the following sub accounts in the Zoning Escrow Account shall be consolidated into the COAH Account at Sturdy Savings Bank forthwith: (list available in clerk’s office)

12. RESOLUTION NO 123-12– APPROVE TONNAGE GRANT 2011 – On motion by Committeeman Donohue seconded by Mayor Lockwood and passed on roll call, the following resolution was adopted.

WHEREAS, the Mandatory Source separation and Recycling Act, P.L. 1987, c.102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs, and

WHEREAS, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and expand existing programs, and

WHEREAS, the New Jersey Department of Environmental Protection and Energy is promulgating recycling regulations to implement the Mandatory source Separation and Recycling Act, and

WHEREAS, the recycling regulations impose municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality, and

WHEREAS, a resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and indicate the assent of the Middle Township Committee to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations, and

WHEREAS, such a resolution should designate the individual authorized to ensure that the application is properly completed and timely filed.

NOW THEREFORE BE IT RESOLVED by the Township committee of the Township of middle that the Township of Middle does hereby endorse the submission of a Municipal Recycling Tonnage Grant Application to the New jersey Department of Environmental Protection and Energy, office of Recycling and designates Andrew Smith, Municipal Recycling Coordinator to ensure that the said Application is properly filed; and

FURTHER RESOLVED, that the moneys received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

13. RESOLUTION NO 124-12– AUTHORIZING PAYMENT TO TOWNSHIP PROFESSIONALS FOR WORK ASSOCIATED WITH SEWER PROJECTS WITHIN THE TOWNSHIP OF MIDDLE – On motion by Mayor Lockwood seconded by Committeeman Donohue and passed on roll call, the following resolution was adopted.

WHEREAS, it has been determined by Special Counsel that the James Pickering, Esq. (“Solicitor”) was properly engaged by the Township of Middle as Township Solicitor from 2006 through 2011 under the “fair and open process” established under N.J.S.A. 19:44A-20.4 et seq., through the annual solicitation of proposals and the award of contracts; and
WHEREAS, it has also been determined that the engineering firm of Hatch Mott MacDonald (“Engineer”) was engaged by the Township of Middle as Conflict Engineer from 2006 through 2008 and as Sewer Engineer from 2009 through 2011 both through the solicitation of proposals and the awards of contracts pursuant said fair and open process; and
WHEREAS, over the course of these years the Solicitor and Engineer provided services to the Township to oversee and manage the Whitesboro #1 and Whitesboro #2 sewer contracts (“Sewer Projects”); and
WHEREAS, these Sewer Projects were subsidized by grants provided by the United States Department of Agriculture (“USDA”); and
WHEREAS, while those Sewer Projects were ongoing, the Township became engaged in litigation, and also authorized various additional services and change orders, which increased the cost of engineering and legal services performed pursuant to those contracts; and
WHEREAS, the neither the Engineer nor the Attorney have been paid for these additional services, and vouches/invoices are to be submitted by them for the services rendered, which vouches/invoices both professional represent to the Township constitute fair and reasonable charges for the services provided; and
WHEREAS, the Township Committee has not previously ratified the contracts to incorporate the work performed by the engineer and the attorney over these last few years, but acknowledges that the services rendered were necessary, and were satisfactorily provided by these professionals, and there is a need now to amend those contracts to incorporate the additional work; and
WHEREAS, in Township Committee of the Township of Edgewater Park v. Edgewater Park Housing Authority, 187 N.J. Super. 588 (Law Div. 1982), the Court determined, in a similar situation, to that presented to Middle Township, that public entities are permitted o ratify costs, amend contracts and reimburse Township professionals for the services rendered during the course of these contracts; and
WHEREAS, the Township will seek reimbursement from the USDA for these costs and fees as identified in the attached certification of funds and the associated amended contracts; and
WHEREAS, special counsel has determined that the payment of these costs and fees are permitted both under the New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-5 and the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq.
NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey that

1. *The Contract with the Law Firm of James Pickering, Jr. is hereby amended to allow for the retroactive payment of services rendered relating to the Whitesboro #1 and Whitesboro #2 sewer project contracts according to the attached certification.*
2. *The 2006 Contract with the Engineering Firm of Hatch Mott MacDonald as Conflict Engineer and the 2009 Contract with Hatch Mott MacDonald as Sewer Engineer are hereby amended to allow for the retroactive payment for services rendered under the Whitesboro #1 and Whitesboro #2 sewer project contracts according to the attached certification.*
3. *This Resolution shall become effective upon the publishing of this Resolution according to law and payments shall only be rendered upon the execution of contracts amending the previous payment amounts.*

14. RESOLUTION 125-12 AMENDMENT OF RESOLUTION 2-12, AWARDING CONTRACT FOR ADDITIONAL MUNICIPAL ENGINEERING SERVICES On motion by Committeeman Donohue seconded by Mayor Lockwood and passed on roll call, the following resolution was adopted.

WHEREAS; on January 4, 2012, this Committee duly adopted Resolution 2-12, Awarding Various Contracts Under the Fair and Open Process and,
WHEREAS: the Township of Middle has determined that services in addition to General Engineering Services are required in regards to “Various Road Reconstruction” projects within the Township.
WHEREAS, Remington and Vernick Engineers has submitted a contract indicating it will provide additional engineering services in connection with “Various Road Reconstruction”, not to exceed Eleven Thousand Five Hundred (\$11,500.00) Dollars; and,
NOW THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey, authorizes an amendment to the award of Municipal Engineering Services in the amount of \$11,500.00.

15. RESOLUTION 126-12 APPROVE CHANGE ORDER NO. 5 – CONTRACT NO. 23 SHELL BAY, SHUNPIKE, GOSHEN AND CREST HAVEN SANITARY SEWER SYSTEM EXTENSIONS On motion by Committeeman Donohue seconded by Mayor Lockwood and passed on roll call, the following resolution was adopted.

WHEREAS, the contract for the SSGC Sanitary Sewer Project was awarded on September 1, 2012 via Resolution No 360-10 to FW Shawl & Sons Inc., 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 #5 for the project awarded to F.W.Shawl and Sons be and is hereby approved in the amount of -\$3,884.46.

16. RESOLUTION 127-12 AWARD CONTRACT AND RATIFY AGREEMENT THROUGH NON-FAIR AND OPEN PROCESS-TESTA, HECK, SCROCCA & TESTA, PA On motion by Mayor Lockwood seconded by Committeeman Donohue and passed on roll call, the following resolution was adopted.
NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the Agreement between Testa, Heck, Scrocca & Testa and the Township of Middle for labor counsel, in the absence of Municipal Clerk Kimberly Krauss, 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. Testa Heck Scrocca & Testa, PA – Labor and Employment Counsel – \$150.00/hr. not to exceed \$17,500.00
17. RESOLUTION 128-12 AWARD CONTRACT AND RATIFY AGREEMENT THROUGH NON-FAIR AND OPEN PROCESS – TESTA, HECK, SCROCCA & TESTA, P.A. On motion by Committeeman Donohue seconded by Mayor Lockwood 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 Agreement between Testa, Heck, Scrocca & Testa and the Township of Middle for labor counsel, in the absence of Municipal Clerk Kimberly Krauss, 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.
Testa Heck Scrocca & Testa, PA – Labor and Employment Counsel – \$150.00/hr. not to exceed \$17,500.00

18. PUBLIC COMMENT:

Deputy Mayor Donohue recognized absence of the Clerk Kim Krauss who is out on maternity leave.

Mayor Lockwood

Motion to adjourn meeting:

1st Committeeman Donohue

2ND Mayor Lockwood

Roll Call Vote: Aye: Committeeman Donohue, Mayor Lockwood

Nay:

Meeting Adjourned: 7:48 PM

Dawn Stimmel, Deputy Clerk