

Cape May Court House, NJ  
 January 23, 2019  
 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 Donohue, Deputy Mayor Gandy, Committeemember Clark, Business Administrator/Township Clerk Kimberly Krauss, Deputy Township Clerk Andrea Singley & Municipal Solicitor Marcus Karavan

1. RESOLUTION 53-19 – APPOINTMENT NEW HIRES – On motion by Committeeman Gandy seconded by Committeeman Clark 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
Christopher Russ	Public Safety	Police Officer*	\$35,000.00	01/23/2019
Marcus Stotts	Recreation	Recreation Aide P/T T/A	\$10.00 per hour	01/05/2019
Sheryl Coleman	Recreation	Recreation Aide P/T T/A	\$10.00 per hour	01/07/2019

\*Hired from Certification List OL180945

2. SWEARING IN OF POLICE OFFICER

*Mayor Donohue:*

- Swore in Christopher Russ as a full-time police officer.

*Mayor Donohue/Chief Leusner:*

- Welcomed officer Russ.

3. PRESENTATION BY MAYOR AND COMMITTEE – STEVEN NOVSAK

*Mayor Donohue:*

- Recognized Steven Novsak for his service with Middle Township.

4. PRESENTATION BY MAYOR AND COMMITTEE – JAMES AMENHAUSER – EMPLOYEE OF THE YEAR

*Committeeman Clark:*

- Presented award for employee of the year 2018 to Jim Amehauser.
- Commemorated Jim on his work for the employee Christmas party and his work for Middle Township.

*Mayor Donohue:*

- Discussed the employee of the year program.

5. PRESENTATION BY MAYOR AND COMMITTEE – JANUARY EMPLOYEE OF THE MONTH – MARIAH FISHMAN AND CHRISTINA LILLEMOM – CONSTRUCTION DEPARTMENT

*Mayor Donohue:*

- Praised both employees on their work in the construction office. Spoke of both employees chipping in when they were an employee down in the construction & zoning office. Discussed Christina's hard work for the Township during her employment. Spoke of Mariah's hard work in the construction office.

6. 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.)

*John Laurcella, CMCH:*

- Discussed electric charges on bill list; suggested solar panels.

*Kimberly Krauss:*

- Spoke of receiving audits back and meeting that took place to review the same. Discussed grant application for upgraded lighting.

*Mayor Donohue:*

- Spoke of the previous upgrades made to lighting. Discussed solar being included in the study.

7. RESOLUTION 54-19 – APPROVING PAYMENT FOR BILLS – BILL LIST A (General Bills) – On motion by Committeeman Clark seconded by Committeeman Gandy 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. \$5,504,146.46

8. RESOLUTION 55-19 – APPROVING MINUTES FROM PREVIOUS MEETINGS – On motion by Committeeman Clark seconded by Committeeman Gandy 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: Reorganization Meeting 01/02/2019.

9. REPORTS: The following departments have submitted their reports for the months indicated: Finance for the Month of December; Municipal Clerk for the Month for December; Tax Collector for the Month of December; Sewer for the Month of December; Sterback Harbor for the Month of December; Zoning for Month of December

10. REINTRODUCTION – ORDINANCE 1581-19 - AN ORDINANCE ESTABLISHING THE COMPENSATION OF THE OFFICERS AND EMPLOYEES OF THE TOWNSHIP OF MIDDLE – On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, Ordinance No. 1581-19 passed first reading. Second reading, public hearing and consideration for adoption will be held on 02/20/2019 at 6:00 p.m.

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

SECTION 1. The positions listed in the attached schedule are hereby created.

SECTION 2. The salary ranges specified in the attached schedule are hereby adopted for each and every position listed therein. In those cases where only one rate or figure appears in said schedule, said rate or figure shall be the maximum rate of figure applicable to said position. In those cases where a maximum and minimum salary are hereby established for a position, the exact salary to be paid to the holder of said position shall be as determined from time to time by resolution of the Township Committee.

SECTION 3. The duties to be performed by each person holding any position listed in said schedule shall be those duties as outlined in Job Description of New Jersey Civil Service Department.

SECTION 4. In addition to the salaries set forth in said schedule, those employees who have held full time positions for a minimum of five years, as hereinafter defined, shall be entitled to additional compensation as set forth in this section, based upon current salary. The additional compensation to which the employee is entitled on January 1 of any year shall be the additional compensation for the entire year. In determining years of service on January 1 of any year, for the purpose of this Ordinance only, no credit shall be given for less than six full months of service in any year, and credit for a full year shall be given for any year in which the employee served for six full months or more.

Years of Service	Additional Compensation (Percent of Annual Salary)
5 years or more	2%
10 years or more	4%
15 years or more	6%
20 years or more	8%
25 years or more	10%

Section 4 shall only apply to Township Employees hired before December 31, 1994.

SECTION 5. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.

SECTION 6. This Ordinance shall become effective, retroactive to January 1, 2019 immediately upon final passage and publication according to law.

Complete Ordinance available in Clerk's office.

11. PUBLIC HEARING – PERSON TO PERSON TRANSFER – MOBILE HOME PARK – LICENSE NO. 16 – SHELLBAY MOBILE HOME PARK  
*No public comment.*

12. RESOLUTION 56-19 – APPROVING PERSON TO PERSON TRANSFER OF MOBILE HOME PARK LICENSE NO. 16 – SHELLBAY MOBILE HOME PARK - On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.

WHEREAS, James Meade is the holder in good standing of Campground License #16, Shellbay Mobile Home Park, located on Block 353, Lot 1, also known as 1016 Route 9 South, Cape May Court House, and

WHEREAS, application has been made to transfer said license to Louis Altobelli, and WHEREAS, all legal requirements for said transfer have been fulfilled.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that Campground License #16 be and hereby is transferred to Louis Altobelli

13. RESOLUTION 57-19 – DEPARTMENT CHANGE – On motion by Committeeman Clark seconded by Committeeman Gandy 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 department changes listed below are hereby acknowledged:

NAME	PREV. DEPT.	NEW DEPT.	EFF. DATE
Nancy Sittineri	Administration	Finance	01/23/2019

14. RESOLUTION 58-19 – AUTHORIZE CHANGE IN EMPLOYMENT STATUS – On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle that the following employee is hereby designated to the employment status listed below:

NAME	DEPARTMENT	PREVIOUS STATUS	AMENDED STATUS	SALARY	EFFECTIVE DATE
Tara Love	Public Safety Telecommunications	Public Safety Telecommunications Operator F/T	Public Safety Telecommunications Operator P/T Per Diem	\$15.00 per hour	01/28/2019
Wayne Kyle Bryant	Public Safety Telecommunications	Public Safety Telecommunications Operator P/T	Public Safety Telecommunications Operator F/T	\$28,500.00	01/28/2019

15. RESOLUTION 59-19 – ACKNOWLEDGEMENT OF RESIGNATION – On motion by Committeeman Gandy seconded by Committeeman Clark 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 resignations listed below, are acknowledged.

NAME	BOARD	POSITION	EFFECTIVE
Tarin Mason	Animal Advisory Board	Alternate Member #2	01/23/2019

16. RESOLUTION 60-19 – AMENDING RESOLUTION 13-19 – GENERAL APPOINTMENTS – 2019 -On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.

WHEREAS, there are various terms of office for various boards and positions that have expired as of 12/31/2018, 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 following named persons be and hereby are appointed or reappointed to fill the following offices/terms, retroactively effective 01/01/2019:

OFFICE / POSITION	TERM	NAME	TERM EXPIRES
Planning Board Member	4yr	Eric Thomas, Class IV	12/31/2022
Planning Board Member	4yr	Susan Copson, Class IV	12/31/2022
Planning Board Alt. Member	2yr	Paul Crowding, Alt. #2, Class IV	12/31/2020
Planning Board Asst. Secretary	1yr	Kaytie Keating	12/31/2019

*Mayor Donohue:*

- *Thanked Paul Crowding for his service and accepting the position*

17. RESOLUTION 61-19 – REFUND OF SEWER – On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.

WHEREAS, A refund is due to the former owner listed below due to payment made for the 1<sup>st</sup> quarter of sewer on January 3, 2019 and the property was sold in December.

ACCT	BLOCK	LOT	OWNER/LOCATION	2019
18633	1432	6 C0073	Kline, Edward 326 Newport Drive #1709 Naples, FL 34114	140.00

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 check in the above noted amounts payable to the above-mentioned party, as a refund of 2019 sewer.

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

18. RESOLUTION 62-19 – REFUND OF TAXES – On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.

WHEREAS, A refund is due to the below property owners due to payment made on tax-exempt property.

ACCT	BLOCK	LOT	OWNER/LOCATION	2018
3196	164.02	14	Mixon, Raymond & Carole M 669 Dias Creek Rd Cape May Court House, NJ 08210  Property location: 669 Dias Creek Rd	\$109.96
12635	1058	17	Hazel, Sheryl 45 Cochran St Cape May Court House, NJ 08210	\$119.12

			Property location: 45 Cochran St	
17377	1425.06	6	Burke, Thomas & Anna M 11 Centennial Drive Rio Grande, NJ 08242	332.48
			Property location: 11 Centennial Drive	
18218	1436.05	18	Horst, Michael, J & Becker, Mary E 33 Lochalsh Lane Rio Grande, NJ 08242	429.60
			Property location: 33 Lochalsh Lane	

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 check in the above noted amounts payable to the above-mentioned party, as a refund of 2018 taxes.

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

19. RESOLUTION 63-19 – DUPLICATE TAX SALE CERTIFICATE – On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.

WHEREAS, the Township Committee of the Township of Middle hereby authorizes the issuance of a duplicate tax sale certificate (s) pursuant to Chapter 99 of the Public Laws of 1997; and WHEREAS, the purchaser of tax sale certificate #2016-8467 has indicated to the Tax Collector that the original tax sale certificate cannot be located and having duly filed the appropriate Affidavit of Loss with the Tax Collector, a copy of which is attached hereto; and NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Committee of the Township of Middle of the County of Cape May, State of New Jersey, hereby authorizes the Tax Collector, upon receipt of an appropriately executed and notarized affidavit of loss from the owner of the certificate, prepare replacement certificate for said certificate and issued to the original lien holder known as:

Cedar Villas Inc.  
P.O. Box 62  
South Seaville, New Jersey 08246

BE IT FURTHER RESOLVED, that the replacement certificate, duplicated in original form, shall be marked as “duplicate”; and

BE IT FINALLY RESOLVED, that a copy of said duplicate certificate shall be attached herewith, and a certified copy be forwarded to the Tax Collector and lien holder.

20. RESOLUTION 64-19 THROUGH 66-19 - AUTHORIZING EXECUTION OF FAIR AND OPEN CONTRACT (ITEMS A THROUGH C) – On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.

(A)WHEREAS, the Township Committee has previously instituted a Fair and Open Process for the award of contract pursuant to N.J.S.A. 19:44A-20.4 et. seq.; and WHEREAS, the Township Committee has followed the procedures that it has previously set forth for the award of specific contracts; and

WHEREAS, the Township Committee has solicited proposals, and has publicly opened each proposal submitted, and has considered each proposal in light of criteria previously established by the Township, and has made a decision on each proposal submitted in light of those criteria;

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 submissions shall be awarded as follows for a term effective January 1, 2019 through December 31, 2019:

- Grants Consultant – Blauer Associates – Not to Exceed \$3,600.00

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute contracts with each of the above-mentioned individuals as necessary, and the appropriate certification of funds by the Chief Financial Officer shall be attached hereto.

(B)WHEREAS, the Township Committee has previously instituted a Fair and Open Process

WHEREAS, the Township Committee has followed the procedures that it has previously

WHEREAS, the Township Committee has solicited proposals, and has publicly opened each

WHEREAS, the Planning Board has formally passed Resolution No. 010809, appointing

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of

David A. Stefankiewicz – Planning Board Solicitor – Not to Exceed \$30,000.00

BE IT FURTHER RESOLVED, that this contract shall be effective until December 31, 2019.

(C) WHEREAS, the Township Committee has previously instituted a Fair and Open Process

WHEREAS, the Township Committee has followed the procedures that it has previously

WHEREAS, the Township Committee has solicited proposals, and has publicly opened each

WHEREAS, the Zoning Board of Adjustment has formally passed Resolution No. 110- 2019,

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

submission shall be awarded as follows:

Victoria A. Steffen, Esquire

Zoning Board Solicitor

Not to Exceed \$23,000.00

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute contracts with each of the above-mentioned individuals as necessary, to be followed with a resolution of award and certification as attached hereto.

for the award of  
set forth for the  
proposal submitte  
David A. Stefank  
Middle, County of

for the award of  
set forth for the a  
proposal submitte  
appointing Ms. S

BE IT FURTHER RESOLVED, that this contract shall be effective until December 31, 2019.

21. RESOLUTION 67-19 THROUGH 68-19– AWARD CONTRACT AND RATIFY AGREEMENT THROUGH NON-FAIR AND OPEN PROCESS (ITEMS A THROUGH B)– On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.

(A) NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the Agreement between Keith Bonchi, of Goldenberg, Mackler, Sayegh, Mintz, Pfeffer, Bonchi & Gill and the Township of Middle for In Rem Foreclosure preparation, 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.

Keith Bonchi – In Rem Foreclosure – Not to Exceed \$17,500.00

(B) NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Middle, the governing body thereof, that the Agreement between Archer & Greiner and the Township of Middle for Bond Counsel 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.

Archer & Greiner – Bond Counsel – Not to Exceed \$17,500.00

22. RESOLUTION 69-19 – RATIFY SHARED SERVICES AGREEMENT – BOROUGH OF STONE HARBOR – PUBLIC WORKS COOPERATION – On motion by Committeeman Clark seconded by Committeeman Gandy 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 attached Shared Services Agreement for Public Works Cooperation with the Borough of Stone Harbor and the Township of Middle, be and is hereby ratified.

BE IT FURTHER RESOLVED, that said agreement shall expire on December 31, 2023.

FURTHER RESOLVED, that the appropriate officials are hereby authorized and directed to sign said agreement.

23. RESOLUTION 70-19 – AWARD OF BID – 2018 ROAD IMPROVEMENT PROJECT - PHASE II – On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.

WHEREAS, it has been deemed necessary and desirable to solicit bids for the 2018 Road Program Phase II; and

WHEREAS, sealed bids were received on September 6, 2018; and

WHEREAS, pursuant to N.J.S.A. 40A:11-24(a), the Township authorized a 30-day extension to award the contract via Resolution 444-18 to which South State, Inc. consented; and

WHEREAS, the Township requested a further extension of the time to award until January 23, 2019 to which South State, Inc. also consented via Resolution 492-18; and

WHEREAS, it appears that the following bid submitted represents a figure equal to the lowest complete bid received, which complies with specifications.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the contract for the 2018 Road Program Phase II, be and hereby is awarded to:

South State, Inc.

\$758,885.00

FURTHER BE IT RESOLVED, that this award is conditioned upon certification of availability of funds

*Mayor Donohue:*

- *Clarified the money will be put towards road improvements on Beach Street in Whitesboro and West Atlantic Ave in Cape May Court House.*

24. RESOLUTION 71-19 – RESOLUTION PROVIDING FOR TRANSFER OF CERTAIN 2018 BUDGET APPROPRIATION RESERVES – On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.

WHEREAS, various 2018 bills have been presented for payment this year, which bills were not covered by order number and/or recorded at the time of transfers between the 2018 Budget Appropriation Transfers in the last two months of 2018; and

WHEREAS, N.J.S.A.:40A:4-59 provides that all unexpended balances carried forward after the close of the year are available, until lapsed at the close of the succeeding year, to meet specific claims, commitments or contracts incurred during the preceding fiscal year, and allow transfers to be made from unexpended balances which are expected to be insufficient during the first three months of the succeeding year;

NOW THEREFORE BE IS RESOLVED, by the Township Committee, the Governing Body of the Township of Middle, County of Cape May and the State of New Jersey, that the following transfers of budget appropriation reserves be made in the budget of Middle Township for the year 2018:

<u>Account Number</u>	<u>Name</u>	<u>From</u>	<u>To</u>
8-01-23-220-220-400	GROUP INSURANCE	14,500.00	
8-01-26-290-291-100	PUBLIC WORKS SALARY & WAGES	10,000.00	
8-01-26-290-291-200	PUBLIC WORKS OTHER EXPENSES		5,000.00
8-01-26-315-315-200	MOTOR POOL		5,000.00
8-01-31-440-440-475	TELEPHONE COSTS		5,500.00
8-01-31-446-446-475	NATURAL GAS COSTS		7,500.00
8-01-32-465-465-373	SANITARY LANDFILL-CONTRACT		1,500.00
	<b>Totals:</b>	<b>24,500.00</b>	<b>24,500.00</b>
8-07-55-502-503-310	SEWER-UTILITY INSURANCE	10,000.00	
8-07-55-512-512-012	SEWER - CAPITAL OUTLAY	1,000.00	
8-07-55-502-504-351	SEWER-MUA USER CHARGES		10,000.00
8-07-55-502-502-200	SEWER - OTHER EXPENSES		1,000.00
	<b>Totals:</b>	<b>11,000.00</b>	<b>11,000.00</b>

25. RESOLUTION 72-19 – SOCIAL AFFAIRS PERMIT – BRENDAN BOREK HIGH TIDES MEMORIAL FUND – On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.  
WHEREAS, the Brendan Borek High Tides Memorial Fund has applied for approval to sell alcoholic beverages at an event to be held at Stone Harbor Golf Club, 905 Route 9 North, Cape May Court House, New Jersey 08210 on May 10, 2019 from 12:00pm until 10:00pm, 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.
26. RESOLUTION 73-19 - AUTHORIZING APPLICATION – 2019 SUSTAINABLE JERSEY GRANT FUNDED BY THE PSEG FOUNDATION FOR ENVIRONMENTAL COMMISSIONS – On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.  
WHEREAS, the Township of Middle desires to apply for and obtain a grant from Sustainable Jersey for approximately \$2,000.00 to procure a self-sustaining landscaped entrance with signage into our Goshen Complex.  
NOW THEREFORE BE IT RESOLVED, that the Township of Middle does hereby authorize the application for such a grant, and  
BE IT FURTHER RESOLVED, that the Township of Middle hereby recognizes and accepts that the organization may offer a lesser or greater amount and therefore, upon receipt of the grant agreement from said organization, does further authorize the execution of any such grant agreement; and also, further authorize the expenditure of funds pursuant to the terms of the agreement between the Township of Middle and Sustainable Jersey.  
BE IT FURTHER RESOLVED, that the persons whose names, titles, and signatures appear below are authorized to sign the application, and that they or their successors in said titles are authorized to sign the agreement and any other documents necessary on connection therewith
27. RESOLUTION 74-19 – AMEND LEASE AGREEMENT – CONCERNED CITIZENS OF WHITESBORO USAGE OF MLK CENTER – On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.  
WHEREAS, the Township of Middle approved a lease agreement with the Concerned Citizens of Whitesboro for usage of the Martin Luther King Center via Resolution 474-18; and WHEREAS, said agreement and its contents have been reviewed by the insurance carrier; and WHEREAS, the insurance carrier has requested an amendment of said agreement due to the Concerned Citizens of Whitesboro’s 501c3 corporation status.  
NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey that the appropriate officials are hereby authorized and directed to sign any and all documentation necessary to carry out the purpose and intent of this resolution.
- Mayor Donohue:*  
- Clarified that the amendment was made by the request of the Township insurance carrier
- Kimberly Krauss:*  
- Explained that it was to make the agreement and the lease the same.
28. RESOLUTION 75-19 – AUTHORIZING THE EXECUTION OF AGREEMENT WITH COUNTY OF CAPE MAY – On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.  
NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Township Clerk are hereby authorized to execute the final agreement, as reviewed and approved by counsel, between the County of Cape May and the Township of Middle.

29. RESOLUTION 76-19 – AUTHORIZING EXECUTION OF MEMORANDUM OF UNDERSTANDING – CAPE COMMUNITY CHURCH/BIBLE FELLOWSHIP CHURCH – On motion by Committeeman Clark seconded by Committeeman Gandy and passed on roll call, the following resolution was adopted.  
NOW, THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Middle, County of Cape May, State of New Jersey does hereby authorize the execution of the Memorandum of Understanding with Cape Community Church/Bible Fellowship Church.  
BE IT FURTHER RESOLVED, that the appropriate officials are hereby authorized to sign the final contract, inclusive of all final changes incorporated in the herein Memorandum of Understanding.  
BE IT FURTHER RESOLVED, that the appropriate officials are hereby authorized to sign any and all documents in connection therewith.
30. RESOLUTION 77-19 – CLOSED SESSION – POTENTIAL LITIGATION – DEFAULTED BOND – On motion by Committeeman Clark seconded by Committeeman Gandy 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:  
POTENTIAL LITIGATION – DEFAULTED BOND  
The general nature of the subject matter to be discussed is as follows:  
POTENTIAL LITIGATION – DEFAULTED BOND  
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.
31. RESOLUTION 78-19 - DECLARING INTENT TO FULLY COMPLY WITH ITS MOUNT LAUREL OBLIGATIONS VOLUNTARILY AND AUTHORIZING AND DIRECTING ITS SPECIAL MOUNT LAUREL COUNSEL TO (1) FILE A DECLARATORY JUDGMENT ACTION PURSUANT TO MOUNT LAUREL IV; (2) TO SECURE TEMPORARY IMMUNITY FROM ALL MOUNT LAUREL LAWSUITS; AND (3) TO TAKE ANY AND ALL REASONABLE ACTIONS TO HELP THE TOWNSHIP ACHIEVE MOUNT LAUREL COMPLIANCE VOLUNTARILY – On motion by Mayor Donohue seconded by Committeeman Clark and passed on roll call, the following resolution was adopted.  
WHEREAS, in Southern Burlington County N.A.A.C.P. v. Tp. of Mount Laurel, 92 N.J. 158 (1983) (“Mount Laurel II”), the New Jersey Supreme Court emphasized its desire to promote voluntary compliance by municipalities: “[o]ur rulings today have several purposes. First, we intend to encourage voluntary compliance with the constitutional obligation. . . .”; and  
WHEREAS, based upon the Supreme Court’s desire to promote voluntary compliance, Judge Serpentelli devised the doctrine of “immunity” to enable municipalities to achieve compliance under the protection of any immunity order free from the costs, burdens, and distractions of builder’s remedy lawsuits; and  
WHEREAS, the immunity doctrine enables municipalities to devote the public’s finite resources exclusively to compliance, and not litigation, in accordance with the Supreme Court’s desire to limit excessive litigation; and  
WHEREAS, in Hills Dev. Co. v. Tp. of Bernards, 103 N.J. 1, 64 (1986) (“Mount Laurel III”), the New Jersey Supreme Court openly praised the three Mount Laurel trial judges, which included Judge Serpentelli, for their “innovative refinement of techniques for the process of litigation,” and “temporary immunity” constituted just such a refinement; and  
WHEREAS, the Legislature enacted the New Jersey Fair Housing Act (“FHA”) in 1985 in response to a tidal wave of builder’s remedy lawsuits precipitated by Mount Laurel II; and  
WHEREAS, the Legislature, like the Supreme Court in Mount Laurel II, sought to encourage voluntary compliance by providing a process by which municipalities could bring themselves into COAH’s jurisdiction and comply voluntarily under the protective umbrella of COAH’s jurisdiction free from the burdens of Mount Laurel lawsuits; and  
WHEREAS, indeed, the Legislature clearly stated that it enacted the FHA to create an alternative to builder’s remedy litigation: “[T]he State’s preference for the resolution of existing and future disputes involving exclusionary zoning is the mediation and review process set forth in this act and not litigation, and that it is the intention of this act to provide various alternatives to the use of the builder’s remedy as a method of achieving fair share housing.” See N.J.S.A. 52:27D-303; and  
WHEREAS, on August 31, 2001, Hon. Eugene D. Serpentelli, J.S.C. (ret.) had the opportunity to reevaluate the immunity doctrine following the enactment of the FHA in a case entitled, K. Hovnanian Shore Acquisitions v. Tp. of Berkeley, Docket No OCN-L-1120-01; and  
WHEREAS, in that case, the plaintiff-developer argued that the FHA extinguished the need for temporary immunity because it created a means by which municipalities could voluntarily comply through an administrative process; and  
WHEREAS, Judge Serpentelli rejected this argument, even though the FHA had created an administrative alternative to voluntary compliance preferred by all three branches of government; and  
WHEREAS, in an opinion entitled K. Hovnanian Shore Acquisitions v. Tp. of Berkeley, 2003 WL 23206281, (App. Div. Jul 01, 2003), the Appellate Division upheld Judge Serpentelli’s ruling and declared that “voluntary compliance is preferred, should be encouraged, and that a builder’s remedy action should be considered a remedy of last resort;” and

WHEREAS, for over three decades, Mount Laurel trial judges have routinely used the immunity doctrine to protect municipalities that have made a bona fide commitment to comply voluntarily; and

WHEREAS, on March 10, 2015, the New Jersey Supreme Court's issued In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) ("Mount Laurel IV") wherein the Court deemed the New Jersey Council on Affordable Housing ("COAH") to be "moribund" and therefore transferred the full responsibility of implementing the Mount Laurel doctrine to the various Mount Laurel trial judges in the state; and

WHEREAS, in Mount Laurel IV, the Supreme Court emphasized its desire (1) to follow the FHA processes "as closely as possible;" (2) to provide municipalities "like treatment to that which was afforded [to them] by the FHA;" and (3) to develop a process "that seeks to track the process provided for in the FHA." 221 N.J. at 6, 27 and 29; and

WHEREAS, in Section 309 of the FHA, the Legislature initially permitted municipalities to formally commit to comply by adopting a "Resolution of Participation" which, when filed, was sufficient to secure COAH jurisdiction prior to adoption, endorsement, and the filing of a Housing Element and Fair Share Plan; and

WHEREAS, the instant resolution is the functional equivalent of a Round 1 Resolution of Participation; and

WHEREAS, in Mount Laurel IV, the Court directed municipalities seeking to comply voluntarily to file a Declaratory Judgment Action ("DJ Action") to secure jurisdiction of the courts and to begin the process towards constitutional compliance; and

WHEREAS, consistent with Mount Laurel IV, the Township shall file a DJ Action with attachments including (1) its current adopted and endorsed Round 3 Housing Element and Fair Share Plan; (2) the relevant Planning Board resolution adopting same; (3) the governing body resolution endorsing same; and (4) a proposed Service List; and

WHEREAS, pursuant to its Round 2 procedural regulations, the filing of these four documents are also sufficient to secure COAH's jurisdiction thereby automatically securing immunity from all Mount Laurel lawsuits; and

WHEREAS, the Township shall file these documents with a full acknowledgment that it will expeditiously go through the process of formally amending its Housing Element and Fair Share Plan to comport with its current fair share obligations, other changes in the law, and the relevant circumstances in Middle; and

WHEREAS, the Township shall also simultaneously file a Motion for Temporary Immunity which is an action specifically contemplated in Mount Laurel IV to allow municipalities like Middle Township to fully-devote its taxpayer funds and other finite resources to achieving compliance rather than the high costs, delays, and disruption caused by builder's remedy litigation; and

WHEREAS, in taking these formal actions, the trial judge assigned to adjudicate the Township's DJ Action should conclude that the Township is truly committed to comply, thereby rendering any builder's remedy lawsuit, constitutional compliance action; or even any formal intervenors in the DJ Action as wholly necessary; and

WHEREAS, in light of the above, the Township herein directs its Special Mount Laurel Counsel to swiftly take action to file a DJ Action and Motion for Temporary Immunity on behalf of the Township so that it may achieve compliance in the most efficient, expeditious, and cost-effected manner possible.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Township of Middle hereby reaffirms its commitment to satisfy any obligations a court may reasonably require.
2. The Township hereby directs its Special Mount Laurel Counsel to draft and file a DJ Action and Motion for Temporary Immunity pursuant to Mount Laurel IV and in accordance with all other applicable laws.
3. The Township also directs its Special Mount Laurel Counsel to draft and file Motion for Temporary Immunity pursuant to Mount Laurel IV and in accordance with all other applicable laws expressly asking the trial judge to enter an order granting immunity to be effective from the date of this resolution, January 23, 2019, until whatever date the judge deems to be fair and reasonable.
4. The Township hereby directs its Special Mount Laurel Counsel to take whatever actions are reasonable and necessary to both to secure and to maintain the Township's immunity and to assist the Township in reaching its goal of securing a Final Round 3 Judgment of Compliance and Repose.
5. This Resolution shall take effect immediately.

*Marc Karavan:*

- *Spoke of background and reasoning behind Resolution.*

*Mayor Donohue:*

- *Stated this gives the Township of Middle the frame work for preventing potential litigations*

*Marc Karavan:*

- *Stated that if the township has the immunity protection, they are then in charge of the process*

## 32. PUBLIC COMMENT:

*John Laurcella, CMCH:*

- *Spoke of Committee established to study the form of government.*



- Discussed food pantry he works for and worry of running out of food. Asked Committee if they could help obtain food for the pantry.

*Stan Donigar, Rio Grande:*

- Questioned item 10 on the agenda.

*Mayor Donohue:*

- Discussed longevity for very few Township employees.

*Kimberly Krauss:*

- Further explained; based solely off years of service.

*Stan Donigar, Rio Grande:*

- Asked what other towns do in relation to longevity.

*Mayor Donohue:*

- Explained it is based on a town by town basis.

*Bill Markee, Rio Grande:*

- Spoke of attempt to get a new storm drain.

*Mayor Donohue:*

- Discussed e-mail received from Mr. Markee and his conversation with the Township Engineer with regard to the same.

*Bill Markee, Rio Grande:*

- State that he believes the drain needs to be blown out.

*Vince Orlando, Engineer:*

- Offered to go out and take a look at the situation.

*Bill Markee, Rio Grande:*

- Asked if there is anything the township can do regarding old train station due to drug activity and homelessness.

*Mayor Donohue:*

- Explained the Township does not own the area; however, area is patrolled by the Police Department. Explained if there is code issues the Township can enforce the code.

*Kimberly Krauss:*

- Stated she would discuss matter with Chief Leusner.

*Mayor Donohue:*

- Suggested tearing down the structure.

*Bill, Markee, Rio Grande:*

- Discussed old well and septic in the area as well.

*Mayor Donohue:*

- Discussed approaching situation using the unsafe structure ordinance; will discuss with Chief Leusner and Code Enforcement Officials.

*Vilma Pombo, Environmental Commission:*

- Asked about a ban on plastic ordinance.

*Mayor Donohue:*

- Asked if a request to Township for the ban on plastic had been sent.

*Vilma Pombo, Environmental Commission:*

- Spoke of news articles relating to the subject she can provide for Committee to research.

*Mayor Donohue:*

- Stated he would reach out to Stone Harbor regarding their ordinance.

*Robert Matthews, Rio Grande:*

- Spoke about coalition meeting of drafting up a letter regarding medical marijuana.
- Also discussed worries regarding future Township ordinances

*Mayor Donohue:*

- Spoke of need to have a discussion regarding the Medical Marijuana Industry.

## COMMITTEE COMMENTS:

*Committeeman Clark:*

- Spoke of rabies clinic at the Court House Fire Department.
- Asked for volunteers for the rabies clinic.

*Mayor Donohue:*

- Spoke of meeting later in the week with MUA regarding sewer to discuss ways to reduce costs.

Motion to enter closed session – 6:50 PM

1<sup>st</sup>: Committeeman Clark                      2<sup>nd</sup>: Committeeman Gandy

Pass on Roll Call: Committeeman Clark, Committeeman Gandy, Mayor Donohue

Motion to re-enter open session – 7:00PM

1<sup>st</sup>: Committeeman Clark                      2<sup>nd</sup>: Committeeman Gandy

Pass on Roll Call: Committeeman Clark, Committeeman Gandy, Mayor Donohue

Motion to enter adjourn meeting– 7:00PM

1<sup>st</sup>: Committeeman Clark                      2<sup>nd</sup>: Committeeman Gandy

Pass on Roll Call: Committeeman Clark, Committeeman Gandy, Mayor Donohue

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Kimberly D. Krauss, Twp. Clerk

Prepared by: A. Singley