

**Cape May Court House, New Jersey
TOWNSHIP OF MIDDLE
TOWNSHIP COMMITTEE
WORK SESSION AGENDA
February 19, 2020 4:00 PM (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. 22-20 entitled "Establishing Work Session Meeting Nights" which was adopted by Township Committee of the Township of Middle on January 6, 2020.

Members present are Mayor Donohue, Deputy Mayor Gandy, and Committeemember Norris

Business Administrator/Township Clerk Kimberly Krauss, Deputy Township Clerk Andrea Singley, Township Engineer Vincent Orlando & Kyle Weinberg in place of Municipal Solicitor Marcus Karavan

FLAG SALUTE:**ITEMS OF DISCUSSION:**

PRESENTATION BY Jay Wolfkind, Cherokee Equities, LLC
- Distressed Properties

Jay Wolfkind

- *Explained what Cherokee Equities does; Stated they have been distressed real estate investors for 20 years and own 3 superfund sites in NJ all the way down to a 2 foot wide strip of land that is 3 ½ miles long, which is an old railroad right-of-way. They are very familiar with analyzing and recovering titles for distressed properties, especially when they have layers of encumbrances, not just that someone could not pay the taxes. Explained it could be a property that was flooded that had previously had a chemical plant on it. They also get calls from banks. They claim title and then usually pass along to local builders. On contaminated properties, they are very familiar with the Environmental Rights Act, as well as the Spill Act.*
- *Proposed doing a single analysis of all properties of what it is, where it is, what does it look like it's worth. You then match that against the County records. They then go back to the municipality with a list of properties that they feel can be put up for sale for inclusion in an abandoned property sale...this is a public auction, just like a tax sale. The difference is, this sale is one of the 2 instances where a municipality is authorized to sell a municipal lien for less than full value. This process can be used as long as it is a public process and as long as that process is approved at an open council meeting and you put reverters and conditions on these properties. Example, if you put a property up for \$23,000 but someone only bids \$5,000, you can explain to the bidder that you would accept the \$5,000 on the conditions of: 1. they finish the Tax Foreclosure within 1 year. 2. they fix the property up within 2 years. 3. during that process, the Township gets all of the subsequent taxes. If the bidder fails to do this and the Township does not grant an extension, the lien will be reverted back to the Township and whatever has been put on the lot the Township will get to keep.*
- *Most municipalities pass an Empowering Ordinance and then they hold the sale. Technically, you do not have to pass the Ordinance, all that needs to be done is reasonably justify including a property. Properties that are not candidates, for whatever reason, such as those that are wetlands that at high tide are underwater, can be bundled up and do a single In-Rem and given to Green Acres to get them off the books. Some properties, like commercial properties, if pushed, will usually pay, which is better for the Township. This keeps the Township out of the chain of title.*
- *Proposed becoming a Professional Service Provider to the Township for no money. If Township chooses to move forward with consideration, Cherokee would return, within 2 weeks, a Professional Services Proposal, DCA Approved.*
- *Explained process for creating the proposal and what it would cost the Township. Step one would be a written plan that would be approved by the Township. Step two would be an analysis of every single lien the Township has in writing, with a summary page defining what they found. Finally the Township comes back and picks the ones they would like to proceed with.*
- *Discussed background checks done on properties. Explained they go to the County Clerk and gather all of the information in the background. They then go and obtain a list of every builder who has pulled building permits in the county within the last 3 years. Those will be the candidates for these properties. If properties like these were sold to an owner/occupant and they don't have the ability to bring it up to code to get an ECO, a contractor will. More importantly, if a contractor rents the property out, they would be the most obvious person to come by everytime there is a problem. Of these properties that are owned by someone other than a contractor, maintenance on the rental unit could use up the whole months rent, where a contractor can go and fix the problem themselves. This is what they explain to builders when dealing with these properties....if they purchase enough of them, eventually, once they reach 15 units, they*

can retire and live off of the income from the units. The Township now brings in new investors, small investors.

- *Explained process of payment for the Township. Stated that if someone says they would love to do this, but cannot afford to do so, they have a licensed banker in their office, familiar with the 203K Program, that can help get financing for people that want to do this as long as they have paid their taxes for 2 years. They do the paperwork for the people, because this is most often the most difficult for them to do. The Township's objective is economic, social, environmental.*
- *Stated one of the reasons he feels a lot of these properties are still here, some cases for years, is because no one could see a way to to make them profitable and in some cases the property has deteriorated. There are instances where 3rd party events cause a problem, i.e. a divorce or an illness, ...that is one of the reasons they check court records and upper courts to understand what happened with the property. Conceptually, their proposal is a method by which a professional analyses is done of the entire list. It is their business to investigate the background of properties and to get them off the books and help these properties stay invested in the Township..*
- *Distributed various reports to the dias of possible properties as an example of property proposals, which is called the set up, that is then combined with environmental information from the NJDEP. Gave the Township's one heavily contaminated property as an example of where it does not appear to have a responsible party. Problem then becomes, who do you go after. Gave an example of landfills, in particular the Palmyra landfill in Burlington County, which set idle for 17 years, took 2 ½ years to settle and is now about to get approval for a warehouse.*
- *Explained small investments still make sense also. Stated the municipality has to decide if this would be a good way for them to go. His company would provide a list of properties to consider to the Township. However, his company does not make any money until after they perform. The Township would decide every step along the way, deal by deal, property by property, which ones they want to proceed with. The sale is an open auction sale and the Committee has the discretion to accept or reject any and all bids. If someone comes in 2 weeks after sale offering more money for a property and the sale at the auction was not approved yet by Committee, they can accept the higher offerCommittee can put any condition they want in the assignment and codify in the Resolutions.*

Mayor Donohue

- *Asked about this company never working with a municipality before?*

Jay Wofkind

- *Spoke of how, as a general rule, the way they work is as Principal Investors. Continued to discuss Cherokee's process of correcting and fixing abandoned properties. Stated they trade in the secondary market, they have never attended a Tax Sale.*

Mayor Donohue

- *Asked about Cherokee's definition of abandoned properties*

Jay Wolfkind

- *Discussed criteria of determining an abandoned property; discussed efforts taken to inform a current owner/owners of properties before moving forward with sale process. When all the Tax Lien traders have problems in their portfolio's, they trade into the secondary market. That is where they come in, because it is illegal for a regulated institution to have a contaminated asset on their books, because if they can't qualify and quantify, how do you reserve for the risk. They have not been in the Cape May area because the deals are small.*
- *Further explained Cherokee's risks involved in the process where most of the liens they do are liens that were sold years ago, where maybe someone did not realize that the property once held a gas station, which could result in an environmental problem and they no longer want the property. Their company then gets the call from Tax Lien Traders or sometimes banks. When there is a distressed asset, whoever sells it to his company, they adjust the risk with a discount. When they get an indemnity, they can bond the indemnity. He has been doing this since 2002. Prior to that he was a commercial real estate broker.*
- *They stopped doing residential 6 years ago and only do commercial properties of a million dollars and up now. However, they have taken on 2 new partners who are looking for volume ... this and Trenton would be that volume. They hope to build up credibility in doing this. Keith Bong, one of our attorney's, has been their council for almost 20 years.*
- *They are real estate investors and they understand every aspect of how to deal with these types of problems from a real estate point of view and a contractor's point of view. Some of the people not paying in our Township actually own homes in Stone Harbor.....so if we start sending out Code Enforcement letters for appearance, followed by required summonses from Municipal Court 30 days after their notice to maintain, this will help get their attention. Their company is familiar with the entire process of recovering the value of synthetic real estate.. The negative cash flow going forward can be cut when dealing with their company.*

Mayor Donohue

- *Asked about defining abandoned properties?*

Jay Wolfkind:

- Gave suggested process of simplifying process...as a general rule it has to have been vacant for 30 days or more....he will send the Township a copy of the Abandoned Properties Act, which has very specific criteria. Code Enforcement has to verify that the property has not been maintained, is a danger or an eyesore, there are 7 or 8 different criteria. Two notices, sent certified mail, must be sent to the owner with reasons for notification that is on the list, notification that they may lose it at a sale, including an explanation of here is what is needed to be done. Should include names of people they can speak with to help solve their problem.
- Before list is generated, their company does an entire analytical evaluation and the Township decides which properties stay and which properties go. Township has total control over everything that happens and loses nothing.

Mayor Donohue:

- Questioned his point about all the little deals and the negotiating aspects of these deals as to how many cents on the dollar and the conditions on these deals.....sounds very complicated.

JayWolfkind:

- Suggested that they come up with a standard boiler plate template and clear it with DCA where we say this is the minimum criteria on everything, which could be; 1. You must do the foreclosure and finish by a certain date. 2. All subsequent taxes must be paid as they come due until target is hit. 3. Property must then be put back into production....there is a CO needed and the length of time needed to get done....just have basic minimum criteria.
- If something that is extraordinary should happen, the Municipality always has the right to grant an extension....all discretion is with Municipality. His company's first step is to develop a plan which is presented to Township. Township then gives feedback, makes adjustments as they see fit....nothing starts until plan is approved by Township.

Mayor Donohue:

- Asked how the auction part works, is it one time, once a year?

Jay Wolfkind:

- It is one time, anything that can be sold will be sold at that sale. If bankruptcy filed by property owner, then that would have to be pulled if on the list. Do not just advertize in paper, but get list of all who have pulled building permits in the county in the past few years....send out mailings to all of these people notifying them of the auction....people who want to attend auction must have paid taxes in past 2 years.

Kim Krauss:

- Asked about 2 lists handed out at beginning of meeting.

Jay Wolfkind:

- Explained the lists are sorted 2 ways....one is by the total outstanding amount as of today of municipal lands. Other list is sorted by the amount of the original Tax Lien. This was done because, as a general rule, the Tax Lien represents 2 to 3 ½ % of the Assessed Value of the property per year.

Kim Krauss:

- Questioned if the report that shows \$715,788 is the total amount the Township has in Liens.

Jay Wolfkind:

- Yes. You pay a percent to the taxing entities. Keep in mind that is not 1 year, that is going back. As a general lrule, municipalities pay about 20% to the County

Kim Krauss:

- Explained reason for consideration of having Cherokee come to meeting came about when Sandy Beasley, Tax Collector, saw them at the League of Municipalities. Spoke of when compiling the Township's upcoming foreclosure list for this year, they discussed a few properties that the Township has outstanding liens on that are eligible for foreclosure
- One of the properties is a highly contaminated property issue, the Williams property, which is extremely complex, and was abandoned in 1984. The owner walked away from the property, at which time the Township put a lien on the property. The State of NJ now has test wells located on the property. The State is not going to foreclose on that property and the Township is not going to foreclose on that property, so the Township continues to pay the property taxes to all of the other entities. The Township reached out to Jay to see if this property would be one that they would be interested in pursuing with the thought of getting it back on the rolls. Have had discussions of reducing assessment on this property. Also have other properties we would like to get on the rolls.

Jay Wolfkind:

- Stated the contaminated properties represent interesting opportunities. The Environmental Rights Act essentially says anyone who has ever been in the chain of title, or might have contributed to the contamination, has joint unlimited personal liability for the sum total of remediation. A property owner cannot just walk away from a contaminated property.....if they have any assets, the municipality can file an Environmental Rights Act lawsuit....no money would need to be spent on this lawsuit.. The Spill Act Lien is

something that can be filed, if money has already been spent on remediation, where the potentially responsible parties contribute to or pay for that remediation. The Federal Environmental Rights Act, which the State of New Jersey has adopted and modeled, gives municipalities the right to pursue potentially responsible parties. First thing would be to figure out cost to fix problem, then figure out what you would be left with. In this case, he would suggest going to the Municipal Council and do a 60 year title search. Any one in the chain of title at any point is liable. Also, at a minimum, the NJDEP will pay half. There are ½ doz programs that we are eligible for that they are not. The questions are: 1. Is the property an eminent danger to the public, and; 2. Are there any DRP's, and; 3. Has the municipality made a commercially reasonable effort to find the responsible parties. The whole point of the different funds that the DEP has, starting with the hazardous waste discharge program, is provide municipalities funding to protect the environment and the public and to get the property back on the tax rolls.

Mayor Donohue:

- Asked about costs that the Township would face? Spoke of soft costs the Township already has.

Jay Wolfkind:

- Discussed variables involved in determining costs to the Township. That is an analysis only the Township can make. There are non financial aspects to this. How does an abandoned property in a neighborhood affect the properties around it? What is the value of getting that property back on the tax rolls where the contingencies and reverts say if someone does improve the property, they will know how the improvements will affect taxes. The Township can extend the contingencies, or the Township can say there will be no uncured code violations on the property within the first year. The benefit is we are helping the tax payers and the members of that community. Need to come up with a standard template, but there can also be variables.
- This is not a get rich quick process, it is a two year process. The Township should start seeing results three or five weeks in. Once people start getting certified letters and calls, Township should start seeing some immediate results. The Township needs to understand there are certain milestones along the process and between these milestones there are big lulls. Some of the tax liens have banks with mortgages on the properties. Code Enforcement can send letters to these banks of any properties they own that may have violations.

DEPARTMENTAL REPORTS AND PROJECT UPDATES:

Administration:

Finance:

Public Works:

Engineering:

Legal:

Tax Collection:

Tax Assessment:

Construction/Planning/Zoning:

Recreation:

Police / Animal Control/ Code Enforcement:

Buildings and Grounds:

Sewer:

Economic Development:

Personnel:

Zoning:

Township Clerk:

SPECIAL PRESENTATIONS OR DISCUSSIONS:

PUBLIC COMMENT:

Peter Jesperson:

- Questioned Open Space Funding process

Mayor Donohue:

- Explained funding process through Open Space; continued to explain Open Space Program and its

change over the years. The funds come from the County Tax Bill. The Fund is replenished to the tune of about \$4 point some million dollars every year. The County tries to invest that funding in the types of profit they would like to see.

- *Open Space Preservation was basically all they did for a long time, but in the last 6-7 years the focus has changed. At the present time Middle Township is close to 55% preserved open space. There is less and less open space and less and less farmland for the county to acquire. Any time open space land is acquired by the county, it comes off the tax bill of the municipality the land was acquired in.*
- *Focus turned to land that was already publicly held that could be developed in a way that was either passive recreation, tourism or economic development that would not just be an empty piece of land that was preserved, but would have some synergy and green recreation, tourism and economic development all together. The Township has done funding on several projects. They are now giving a theme to each round of projects funded, such as Bike Path funding, Access to Water Ways funding. Applications are incentivized to their direction by picking up a higher percentage of the soft cost to the Township. Generally the County paid the project costs, while the Township paid the soft costs of engineering, etc.*
- *Explained the Spring Round for the program is Access to Water Ways which is in April. At this point the Township is developing a project that would refurbish and remodel the Shellbay Fishing Pier.*
- *Discussed various projects being funded through this program such as the Avalon Manor Fishibg Pier, which is about 70% done and a new park in Rio Grande that is about 40% complete. Still working on issues with the northern part of our bike path. Have had a lot of people come to us about the Scotch Bonnett Crabbing Pier, which is a county property in Middle Township*
- *Spoke of problems with proposed area that Pete was discussing, which is across Rt 9 from Sturdy Bank Headquarters. It adjoins Elementary #2 and Memorial Field, is privately held, and is a commercial property that would be expensive for the Township to purchase. It is counter intuitive to the Township's Master Plan, which calls for a centers based development. We try to focus on commercial development along the Rt 9 and Rt 47 corridors. Loves Pete's idea of tying the area into the school. Feels nothing wrong with having a nice park that people can walk through either.*
- *Believes the August round is the Historical Preservation round for the town. They look at things like the Harriet Tubman project that is going on in Cape May, preserving old schools. His thoughts for that round would be to go for some funding to do necessary repairs to the old Whitesboro School. That would take us to the fall, but not sure what the last round of the year will be.*
- *Suggested having a meeting with Peter Lomas, Chairman of the County Open Space Board, to seek some direction from him, discuss the proposed project to see how the County would feel about it so they can all get on the same page. They want to facilitate these projects, especially if they see there could be a positive economic impact from it. Gave our Ockie Wisting Park as an example. It can be a long process, but the County is receptive to good idea.*

Pete Jespersen:

- *Questioned if the property they discussed is currently zoned Town Business, does the Master Plan have to be changed before the Township goes to the County to redesignate it as Open Space?*

Mayor Donohue:

- *Only if you seek a more aggressive use of the property, not a passive use of the property,*
- *It is the value of the property and of the Township losing the Tax Ratable of that property off of our tax rolls. We always have to look at protecting and strengthening our ratable base and County Open Space land is not taxable*

Motion to Adjourn Meeting – 5:05pm

1st: Committeeman Gandy

2nd: Committeeman Norris

Roll Call Vote: Committeeman Gandy, Committeeman Norris, Mayor Donohue

Kimberly D. Krauss, Township Clerk

Minutes prepared by D. Stimmel