Cape May Court House, NJ October 17, 2022 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 Norris, Township Clerk/Business Administrator Kimberly Osmundsen, Deputy Township Clerk Emily Bartleson, Deputy Business Administrator Suzanne Schumann, Township Engineer Vince Orlando, & Municipal Solicitor Marcus Karavan

- 1. PRESENTATION BY COMMITTEE EMPLOYEE OF THE MONTH OF OCTOBER ALEXIS KALISH
- 2. PRESENTATION BY COMMITTEE MISS NEW JERSEY AUGOSTINA MALLOUS
- 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.)
- 4. RESOLUTION APPROVING PAYMENT FOR BILLS BILL LIST A (GENERAL BILLS) On motion by seconded by 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. \$1,187,085.50
- 5. RESOLUTION APPROVING MINUTES FROM PREVIOUS MEETING On motion by seconded by 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: 10/05/2022 Regular Meeting and Closed Session
- 6. REPORTS: Tax/Sewer Collection of the month of September; Sterbeck Harbor for month of September; Clerk for month of September; Zoning for the month of September
- 7. ORDINANCE 1661-22 AN ORDINANCE TO AMEND AND SUPPLEMENT THE TR TOWN RESIDENTIAL ZONING DISTRICT OF THE TOWNSHIP OF MIDDLE AS FOUND IN SECTION 250-411 OF THE MIDDLE TOWNSHIP CODE Following second reading, hearing, and consideration for adoption, Ordinance 1661-22 was adopted on motion by seconded by and passed on roll call. Complete Ordinance is on file in the Clerk's Office.

WHEREAS, the Township of Middle filed a complaint for declaratory and injunctive relief seeking a judgment of compliance and repose related to its regional fair share of low- and moderate-income housing, on June 13, 2019; and

WHEREAS, the Township agreed to settle litigation related to this complaint for declaratory and injunctive relief with all parties through a negotiated Settlement Agreement dated January 26, 2022; and WHEREAS, the Township has developed a Housing Plan Element and Fair Share Plan in accordance with the terms of the Settlement Agreement; and

WHEREAS, the Settlement Agreement and the Housing Plan Element and Fair Share Plan recommend that the Township amend the zoning ordinance at Chapter 250, Section 411 "TR Town Residential" so that multi-family housing development that includes housing affordable to low- and moderate-income households shall be permitted; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Committee of the Township of Middle, in the County of Cape May, and State of New Jersey, that:

Chapter 250-411 TR Town Residential shall be amended to include a new permitted use under subsection A, and shall read as follows:

New text can be found in bold in italic font.

Text to be deleted can be found in bold italic font and with a strike-through.

 $\S~250-411$

TR Town Residential.

A. Purpose: to recognize those areas where small-lot and multifamily residential development exists and where the presence of adequate infrastructure permits additional development compatible with existing development.

- B. Permitted uses:
- (1) Single-family.
- (2) Two-family residential dwellings, with sewer only.
- (3) Townhouse <u>and multifamily</u> dwelling units with sewer, except in the Cape May Court House Overlay Zone, in accordance with design standards.
- (4) Care facilities on a minimum of five acres.
- (5) Inclusionary housing development

a. Any development of five (5) or more housing units within the TR District shall include a mandatory set aside of at least twenty percent (20%) of units to be made affordable to low and moderate-income households in accordance with the Affordable Housing provisions of the Township Code found in <u>Chapter 250-801 et seq.</u>

b. Inclusionary development shall be permitted to occur in any combination of single-family dwellings, two-family dwellings, townhouse dwellings, or multi-family dwellings.

c. Any inclusionary development shall be permitted to have a maximum gross density of twelve (12) dwelling units per acre. This density shall be applied to the gross development tract acreage irrespective of any lands that are undevelopable due to wetlands, wetlands buffers, or other similar constraints. d. The minimum lot area for any inclusionary development shall be as follows:

(i) Single-Family Dwelling – 5,000 square feet

(ii) Two-Family Dwelling – 3,000 square feet per dwelling

(iii) Townhouse Dwelling – 2,000 square feet per dwelling

(iv) Multi-Family Dwelling - 40,000 square feet

e. The minimum required lot frontage for any inclusionary development shall be as follows:

(i) Single-Family Dwelling – 50 feet

(ii) Two-Family Dwelling – 30 feet per dwelling (iii) Townhouse Dwelling – 20 feet per dwelling

(iv) Multi-Family Dwelling – 150 feet

f. multi-family buildings within an inclusionary development shall be permitted to have a maximum building height of three (3) stories and forty (40) feet.

g. The requirement for Non-Contiguous Parcel clustering as found in Section 250-625 of the Township Code shall not be required of any inclusionary development project.

Severability. If any article, section, subsection, sentence, clause or phrase of this any reason, held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect and shall be deemed valid and effective.

Inconsistencies. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the municipality, the provisions hereof shall be determined to govern and those inconsistent provisions shall be repealed to the extent of such inconsistency.

Referral to Planning Board. A copy of this Ordinance shall be referred to the Planning Board following its introduction for review pursuant to N.J.S.A. 40A:55D-26A.

Effective Date and Scope. This Ordinance shall take effect upon its passage and publication, filing with the Cape May County Planning Board, and as otherwise provided for by law. The provisions of this Ordinance shall be applicable within the entire municipality upon final adoption and shall become a part of the Code once completed and adopted.

8. ORDINANCE 1662-22 – AN ORDINANCE TO REZONE CERTAIN PROPERTIES IN THE R RESIDENTIAL DISTRICT TO THE TR TOWN RESIDENTIAL ZONING DISTRICT AS SHOWN ON THE ZONING MAP OF THE TOWNSHIP OF MIDDLE - Following second reading, hearing, and consideration for adoption, Ordinance 1662-22 was adopted on motion by and passed on roll call. Complete Ordinance is on file in the Clerk's Office.

WHEREAS, the Township of Middle filed a complaint for declaratory and injunctive relief seeking a judgment of compliance and repose on June 13, 2019; and

WHEREAS, the Township agreed to settle litigation related to this complaint for declaratory and injunctive relief with all parties through a negotiated Settlement Agreement dated January 26, 2022; and WHEREAS, the Township has developed a Housing Plan Element and Fair Share Plan in accordance with

the terms of the Settlement Agreement; and WHEREAS, the Settlement Agreement and the Housing Plan Element and Fair Share Plan recommend that the Township rezone certain properties currently in the R Residential Zoning District to the TR Town Residential District in order to create more realistic opportunities for the development of housing for low-

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Committee of the Township of Middle, in the County of Cape May, and State of New Jersey, that:

The official Zoning Map of the Township of Middle shall be amended so that the following properties that are currently in the R Residential District shall be rezoned and placed within the TR Town Residential

Block 163.01, Lots 209 and 227

and moderate-income households; and

Block 322.01, Lot 58

Block 1434, Lots 29, 30, and 31

Block 971, Lots 8, 9, 10, and 11

Ordinance is, for Severability. If any article, section, subsection, sentence, clause or phrase of this any reason, held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect and shall be deemed valid and effective.

Inconsistencies. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the municipality, the provisions hereof shall be determined to govern and those inconsistent provisions shall be repealed to the extent of such inconsistency.

Referral to Planning Board. A copy of this Ordinance shall be referred to the Planning Board following its introduction for review pursuant to N.J.S.A. 40A:55D-26A.

Effective Date and Scope. This Ordinance shall take effect upon its passage and publication, filing with the Cape May County Planning Board, and as otherwise provided for by law. The provisions of this Ordinance shall be applicable within the entire municipality upon final adoption and shall become a part of the Code once completed and adopted.

9. ORDINANCE 1663-22 - AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF MIDDLE, CHAPTER 218, SECTION 47 ENTITLED APPLICATION FOR DEVELOPMENT FEES — On motion by seconded by and passed on roll call, Ordinance No. 1663-22 passed first reading. Second reading, public hearing and consideration for adoption will be held on 11/21/2022 at 6:00 p.m. BE IT ORDAINED by the TOWNSHIP COMMITTEE, the governing body of the Township of Middle that the following fees listed under Chapter 218, Article VI, Section 47 of the CODE OF THE TOWNSHIP OF MIDDLE be and is hereby amended as follows:

Section 218-47 Development Fees shall be amended as follows (amendments in [brackets]; additions underlined:

Category		Application Fee	Escrow Fee
21	Review of grading and drainage	[\$100.00]	
22	Grading and Drainage Site Inspection	[\$400.00]	

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

Should any section, paragraph, sentence, clause or phrase 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. This ordinance shall become effective upon final passage and publication, according to law.

10. RESOLUTION – APPOINTMENTS – NEW HIRES – On motion by seconded by 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
Greyson Bramble	Public Works	Mechanic Helper F/T T/A (6 months)	\$15.00 per hour	10/31/2022
Kevin Campbell	Public Works	Laborer 1 F/T T/A (6 months)	\$15.00 per hour	10/17/2022
Jason Garrison	Public Works	Laborer 1 F/T T/A (6 months)	\$15.00 per hour	10/17/2022

11. RESOLUTION – ACKNOWLEDGEMENT OF RESIGNATION – On motion by seconded by 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	DEPARTMENT/BOARD	POSITION	<i>EFFECTIVE</i>
Kevin Burns	Public Works	Laborer 1 P/T T/A	09/30/2022
Stephen Bradway	Zoning Board of Adjustments	Vice Chairman	12/31/2022

12. RESOLUTION – LOCAL FINANCE BOARD – ANNUAL AUDIT OF BOOKS, ACCOUNTS & TRANSACTIONS – CERTIFYING REVIEW OF ANNUAL AUDIT – On motion by seconded by and passed on roll call, the following resolution was adopted.

WHEREAS, N.J.S.A. 40A:5-4 requires that governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, the Annual Report of Audit for the year ending December 31, 2021 has been filed by a Registered Municipal Accountant with the Township Committee and also Kimberly Krauss, Township Clerk, as per the requirements of N.J.S. 40A:5-6, and a copy has been received by each member of the governing body, and

WHEREAS, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34, and

WHEREAS, The Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled:

Findings and Questioned Costs or Findings and Recommendations

and

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

Findings and Questioned Costs or Findings and Recommendations

As evidenced by the group affidavit form of the governing body, and

WHEREAS, such resolution of certification shall be adopted by the governing body no further than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board, and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed o the affidavit, as provided by the Local Finance Board, and

WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject he members of the local governing body to the penalty provisions of R.S. 52:27BB-52 – to wit:

R.S. 52:27BB-52 – "A local officer of member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office."

NOW, THEREFORE BE IT RESOLVED, that the Township Committee of the Township of Middle, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said board to show evidence of said compliance.

13. RESOLUTION – ACCEPTING CORRECTIVE ACTION PLAN-AUDIT 2021 – On motion by seconded by 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 resolution is hereby accepted as the Corrective Action Plan for the 2021 Audit for the Township of Middle and be it further resolved that a copy of the Corrective Action Plan be forwarded to the Department of Community Affairs, Division of Local Government Services as well as a copy of this Resolution be forwarded to Ford Scott & Associates, LLC, Registered Municipal Accountants:

Audit Findings:

- Finding 2021-1: That all general ledger balances be reviewed and agreed to the final year-end financial statement balances and that the general ledger be reviewed for accuracy on a regular basis. Also, bank reconciliations should be prepared for all of the Township's bank accounts in a timely and accurate manner.
 - Recommendation: The Township should review all general ledger balances and agree same to the annual audit. The CFO should reconcile all bank accounts in a timely manner.
 - Explanation and Corrective Action: The CFO will compare all the general ledger account balances to the annual audit to ensure accounts agree. The CFO will reconcile each bank account monthly.
 - o Implementation Date: Corrective Action has already been implemented.

Unresolved Prior Year Audit Findings:

None

FURTHER BE IT RESOLVED, that a copy of this Resolution be forwarded to the Department of Community Affairs Division of Local Government Services.

14. RESOLUTION – AMENDING RESOLUTION 203-21 – AWARD CONTRACT UNDER STATE CONTRACT – VENDING MACHINE PRODUCT SALES AND RELATED SERVICES – UNIVERSAL VENDING MANAGEMENT LLC – On motion by seconded by and passed on roll call, the following resolution was adopted.

WHEREAS, Resolution No. 203-21 authorized the Township od Middle to purchase with vendors with State Contracts and utilize services from Universal Vending Management LLC; and

WHEREAS, said contract for a coverage period from 09/10/2018 through 09/01/2022; and WHEREAS, said contract needs to be amended to include additional period of coverage.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the agreement with said contractor is hereby amended.

BE IT FURTHER RESOLVED, that the appropriate officials are hereby authorized to sign any and all document in connection therewith.

Universal Vending Machine Management, LLC Additional Period of Coverage 12-month extension

15. RESOLUTION – AWARD OF BID – CONTRACTS #2021-3 – MIDDLE TOWNSHIP HOME REHABILITATION PROJECT – On motion by seconded by and passed on roll call, the following resolution was adopted.

WHEREAS, it has been deemed necessary and desirable to solicit bids for the Home Rehabilitation Program for Contract No 2021-3, and

WHEREAS, bids were received on August 31, 2022, and

WHEREAS, it appears that the following bid submitted below represents a figure equal to the lowest 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 following Home Rehabilitation Programs be and hereby is awarded as described:

Contract No.	Awarded to:	Total Bid Amount
2021-3	DD & S Construction, LLC	\$26,450.00

FURTHER BE IT RESOLVED, that these awards are conditioned upon certification of availability of funds.

16. RESOLUTION - AWARD CONTRACT AND RATIFY AGREEMENT THROUGH NON-FAIR AND OPEN PROCESS – AMAZING AMUSEMENTS & ENTERTAINMENT INC. – HARVEST FESTIVAL ENTERTAINMENT – On motion by seconded by 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 Amazing Amusements & Entertainment, Inc. and the Township of Middle for the amusement ride entertainment for the Middle Township Harvest Festival, 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 this contract is contingent upon obtaining any and all requirements and approvals as set forth by the Atlantic County Joint Insurance Fund.

Amazing Amusements & Entertainment, Inc. Harvest Festival Not to Exceed - \$11.450.00

17. RESOLUTION – TABULATION COMMITTEE – BASKETBALL COURT CONVERSION – On motion by seconded by and passed on roll call, the following resolution was adopted.

WHEREAS, on September 19, 2022, Township Committee established a Tabulation Committee to accept bids for the Basketball Court Conversion, on Wednesday, October 12, 2022; and WHEREAS, no bids were received for said project.

NOW THEREFORE BE IT FURTHER RESOLVED, by the Township Committee, the Governing Body of the Township of Middle, County of Cape May and State of New Jersey that Township Officials be and hereby are appointed to tabulate bids to be taken on November 2, 2022 at 10:00 AM in the Middle Township Municipal Building, 2nd Floor Conference Room, 33 Mechanic Street, Cape May Court House, NJ for the following:

BASKETBALL COURT CONVERSION

18. RESOLUTION – RELEASE OF TRUST ACCOUNTS – On motion by seconded by passed on roll call, the following resolution was adopted.

WHEREAS, certain monies held in Trust Accounts from time to time may have balances remaining after all fees have been paid; and

WHEREAS, the applicants are entitled to a refund of this money.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that upon request of the Zoning Officer the following balances in the Trust Accounts, as listed on the attached sheets, shall be released.

19. RESOLUTION – RELEASE OF PERFORMANCE BOND – CLEAN ENERGY – On motion by seconded by and passed on roll call, the following resolution was adopted.

WHEREAS, \$10,850.00, is being held as a performance guarantee for Clean Energy for landscaping site improvements at 650 Shunpike; and

WHEREAS, the Township Engineer and Zoning Official have recommended the release of said bond, as outlined in P.L. 2017, Chapter 312 amendment.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Middle, the governing body thereof, that the bond in the amount of \$10,850.00 is hereby released.

20. RESOLUTION – INSERTION OF A SPECIAL ITEM OF REVENUE – NATIONAL OPIOIDS SETTLEMENT FUND 2022 – On motion by seconded by and passed on roll call, the following resolution was adopted.

WHEREAS, R.S. 40A: 4-87 provides the Director of the Division of Local Government Services to approve the insertion of any Special Item of Revenue in the budget of any Municipality when such item shall have been made available by law and the amount whereof was not determined at the time of adoption of budget, and

WHEREAS, said Director may also approve the insertion of an appropriation for an equal amount. NOW THEREFORE BE IT RESOLVED, that the Township Committee, the Governing Body of the Township of Middle, County of Cape May and State of New Jersey, hereby requests the director of Local Government Services to approve the insertion of additional items of revenue in the budget of the year 2022 in the sum of:

NATIONAL OPIOIDS SETTLEMENT FUND FY 2022

\$6,982.41

BE IT FURTHER RESOLVED, that like sum be and the same is hereby appropriated under the following caption:

NATIONAL OPIOIDS SETTLEMENT FUND FY 2022

\$6,982.41

21. RESOLUTION – APPOINTING MEMBERS TO THE RIO GRANDE COMMUNITY PARTNERSHIP – On motion by seconded by and passed on roll call, the following resolution was adopted. WHEREAS, the Middle Township Committee adopted Ordinance No. 1659-22 which established a committee of Rio Grande residents, business owners, social service agencies and local government together to address ongoing concerns in the Rio Grande area; and WHEREAS, it has been determined by Township Committee of the Township of Middle that it is in the best interest of the Township to establish the Community Partnership as outlined in said Ordinance.

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 individuals are hereby appointed to the Rio Grande Community Partnership:

NAME	TERM	TERM EXPIRES
W. Scott Webster	3 yr	12/31/2025
Jeff Mattera	3 yr	12/31/2025
Rachel Johnson	3 yr	12/31/2025
Arthur Andre, Jr.	3 yr	12/31/2025
Michelle DeVico – Business Representative	2 yr	12/31/2024
William Feraco – Business Representative	2 yr	12/31/2024
Tom Tower, Jr. – Business Representative	2 yr	12/31/2024
Denise South – Social Services / Cape Hope	1 yr	12/31/2023
Jon Bolte – Social Services / The Branches	1 yr	12/31/2023
MTPD – Advisor	1 yr	12/31/2023
Township Committee – Advisor	1 yr	12/31/2023
County of Cape May – Advisory	1 yr	12/31/2023
Nikki Hober – Secretary	1 yr	12/31/2023
Marcus Karavan – Solicitor	1 yr	12/31/2023

22. RESOLUTION – AUTHORIZING MAYOR TO SIGN TREATMENT WORKS APPLICATION – 35 OLD NORTH WILDWOOD BOULEVARD WEST – On motion by seconded by 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 Mayor is hereby authorized to sign the Treatment Works Approval Permit Application, Statement of Consent, and any and all permit applications in connection therewith for Block 1234.01 Lots 2.

23. RESOLUTION – TRICK OR TREAT 2022 – On motion by seconded by 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 Trick or Treat will be held in the Township on Monday, October 31, 2022 from 5:00pm until 8:00pm.

- 24. ENGINEERING REPORT:
- 25. PUBLIC COMMENT:

Motion to adjourn meeting – 1st: 2nd: Pass on Roll Call: