

Cape May Court House, NJ  
November 20, 2023  
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, Township Engineer Vince Orlando, & Municipal Solicitor Matt Rooney

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.)

*Scott Davis, Grande Woods, discussed concerns about the rent leveling board and the status of the board.*

*Mayor Donohue explained the ordinance is to reform the board and new members will be appointed in January.*

*Scott Davis, Grande Woods, discussed the requirements in the bylaws for mobile park home owners to submit their CPI increase by November and the affect of an inactive board has had on mobile home parks.*

*Kimberly Osmundsen further reiterated that the only change this ordinance is making is to the membership requirement for the board.*

*Mayor Donohue explained the ongoing difficulty of being unable to get a quorum of the board due to its current membership set up, which has prevented the board from being able to hold meetings. Advised that the change in the membership will allow to the board to move forward and begin to meet on a regular basis again. Explained that Middle Township is one of the few municipalities that currently has a rent leveling board. He further explained the different options that were looked into when determining the fate of the board.*

*Scott Davis, Grande Woods, asked if the mobile park home owners can move forward with their CPI increase.*

*Matt Rooney stated the ordinance is still in effect with its current requirements.*

*Mayor Donohue clarified that the question from Mr. Davis is how do they move forward with their CPI without an active Rent Leveling Board.*

*Scott Davis, Grande Woods, further explained that they have a right to their CPI but they must be approved by the Rent Leveling Board. Continued to discuss restraints on the CPI without board approval.*

*Kimberly Osmundsen reiterated the reason for the ordinance is because the board is unable to operate as it currently stands.*

*Heather Davis, Grande Woods, explained that they can only increase rents once every 12 months and the requirements for that increase. Expressed their frustration of not having anyone to be able to hand their paperwork into with their time limit.*

*Kimberly Osmundsen explained to Committee that they still have a Rent Control Officer, Nancy Sittineri. Suggested to have the mobile home park owners submit their paper work to CPI and then have the increases approved by Township Committee however she is unsure if Township Committee can vote on board matters.*

*Matt Rooney, explained the difficulty with this option as it is not covered under the code.*

*Mayor Donohue discussed the responsibility of the Governing Body to ensure the functionality of the board.*

*Kimberly Osmundsen continued to explained she is unsure this is something that the Township Committee can vote on.*

*Mayor Donohue asked about the deadlines.*

Heather Davis, Grande Woods, discussed deadlines.

Mayor Donohue advised for the affected parties to submit their paper work to the Clerk's Office and in the meantime, Committee would determine what the next steps would be by the next meeting.

Kimberly Osmundsen confirmed that the Clerk's office can send a notice to park owners advising them to submit their paper work to the Clerk's Office.

Heather Davis, Grande Woods, discussed different schedules between parks.

Matt Rooney, advised he can research the code and provide a recommendation to the Governing Body on the next steps.

Beech Fox, Edgewood, sought clarification on the Township's determination. Expressed frustration of lack of response and lack of update of the ordinance as it pertains to the Rent Leveling Board.

Mayor Donohue disagreed with his accusations.

Matt Rooney explained that this new ordinance is the first steps in correcting the functions of the board.

Beech Fox, Edgewood, further explained his frustration that the ordinance does not assist the landlords' concerns.

Mayor Donohue explained issues with the board's membership as it currently stands with the unequal establishment between landlords and tenants.

Beech Fox, Edgewood, continued to discuss concerns with the boards and its effects on landlords to be unable to match the inflation rate as it relates to rent increases.

Mayor Donohue/Beech Fox continued to go back and forth regarding the ordinance and rent increases.

Heather Davis, Grande Woods North, suggested changing the ordinance to close the gap and allow increases to assist with the cost of living.

2. RESOLUTION 499-23 – APPROVING PAYMENT FOR BILLS – BILL LIST A (GENERAL BILLS) – On motion by Committeeman Gandy seconded by Committeeman Norris 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:

Fund Description	Fund	Total
Current Fund PY	2.01	-
Current Fund CY	3.01	321,331.83
Alarm Billing	3.03	-
Sewer Utility PY	2.07	-
Sewer Utility CY	3.07	609,198.64
General Capital	C.04	12,831.20
Sewer Capital	C.08	460,304.04
Grants	G.06	261,396.26
M.A.C.	M.24	-
Emergency Housing	R.23	-
Dog Trust	T.12	-
Forfeited Monies	T.13	-
Sewer Escrow	T.16	-
Trust Other	T.17	-
Zoning Escrow	T.19	36,608.85
Zoning Escrow	E.19	35,445.49
Unemployment Trust	T.20	-
C.O.A.H	T.27	-
Recreation Trust	T.28	4,459.68

TOTAL	1,741,575.99
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3. RESOLUTION 500-23 – APPROVING MINUTES FROM PREVIOUS MEETING – On motion by Committeeman Gandy seconded by Committeeman Norris 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: 11/02/2023 Regular Meeting.
4. REPORTS: None
5. ORDINANCE 1684-23 – AN ORDINANCE AMENDING CHAPTER 188, PARKS AND RECREATION, ARTICLE IV, MEMORY LANE PROGRAM, OF THE CODE OF THE TOWNSHIP OF MIDDLE – Following second reading, hearing, and consideration for adoption, Ordinance 1684-23 was adopted on motion by Committeeman Gandy seconded by Committeeman Norris and passed on roll call. Complete Ordinance is on file in the Clerk’s Office.  
WHEREAS, The Township of Middle established a memorial dedication program in order to allow members of the public to purchase memorial plaque, a municipal tree with a memorial plaque, and municipal brick with memorial engraving located at various locations within the Township of Middle in order to honor deceased loved ones; and  
WHEREAS, the Township of Middle established an application process and guidelines and procedures governing said process; and  
WHEREAS, it continues to be in the best interest of residents and visitors alike to continue and expand the program for the use of the general public; and  
NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Township Committee of the Township of Middle, County of Cape May, State of New Jersey as follows:  
Section 1. Chapter 188, Article IV, Memory Lane Program, is hereby amended as follows:  
Memorial Lane Dedication Program.  
The Township of Middle shall permit the dedication of trees, bricks, benches, and installation of memorial plaques to remember deceased individuals and families on Township-owned property through a Memorial Lane Dedication Program.  
Memorial Trees shall be dedicated and plaques installed in accordance with the following regulations:
  - A. The fee for a dedicated tree and memorial plaque shall be \$500 for a larger tree species or \$300 for a smaller tree species. The dedication of a tree will run for an indefinite period of time. The tree and memorial plaque will be purchased and engraved by the Township of Middle, if required, from the aforementioned fee, and said tree and plaque shall become the exclusive property and responsibility of the Township of Middle and as such, will be maintained, pruned and if necessary, removed by the Township of Middle. In case of the tree’s demise, the Township of Middle is not responsible for its replacement or for notifying the donor and/or honoree.
    - i. In the sole discretion of the Township Committee of the Township of Middle, this fee may be waived on a case-by-case basis by Resolution, upon a showing of exceptional circumstances.
  - B. Applications shall be obtained from and, after completion, returned to the Memory Lane Coordinator. Applications for specific locations shall be considered on a first-come, first-serve basis. The Middle Township Memory Lane Coordinator will inform the applicant of the plaque installation and dedication ceremony date.
  - C. Memorial Trees and Memorial Plaques shall be of a size, style, and material determined and approved by the Memory Lane Coordinator. Inscriptions set forth on said plaques shall be reviewed and approved at the sole discretion of the township.
  - D. Memorial Tree locations are subject to the final approval of the township.
  - E. No individual or organization may make improvements or install a memorial plaque on any tree or public space without the express approval of the Township of Middle
Memorial Bricks shall be dedicated and engraved in accordance with the following regulations:
  - F. The fee for a dedicated brick and engraving shall be \$200 for a 9x15 brick or \$175 for a 9x9 brick. The dedication of a brick will run for an indefinite period of time. The brick will be purchased and engraved by the Township of Middle, if required, from the aforementioned fee, and said brick shall become the exclusive property of the Township of Middle.
    - i. At the sole discretion of the Township Committee this fee may be waived on a case-by-case basis, by Resolution, upon a showing of exceptional circumstances.
  - G. Applications shall be obtained from and, after completion, returned to the Memory Lane Coordinator. Applications for specific locations shall be considered on a first-come, first-serve basis. The Memory Lane Coordinator will inform the Applicant of the date of the installation.
  - H. Bricks and Memorial Engraving shall be of a size, style, and material determined and approved by the Township. Inscriptions set forth on said plaques shall be reviewed and approved at the sole discretion of the Township.
  - I. Memorial Bricks locations are subject to the final approval of the Township.
  - J. No individual or organization may make improvements or install a memorial brick without the express approval of the Township of Middle.
  - K. The Township of Middle shall not be responsible for the replacement of bricks that have been damaged or destroyed due to vandalism or natural occurrences. Applicants shall be responsible for the replacement of damaged or destroyed bricks at their sole expense.
Memorial Benches shall be dedicated and plaques installed on benches in accordance with the following regulations:
  - A. The fee for a dedicated bench and memorial plaque shall be \$1,000. No more than one (1) memorial plaque will be permitted on any given bench. The dedication of a bench and installation of a memorial plaque will run for an indefinite period of time. The bench will be purchased by the Township of

Middle, if required, from the aforementioned fee and said bench shall become the exclusive property of the Township of Middle.

- i. In the sole discretion of the Township Committee of the Township of Middle, this fee may be waived on a case-by-case basis, by Resolution, upon a showing of exceptional circumstances.
- B. Applications shall be obtained from and, after completion, returned to the Memory Lane Coordinator. Applications for specific locations shall be considered on a first-come, first-serve basis. The Middle Township Memory Lane Coordinator will inform the Applicant of the date of the installation.
- C. Benches and Memorial Plaques shall be of a size, style and material determined and approved by the Township. Inscriptions set forth on said plaques shall be reviewed and approved at the sole discretion of the Township.
- D. Memorial Benches locations are subject to the final approval of the Memory Lane Coordinator.
- E. No individual or organization may make improvements or install a memorial plaque on any bench or public space without the express approval of the Township of Middle.
- F. The Township of Middle shall not be responsible for the replacement of benches or memorial plaques that have been damaged or destroyed due to vandalism or natural occurrences such as fire or hurricane. Applicants shall be responsible for the replacement of damaged or destroyed benches and memorial plaques at their sole expense.

**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 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 provision of this Ordinance are hereby declared to be severable.

**Section 4.** This Ordinance shall become effective 20 days after final passage and publication according to law.

*NO COMMENT*

6. ORDINANCE 1685-23 – AN ORDINANCE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY, STATE OF NEW JERSEY ESTABLISHING AN ANNUAL BUSINESS REGISTRATION LICENSE REQUIREMENT AND FURTHER CREATING A PROCEDURE AND POLICY TO COMPLY WITH NJ P.L. 2022, C.92, ADOPTED BY THE STATE OF NEW JERSEY, ESTABLISHING INSURANCE CERTIFICATE REQUIREMENTS – Following second reading, hearing, and consideration for adoption, Ordinance 1685-23 was adopted on motion by Committeeman Gandy seconded by Committeeman Norris 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: ESTABLISHMENT**

This Chapter shall be known and may be cited as Business Registration Licensing Requirement in the Township of Middle.

**SECTION 2: APPLICATION FOR LICENSE; CONTENTS**

Application for a license to conduct a business, or operate a business within the confines of the Township of Middle, shall be made to the Township Clerk. Upon application and the payment of the fee prescribed herein, a license shall be issued, which license shall bear the name of the person to whom it is issued, the nature of the business licensed, and the location at which the business is to be carried on.

**SECTION 3: TERM OF LICENSE**

All licenses under this chapter shall be due and payable on January 1st of each year and shall terminate and become invalid on December 31<sup>st</sup>.

**SECTION 4: - DEFINITIONS**

As used in this chapter, the following terms shall have the meanings indicated:

**BUSINESS**

Includes all kinds of vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, together with all devices, machines, vehicles, and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in the Township, as set forth in N.J.S.A. 40:52-1 and acts amendatory and supplemental thereto, inclusive of transient businesses and merchants. A transient business shall include types of businesses that provide services to residents and business owners within the Township, inclusive of landscapers, contractors, builders, and other similar entities.

Transient businesses may be seasonal in nature, operating only during certain times of the year when demand for their services is high. They may also be location-specific, working in a particular region or area for a limited time period. These businesses may also have principal offices outside the boundaries of Middle Township, however, provide professional services to commercial and residential businesses within the Township.

**PERSON**

Includes an individual, firm, corporation, or any other organization, entity, or association.

**PREMISES**

Includes all land, structures, places, and also equipment, and appurtenances connected or used therewith in any business and also any personal property which is either affixed to or is otherwise used in connection with, any such business conducted on such premises.

**SECTION 5: INSURANCE POLICY REQUIREMENT**

It shall be unlawful for any person, firm, corporation, or other business entity to commence or carry on any profession, trade, business, or rental unit (inclusive of the owner-occupied premise) without first having procured a business registration license from the Township authorizing such operation within the Township of Middle.

P.L. 2022, c.92 also outlines that the requirement to register shall include all business owners, regardless of size or industry.

An applicant conducting an occupation at one or more locations shall be required to obtain a business registration license for each address, building, or building unit (unless connected by a common interior door and used for the same occupation), property, structure, or premises to conduct such occupation. Non-compliance with any and all of the provisions of this Ordinance, or any other Ordinance adopted by the Township being in full force and effect, shall constitute a separate and distinct violation for each and every day that such occupation continues to be conducted without procuring a registration.

Middle Township Code Officials, or any of their designated representatives, shall enforce the registration license requirement, and the codes and regulations adopted herein, in all buildings, structures, and premises within the established boundaries of Middle Township.

Business Owners, and owners of a rental unit or units, are required to maintain liability insurance policies of no less than \$500,000.00.

The owner of a multifamily home which is four or fewer units, one of which is owner-occupied, shall maintain liability insurance for negligent acts and omissions in an amount of no less than \$300,000 for combined property damage and bodily injury to or death of one or more persons in any one accident or occurrence.

The owner of a business, owner of a rental unit or units, and the owner of a multi-family home of four or fewer units, one of which is owner occupied, shall annually register the certificate of insurance demonstrating compliance with section 1 [C.40A:10A-1] of this act with the municipality in which the business, rental units, or multi-family home is located.

#### SECTION 6: ANNUAL FEE

The annual registration fee of seventy-five (\$75.00) dollars shall be paid to the Office of the Township Clerk, or other designated department, on a form as outlined and provided by the township, with all other insurance requirements as outlined in the law.

Application for such registration must be filed by December 1, by the owner or permissive user.

**EFFECTIVE DATE:** All businesses shall be required to register within 60 days of the adoption of this chapter.

**LATE FEE:** After the effective date as indicated above, thereafter for each year, all annual fees for business registration licenses are to be paid on or before December 1.

Any business owner or operator who conducts any business governed by this chapter of the Middle Township Ordinances, who has not paid the required annual fee set forth herein by the January 1<sup>st</sup> registration effective date, will be subject to a late fee of \$75 in addition to that fee which is normally required.

#### SECTION 7: POSTING LICENSES

Licenses issued under this chapter shall be posted at the place of business shown on the license in a conspicuous place. The license shall remain posted for the duration of the licensing year when issued, and so long as the licensed business is carried on.

#### SECTION 8: LOCATION RESTRICTION

No business shall be permitted on the location licensed other than that for which the license is issued.

#### SECTION 9: COMPLIANCE WITH OTHER LAWS REQUIRED: REVOCATION OF LICENSE.

The issuance of a license under this chapter is in addition to, and not in derogation of, any law of the State of New Jersey or ordinance of the Township regulating the business so licensed. Failure to comply with the regulations set out in the laws or ordinances shall be cause for revocation of the license by the Township Committee by due notice and hearing.

#### SECTION 10: ENFORCEMENT BY POLICE DEPARTMENT

The proper enforcement of the provisions of this chapter and related ordinances dealing with the regulation of businesses shall be a proper concern of the Police Department of the Township.

#### SECTION 11: PAYMENT OF TAXES

No business registration license may be issued until all delinquent local real property taxes on business-owned real property have been paid, and any license issued by the Township may be revoked or suspended if real property taxes have remained unpaid for a term of three consecutive quarters.

#### SECTION 12: VIOLATIONS AND PENALTIES

Any person, firm, corporation or other entity violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$500.00 nor more than \$5,000.00, or imprisonment for any term not exceeding 90 days, or both, for each violation. For the purposes of this chapter, each day during which the violation occurs shall constitute a separate offense.

**SECTION 13:** Any other Ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.

**SECTION 14:** Should any section, paragraph, sentence or 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.

**SECTION 15:** This Ordinance shall become effective immediately upon final passage and publication, according to law.

*NO COMMENT*

7. **ORDINANCE 1686-23 – AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY, STATE OF NEW JERSEY AMENDING CHAPTER 175 MOBILE AND MANUFACTURED HOMES, ARTICLE II RENT CONTROL, SECTION § 175-23 RENT LEVELING BOARD –** On motion by Committeeman Gandy seconded by Committeeman Norris and passed on roll call, Ordinance No. 1686-23 passed first reading. Second reading, public hearing and consideration for adoption will be held on 12/18/2023 at 6:00 p.m.  
**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:** § 175-23 Rent Leveling Board.

**A. Board created.**

(1) The Rent Leveling Board of the Township of Middle (hereinafter the "Board") shall consist of seven members, of which, to the extent possible, at least one may be a landlord and at least one may be a tenant. The members of the Board shall be appointed by the Township Committee and their terms of office shall be for a period of three years, which terms shall be staggered. All members shall serve without compensation. At the first meeting of each year, by majority vote, the Board shall choose one of its members as Chairman, and another as Vice Chairman to act in the absence or unavailability of the Chairman, the term of each which shall run through December 31 of such year.

(2) Vacancies shall be filled for the balance of the terms. Members shall not hold any other elective office or elective position in the Township. The Board shall have available to it such clerical assistance, legal assistance and auditors' services as are budgeted annually by the Township Committee. No member shall vote upon or enter into discussions as to any matter in which he has a direct or indirect interest, financial or otherwise.

**B. Powers and duties.**

(1) The Rent Leveling Board is hereby granted and shall have and exercise, in addition to other powers herein granted, all the powers necessary and appropriate to carry out and execute the purposes of this section, including but not limited to the following:

(a) To issue and promulgate such rules and regulations as it deems necessary to implement the purposes of this chapter, which rules and regulations shall have the force of law until revised, repealed or amended from time to time by the Board in the exercise of its discretion, providing that the rules and regulations and any amendments thereto are approved by resolution of the Township Committee and filed with the Clerk.

(b) To supply information and assistance to landlords and tenants to help them comply with the provisions of this section.

(c) To hold hearings and adjudicate applications from landlords for additional rental income or charges as hereinafter provided.

(d) To hold hearings and adjudicate applications from tenants for reduced rental income or charges as herein provided.

(e) To utilize the services of an attorney appointed by the Township Committee to advise and counsel the Board in the proper exercise of its functional discretion. It shall not be the function of the attorney to advise any landlord or tenant, whether or not that person is a participant in any proceedings before the Board, but only to advise the Board and its members as aforesaid.

(f) To utilize the services of a secretary to be appointed by the Township Committee.

(2) Said Board shall give both the landlord and tenant reasonable opportunity to be heard before making any determination and shall base its determination on the reasonable, credible evidence before it, although the strict rules of evidence shall not apply. The Board shall render an oral decision within 30 days after the close of hearings. The Board shall maintain minutes of its hearings and/or meetings.

(3) The Board shall keep and maintain minutes of its hearings and meetings. The Board shall provide for the stenographic or electronic recording of its hearings. The Board shall be required to specify those facts and reasons upon which it bases any decision.

(4) No application for a rental increase of any type shall be considered by the Board unless such application and all necessary supplementary material is filed at least 10 days prior to a regularly scheduled meeting of the Board.

**SECTION 2:** Any 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 or 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.

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

8. ORDINANCE 1687-23 – AN ORDINANCE OF THE TOWNSHIP OF MIDDLE, COUNTY OF CAPE MAY, STATE OF NEW JERSEY TO ESTABLISH REGULATIONS REGARDING MOBILE FOOD TRUCKS AND MOBILE FOOD VENDORS – On motion by Committeeman Gandy seconded by Committeeman Norris and passed on roll call, Ordinance No. 1687-23 passed first reading. Second reading, public hearing and consideration for adoption will be held on 12/18/2023 at 6:00 p.m.

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

**SECTION 1: PURPOSE**

The Township of Middle shall hereby create regulations regarding the operation of mobile food trucks and mobile food vendors within the Township of Middle

**SECTION 2: DEFINITIONS**

As used in this Article, the following terms shall have the meanings respectively ascribed to them in this section:

**MOBILE FOOD TRUCK**

Any automobile, truck or motor-powered vehicle engaged in the business of selling cooked or prepared food to persons.

**MOBILE RESTAURANT LICENSE**

Any license issued under this chapter for either a mobile food truck or a vehicular vehicle.

**MOBILE FOOD VENDORS**

A mobile food vendor is anyone who sells food, beverages or wares from a vehicle such as a truck, van, or pushcart, whether such food or beverages are prepared on-site or prepared elsewhere and transported to the site of the sale. Includes any movable restaurant or retail food establishment in or on which food or

beverages are transported, stored, or prepared for retail sale or given away at temporary locations. Note: This term does not apply to mobile caterers who are engaged in the business of transporting, in motor vehicles, food and beverages to residential, business, and industrial establishments pursuant to prearranged schedules and dispensing from the vehicles the items to and for the convenience of the personnel or occupants of such establishments.

#### SECTION 3: LICENSE REQUIRED

No mobile food truck or other vehicle engaged in the business of selling cooked or prepared foods in the township shall operate within the township without first having obtained a license to do so. Such license shall be issued by the Township Clerk as of January 1 of each year and expire on December 31 of the year in which issued.

No person shall conduct, operate or maintain a transient merchant vehicle or mobile food vendor vehicle without first obtaining a certificate to do so from the Cape May County Department of Health and shall provide a copy to the Clerk's Office during the application process.

The annual fee for a mobile restaurant license issued or renewed shall be \$75.00 for each year or portion thereof, and such licenses shall be under the charge and control of the applicant applying therefor, and the applicant shall be responsible for the operation of the vehicle so licensed to the applicant.

#### SECTION 4: DISPLAY OF LICENSE

Each vehicle licensed under the terms of this chapter shall have displayed in a conspicuous place fully visible to the public the license issued.

#### SECTION 5: OPERATION REQUIREMENT FOR MOBILE FOOD VENDORS

A. When stationary, mobile food vendors shall provide trash and recycling receptacles within ten (10) feet of their site and shall collect all trash and debris within twenty-five (25) feet before leaving their site. Collected trash must not be deposited in public trash receptacles.

B. No mobile food vendors shall occupy the street and the sidewalk at the same time, i.e. park a motorized vehicle in the street and dispense food from the sidewalk or set up a pushcart on the sidewalk and dispense food in the street.

C. New or replacement mobile food vendor trucks, vans or other vehicles trucks shall be inspected before operating. No changes shall be made to approved mobile food vendor trucks, vans, pushcarts or vehicles without re-inspection by the Department of Health and any other applicable agency as required by law.

D. All mobile food vendors that prepare food using fuel-fired appliances or a free-standing generator shall be required to obtain a Fire Safety Permit from the applicable Bureau of Fire Safety as per the Uniform Fire Code and shall provide a copy of said approval during the application process.

E. No mobile food vendor shall serve food or drink to a motorist or occupants of a vehicle blocking the passage of traffic.

F. No mobile food vendors shall occupy street space blocking the passage of traffic.

G. Mobile food vendor vehicles and pushcarts shall be self-contained; no coolers are to be placed on streets or sidewalks.

H. No mobile food vendor shall provide in-truck dining services or sidewalk tables and chairs.

I. Mobile food vendors must have a portable water tank/sink for hand washing attached to their vehicle as per N.J.A.C. 8:24-5.3.

J. All motorized vehicles must abide by all existing traffic, parking, and zoning regulations.

K. No mobile food truck shall be placed on any public property without prior approval by the appropriate governing body.

L. No mobile food truck shall operate within the Township of Middle without meeting the following conditions:

- Mobile retail food establishments that operate within the Township must have obtained the required license as listed in this chapter and must maintain all other licenses and approvals necessary to lawfully operate as a mobile retail food establishment within the Township.
- Mobile retail food establishments shall not operate at any one location for more than twelve hours in one twenty-four-hour period.
- The mobile retail food establishment shall avoid creating conflicts with pedestrian or motor vehicle traffic or creating other public safety problems.

#### RESIDENTIAL PROPERTIES

a) Mobile retail food establishments shall obtain and have on file available for review, a lease agreement or contract between a private residential property owner and the mobile food vendor.

b) At a private function on residential property vendors may only serve food to invited guests at the private event and may not sell to any other members of the public.

#### COMMERCIAL PROPERTIES:

a) Mobile retail food establishments shall obtain and have on file available for review, a lease agreement or contract between a commercial business owner and the mobile food vendor.

b) All mobile retail food establishment services shall only be issued under the following conditions:

- i. The period of operation on the same property shall not exceed a maximum of 5 consecutive days, and there shall be at least 7 days between events at the same location.
- ii. The mobile retail food establishment unit may not remain at the location for longer than the duration indicated above, without the property owner obtaining site plan approval from the Middle Township Zoning Department.

SECTION 6. All other ordinances in conflict or inconsistent with this ordinance are hereby repealed, to the extent of such conflict or inconsistency.

SECTION 7. 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.

SECTION 8. This ordinance shall become effective immediately upon final passage and publication, according to law.

9. ORDINANCE 1688-23 – ORDINANCE REPEALING ORDINANCE 1675-23 – AN ORDINANCE AMENDING CHAPTER 231 OF THE CODE OF THE TOWNSHIP OF MIDDLE REGARDING TRANSIENT RETAIL MERCHANTS – On motion by Committeeman Gandy seconded by Committeeman Norris and passed on roll call, Ordinance No. 1688-23 passed first reading. Second reading, public hearing and consideration for adoption will be held on 12/18/2023 at 6:00 p.m.  
 WHEREAS, Township Committee had reviewed Chapter 231, entitled Transient Retail Merchants; and  
 WHEREAS, Township Committee on September 6, 2023 adopted Ordinance 1675-23, amending the chapter to include mobile food vendors requirements;  
 WHEREAS, it has been determined that these requirements shall be reviewed and established under their own chapter.  
 BE IT ORDAINED, by the Township Committee, the governing body of the Township of Middle that Ordinance 1675-23 shall be and is hereby repealed and revisited under a separate chapter of the Township Code.  
 BE IT FURTHER ORDAINED that this ordinance shall become effective immediately upon final passage and publication, according to law.

10. RESOLUTION 501-23 THROUGH 502-23 – APPOINTMENTS (ITEMS A THROUGH B) – On motion by Committeeman Gandy seconded by Committeeman Norris 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, 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
Zachary Hodges	Public Works	Clerk 1 F/T Permanent	\$35,000.00	11/13/2023

(B) WHEREAS, there are various terms of office that have expired; and

WHEREAS, the governing body of the Township of Middle would like to reappoint said positions; and  
 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 named persons be and hereby are appointed or reappointed to fill the following offices/terms:

NAME	POSITION / DEPARTMENT	TERM	SALARY	TERM EFFECTIVE
Andrew Smith	Crossing Guard / Public Safety	1 year	\$1.00	11/01/2023

11. RESOLUTION 503-23 – AUTHORIZE CHANGE IN EMPLOYMENT STATUS – On motion by Committeeman Gandy seconded by Committeeman Norris 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	EFFECTIVE DATE
Timothy Kincade	Public Works	Laborer 1 P/T	Laborer 1 FT/Permanent	11/20/2023

12. RESOLUTION 504-23 – APPROVAL FOR PAYMENT OF CASH OUT SICK LEAVE – VARIOUS EMPLOYEES – On motion by Committeeman Gandy seconded by Committeeman Norris and passed on roll call, the following resolution was adopted.

WHEREAS, the Township allows the cash out of accumulated sick time by employees who meet the guidelines set forth in the personnel policy manual; and

WHEREAS, the personnel office has provided sufficient documentation verifying the amount of time accumulated and the Finance Officer has certified that time;

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 payment be issued to the employees in the amount referenced on the attached.

<u>EMPLOYEE</u>	<u>RATE</u>	<u>HOURS</u>	<u>COST</u>
Bakley, Mark	\$ 34.11	60	\$ 2,046.60
Bradley, Raymond	\$ 38.56	24	\$ 925.44
Castellano, Eugene	\$ 52.84	24	\$ 1,268.16
Cermanski, Lisa	\$ 16.83	40	\$ 673.20
D'Alonzo, James	\$ 52.84	60	\$ 3,170.40
Damiano, Paul	\$ 24.64	60	\$ 1,478.11
Dececco, Gregory	\$ 31.89	60	\$ 1,913.34
Flounders, Thomas	\$ 34.11	60	\$ 2,046.76
Geiger, Daniel	\$ 52.84	60	\$ 3,170.51
Graham, Jennifer	\$ 36.18	28	\$ 1,013.17
Hagan, David	\$ 57.57	8	\$ 460.57
Johnson, Phillip	\$ 52.84	60	\$ 3,170.51
Jones, Armondo	\$ 52.84	60	\$ 3,170.51



Larkin, Leonard	\$ 57.58	60	\$ 3,455.03
Lindholm, Martin	\$ 52.84	60	\$ 3,170.51
MacCormack, Trevor	\$ 31.89	60	\$ 1,913.34
Martino, Matthew	\$ 52.84	60	\$ 3,170.51
McClintock, Betzy	\$ 23.08	35	\$ 807.69
McInnis, Jonas	\$ 34.11	60	\$ 2,046.76
Miller, Marilyn	\$ 21.66	40	\$ 866.51
Norton, John	\$ 52.84	60	\$ 3,170.51
Pastore, Michael	\$ 57.58	60	\$ 3,455.03
Ritterhoff, Thomas	\$ 34.11	60	\$ 2,046.76
Rocca, Shawn	\$ 31.89	60	\$ 1,913.34
Runyon, Thomas	\$ 31.89	60	\$ 1,913.34
Saettler, Kurt	\$ 57.58	60	\$ 3,455.03
Schuck, Lisa	\$ 19.23	35	\$ 673.07
Stiefel, Benjamin	\$ 34.11	60	\$ 2,046.76
Swietzer, Benjamin	\$ 57.58	60	\$ 3,455.03
Urquhart, Timothy	\$ 21.56	60	\$ 1,293.59
Vitola, Justin	\$ 38.56	60	\$ 2,313.60
<b>TOTAL</b>			<b>\$ 62,066.52</b>

13. RESOLUTION 505-23 – ASSIGNMENT OF TAX TITLE LIEN – On motion by Committeeman Gandy seconded by Committeeman Norris and passed on roll call, the following resolution was adopted. WHEREAS, the Township of Middle is the holder of Tax Sale Certificate #2009-5714 acquired under N.J.S.A. 54:5-34; and, WHEREAS, it is deemed financially beneficial to, and in the best interests of, the Municipality to sell or assign that tax sale certificate; and WHEREAS, the Tax Collector will mail notice of the potential assignment to the property owner at the address as it appears on the tax duplicate within five days prior to the action; and WHEREAS, notice of the assignment will be posted in three public places within the Township of Middle and published in the Cape May County Herald, within five days prior to the action as required by law. NOW, THEREFORE, BE IT RESOLVED by Township Committee of the Township of Middle, County of Cape May, State of New Jersey on this 20<sup>th</sup> day of November 2023 that the Committee hereby authorizes the sale by assignment of the Tax Sale Certificate #2009-5714 in the amount of \$2,162.41 plus the cost of advertisement to:

Cama Plan FBO Ksenia Augsberger IRA  
416 W Dock St.  
Wildwood, NJ 08260

For the consideration therein set forth, which sum includes the lien for unpaid subsequent taxes for the periods set forth, all as provided for and permitted under N.J.S.A. 54:5-113, BE IT FURTHER RESOLVED, that the Mayor and Municipal Clerk be and are hereby authorized execute and deliver all assignment forms or other legal documents necessary to effectuate the various sales permitted by this Resolution.

14. RESOLUTION 506-323 – AUTHORIZING EXECUTION OF MEMORANDUM OF AGREEMENT BETWEEN THE TOWNSHIP OF MIDDLE AND COUNTY OF CAPE MAY DIVE TEAM – On motion by Committeeman Gandy seconded by Committeeman Norris 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 Agreement between the Township of Middle and the Cape May County Dive Team for as-needed water-related incidents. BE IT FURTHER RESOLVED, that the appropriate officials are hereby authorized to sign any and all documents in connection therewith.
15. RESOLUTION 507-23 – AUTHORIZING MEMBERSHIP IN A MUTUAL AID AND ASSISTANCE AGREEMENT BETWEEN CAPE MAY COUNTY AND PARTICIPATING MUNICIPALITIES – On motion by Committeeman Gandy seconded by Committeeman Norris and passed on roll call, the following resolution was adopted. WHEREAS, mutual aid and assistance agreements between municipalities, counties, law enforcement agencies, police departments, EMS, fire departments, volunteer fire departments, fire departments situated in fire districts operated by a Board of Fire Commissioners, etc. are permitted pursuant to NJSA 40A:14-26 and 40A:14-156.1, and WHEREAS, the President of the United States, in Homeland Security Presidential Directive 5, directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System, which would provide a consistent nationwide approach to Federal, State, local governments and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity, WHEREAS, it is deemed to be in the best interests of the residents of this municipality to enter into a mutual aid and assistance with the County of Cape May and other municipalities and entities including but

not limited to municipal police, Emergency Medical Service or fire departments, volunteer fire companies or EMS organizations and/or fire districts to provide additional protection against loss, damage or destruction by fire, catastrophe, civil unrest, major emergency or other extraordinary devastation damage or destruction to person and property, in those situations when outside aid and assistance is needed.

NOW THEREFORE BE IT RESOLVED, by the Township Committee, of the Township of Middle, County of Cape May, New Jersey that that the Mayor and Township Clerk of the Township of Middle is hereby authorized to enter into the Cape May County Mutual Aid and Assistance Agreement between Participating Units, a copy of which is attached hereto and made part hereof, on the terms and conditions contained herein.

FURTHER RESOLVED, that a copy of this resolution and an executed copy of the Mutual Aid Agreement shall forthwith be provided to the Cape May County Office of Emergency Management for review and filing as appropriate.

16. RESOLUTION 508-23 – ACKNOWLEDGING THE SUBMISSION OF COMPENSATION FOR THE BOARD OF FIRE COMMISSIONERS FOR DISTRICTS 1-4, AS OUTLINED AND ESTABLISHED BY LOCAL FINANCE NOTICE 2021-16 AND N.J.S.A. 40A:14-88 – On motion by Committeeman Gandy seconded by Committeeman Norris and passed on roll call, the following resolution was adopted.

WHEREAS, N.J.S.A. 40A:14-88 provides that each member of the Board of Fire Commissioners shall receive compensation in such amounts as the Board of Commissioners shall fix by resolution, and

WHEREAS, if a Board of Fire Commissioners establishes annual compensation for its fire district commissioners, N.J.S.A. 40A:14-88 requires the municipal governing body to review and approve such compensation before the fire district can submit its annual budget to the voters, or, in the case of fire districts whose Board of Fire Commissioners elections coincides with the November General election, before the district can adopt its annual budget, and

WHEREAS, N.J.S.A. 40A:14-88 further provides that the compensation so fixed shall be subject to review by the governing body wherein the Fire District is located, and

WHEREAS, Local Finance Notice 2021-16 issued on September 20, 2021 further outlined the requirements of the Governing Body to review said compensation, and

WHEREAS, the fire district must seek annual approval of elected commissioner compensation from the municipal governing body regardless of whether the Board is modifying the amount of compensation.

Oughton v. Board of Fire Comrs., etc., 178 N.J. Super. 565, 570-571 (App. Div. 1981).

WHEREAS, in order for a fire district to authorize its elected commissioners to receive compensation, the Board of Fire Commissioners must adopt a Local Finance Notice 2021-16 by way of resolution establishing the level of compensation, and

WHEREAS, the 2024 fire district budget will contain a question verifying fire district compliance with the above-referenced requirement.

NOW THEREFORE 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 compensation has been set by each district as outlined below:

FIRE DISTRICT 1 (Resolution 2023-16)

Arenberg, Keith	\$10,800.00
Trombetta, Joseph	\$10,800.00
Hand, Lewis	\$4,800.00
McNulty, Michael	\$4,800.00

Woodrow, Philip \$4,800.00

FIRE DISTRICT 2 (Resolution 2023-12)

Commissioners - \$450.00 monthly

FIRE DISTRICT 3 (Resolution 23-11)

Chairman - \$300.00 monthly

Secretary - \$250.00 monthly

Treasurer - \$250.00 monthly

Commissioner - \$250.00 monthly

Commissioner -- \$250.00 monthly

FIRE DISTRICT 4 – (Resolution 2023-05)

Chairman / Commissioner - \$150.00 Monthly

Commissioner / Board Member - \$150.00 Monthly

Commissioner / Secretary - \$175.00 Monthly

Commissioner / Treasurer - \$250.00 Monthly

17. RESOLUTION 509-23 – AMENDING RESOLUTION 480-23 - APPROVE CHANGE ORDER NO. 5 – NORBURY LANDING PARK IMPROVEMENTS – WALTER’S MARINE CONSTRUCTION – On motion by Committeeman Gandy seconded by Committeeman Norris and passed on roll call, the following resolution was adopted.

WHEREAS, Walter’s Marine Construction was awarded the “Norbury Landing Park Improvements” project on November 7, 2022; and

WHEREAS, Change Order No. 5 was approved November 6, 2023, and

WHEREAS, the change order summary needs to be adjusted to reflect the correct amount for Change Order No. 5

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 No. 5 for the project awarded to Walter’s Marine Construction, be and is hereby approved in an increase amount of \$33,100.00 for an amended contract price of \$532,825.00.

18. RESOLUTION 510-23 – INSERTION OF A SPECIAL ITEM OF REVENUE – NJ DEPARTMENT OF ENVIRONMENTAL PROTECTION – STORMWATER ASSISTANCE GRANT – On motion by Committeeman Gandy seconded by Committeeman Norris 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 2023 in the sum of:

NJDEP – STORMWATER ASSISTANCE GRANT \$25,000.00

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

NJDEP – STORMWATER ASSISTANCE GRANT \$25,000.00

19. RESOLUTION 511-23 – ESTABLISHING: 1. FAIR AND OPEN PROCESS FOR CONTRACTS 2. CRITERIA TO BE CONSIDERED IN AWARDING CONTRACTS; AND 3. POSITIONS FOR WHICH PROPOSALS SHALL BE SOLICITED – On motion by Committeeman Gandy seconded by Committeeman Norris and passed on roll call, the following resolution was adopted.

WHEREAS, N.J.S.A. 19:44A-20.4 et. seq. requires that contracts with a value exceeding \$17,500 be awarded pursuant to a “fair and open” or “non-fair and open” process; and

WHEREAS, the Township Committee feel the best interests of the residents of Middle Township would be best served by the Township requesting proposals and qualifications, and considering and awarding contracts by use of a Fair and Open process; and

WHEREAS, the Township Committee desires to establish the Fair and Open Process; and

WHEREAS, the Township Committee desires to establish the criteria for the consideration of proposals and qualifications, and the award of contracts submitted in accordance with the Fair and Open Process; and

WHEREAS, the Township Committee desires to establish the positions which for the year 2024 shall be subject to the Fair and Open Process and also where stated below additional criteria for certain position; and

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 FAIR AND OPEN PROCESS

A. The Township Committee of the Township of Middle has determined that the following procedure constitutes a fair and open process and shall be the manner in which requests for proposals and qualifications are sought, accepted, and awarded:

1. A request for proposals and qualifications shall be publicly advertised on the Township of Middle’s internet website beginning on November 21, 2023 and continuing on the website through December 13, 2023 Said request will also be advertised in the Cape May County Herald Newspaper on November 29, 2023
2. The Township shall accept proposals until 10:00 am on December 13, 2023
3. Proposals shall be in a sealed envelope addressed to:  
Kimberly D. Osmundsen  
Township Clerk - Township of Middle  
33 Mechanic Street  
Cape May Court House, NJ 08210  
**The envelope shall also state the name of the person or entity submitting the proposal and the position for which the proposal is submitted.**
4. The envelope shall contain one original and one copy of the proposal.
5. The proposal shall include (**this is mandatory**) at a minimum, a statement of the following:
  - A. Qualifications and Experience of person or entity specifically with regard to the position sought
  - B. Scope of Services proposed to be provided
  - C. Contact Information, including name, address, phone number, email address
  - D. Fee Proposal including a **“Not To Exceed”** Amount,
  - E. Office Staffing Plan and Resources
  - F. Location of Office from which services shall be provided
  - G. References
  - H. Potential Conflicts
  - I. The Applicant should provide a proposal which includes a statement of licensing, others in his/her office who will provide services, a fee schedule which lists names, titles and fees for each person and for each of these services, and any other information deemed of importance by the Applicant.
6. On December 13, 2023 at 10:00am, the Township Clerk or representative shall open each of the proposals and shall announce the proposals

received by name, and a short summary of the proposal and qualifications.

7. The proposals shall be submitted to Township Committee for consideration at its reorganization meeting, at which time Township Committee may award a contract by approving a resolution, or, it may choose to award at the next regularly scheduled Township Committee meeting. If a majority votes to seek interviews, interviews may be held between Township Committee and the person or entity that submitted proposals. Township Committee may send proposals to Township Board's or Agency's for consideration and approval as is appropriate.

## 2. CRITERIA BY WHICH REQUESTS FOR PROPOSALS AND QUALIFICATIONS SHALL BE EVALUATED

A. The Township of Middle hereby discloses in writing that all of the submissions in response to the Request for Proposals and Qualifications submitted through the fair and open process described above, will be evaluated by the Township Committee of the Township of Middle and awarded or rejected on the basis of the following criteria. Proposals will be evaluated by the Township Committee of the Township of Middle on the basis of the most advantageous, price and other factors considered. The evaluation will consider:

1. Experience and reputation in the field
2. Knowledge of the Township of Middle and the subject matter to be addressed under the contact
3. Availability to accommodate any required meetings of the agency
4. Compensation proposal
5. Other factors if demonstrated to be in the best interest of the Township of Middle

B. The following criteria, found under the competitive contracting rules at N.J.A.C. 5:34-4.2, if determined to be of assistance, may also be considered by Township Committee. These criteria are not intended to be limiting or all-inclusive, and they may be adapted or supplemented in order to meet the Township Committee's needs. No criteria will unfairly or illegally discriminate or exclude otherwise capable vendors.

### I. Technical criteria:

- a. Proposed methodology:
  - i. Does the vendor's proposal demonstrate a clear understanding of the scope of work and related objectives?
  - ii. Is the vendor's proposal complete and responsive to the specific RFP requirements?
  - iii. Has the past performance of the vendor's proposed methodology been documented?
  - iv. Does the vendor's proposal use innovative technology and techniques?
  - v. Are sound environmental practices such as recycling, energy efficiency, and waste reduction used?

### II. Management criteria:

- a. Project management:
  - i. How well does the proposed scheduling timeline meet the agency's needs?
  - ii. Is there a project management plan?
- b. History and experience in performing the work:
  - i. Does the vendor document a record of reliability of timely delivery and on-time and on-budget implementation?
  - ii. Does the vendor demonstrate a track record of service as evidenced by on-time, on-budget, and contract compliance performance?
  - iii. Does the vendor document industry or program experience?
  - iv. Does the vendor have a record of moral integrity?
- c. Availability of personnel, facilities, equipment and other resources:
  - i. To what extent does the vendor rely on in-house resources vs. contracted resources?
  - ii. Are the availability of in-house and contract resources documented?
- d. Qualification and experience of personnel:
  - i. Documentation of experience in performing similar work by employees and when appropriate, sub-contractors?
  - ii. Does the vendor make use of business capabilities or initiatives that involve women, the disadvantaged, small and/or minority owned business establishments?
  - iii. Does the vendor demonstrate cultural sensitivity in hiring and training staff?

### III. Cost criteria:

- a. Cost of goods to be provided or services to be performed:
  - i. Relative cost: How does the cost compare to other similar proposals?
  - ii. Full explanation: Is the price and its component charges, fees, etc., adequately explained or documented?
- b. Assurances of performance:
  - i. If required, are suitable bonds, warranties, or guarantees provided?
  - ii. Does the proposal include quality control and assurance programs?
- c. Vendor's financial stability and strength:

- i. Does the vendor have sufficient financial resources to meet its obligations?

3. REQUEST FOR PROPOSALS AND QUALIFICATIONS ARE SOUGHT FOR THE FOLLOWING POSITIONS

A. Township Conflict Solicitor

1. Represent the Township in all legal matters and shall advise and assist the Township Committee, the Township Administrator and the Departments as required in the administration of Township Government when there is a conflict with the Township Solicitor.
2. Attend meetings of the Township Committee, draft ordinances and resolutions as directed by the Township Administrator or the majority of the members of the Committee when there are conflict matters, and give opinions and rulings on questions of law which may arise at the Committee meetings at the request of a majority of the members of the Township Committee or the Township Administrator when there are conflicts matter.
3. Prepare or approve all legal instruments relating to the business of the Township when there is a conflict with the Solicitor.
4. Represent the Township in any litigation, and conduct trials, appeals and other proceedings affecting the interest of the Township as he may in his discretion determine to be necessary or desirable, subject to the approval of the Committee, where there is a conflict for the Solicitor.

3. Additional Duties.

The Township Conflict Solicitor shall also, in circumstances when there is a conflict for the Township Solicitor:

- a. Maintain records of all action suits, proceedings and matters which relate to the Township's interest, and report thereon as the Administrator or Committee may require.
- b. Have power to enter into any agreement, compromise or settlement or any litigation in which the Township is involved, subject to the prior approval or ratification of the Committee.
- c. Upon the termination of their service with the Township, forthwith surrender to their successor all Township property, papers and records, together with written consent to substitution of their successor in any pending actions or proceedings.

4. Special Counsel.

Whenever he deems that the interests of the Township so require, the Township Conflict Solicitor, may recommend to the Committee the appointment of special counsel with the approval of the Committee and within the limits of available appropriations, may appoint special counsel to assist them in the preparation, trial or argument of any issue or in such other capacity as they may determine where there is a conflict for the Solicitor. If the Township Conflict Solicitor should be disqualified with respect to any matter or recommend the appointment of special counsel for any reason, the Committee may appoint special counsel to represent the Township for and with respect to such matter, within the limits of available appropriations. The Township of Middle may select, at its sole discretion, individuals or firms for these positions, so long as those individuals or firms meet or exceed the minimum requirements set forth in this resolution; however, the Township is under no obligation to select any firm even if qualified and will make any selection based on an overall evaluation of qualifications in the best interest of the Township. Once an appointment is made, no substitution of personnel may be made without the express written consent of the Township of Middle, which consent may be withheld in the township's sole discretion. The Township of Middle reserves the right to appoint other professionals to perform services as the need may arise.

20. RESOLUTION 512-23 THROUGH 513-23 – DENYING LOCAL SUPPORT FOR THE CLASS 5 CANNABIS RETAILER LICENSE APPLICATION (ITEMS A THROUGH B) – On motion by Committeeman Gandy seconded by Committeeman Norris and passed on roll call, the following resolution was adopted.

(A) WHEREAS, on November 3, 2020, more than two-thirds of the registered voters in New Jersey voted to approve Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults 21 years of age and older; and WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act”, N.J.S.A. 24:6I-31, et seq. (the “Act”), which legalized the recreational use of marijuana by adults 21 years of age or older; and

WHEREAS, the Act establishes a comprehensive regulatory and licensing scheme for commercial, recreational (adult use) cannabis operations, use, and possession; and

WHEREAS, an applicant that seeks to own and operate a proposed cannabis business is required to demonstrate local support from a municipality as to the suitability and appropriateness of its business location pursuant to N.J.A.C. 17:30-5.1(g) and/or N.J.S.A. 24:6I-36; and

WHEREAS, on October 18, 2021, pursuant to the provisions of N.J.S.A. 24:6I-45, the Mayor and Township Committee (“Township Committee”) of the Township of Middle (“Township”) adopted Ordinance No. 1635-21, which, amongst other things established a process for obtaining local support for cannabis businesses from the Township and requires the Township Committee to adopt a resolution to either approve or deny the request for local support; and

WHEREAS, on July 6, 2022, by way of Resolution No. 309-22, the Township appointed members to a Redevelopment Committee of the Township (the “Redevelopment Committee”) for the purpose of reviewing applications for cannabis businesses made to the Township and issuing recommendations to the Township Committee regarding said applications; and

WHEREAS, in accordance with the Act and N.J.A.C. 17:30-5.1, a municipality may enact ordinances or regulations governing the number of cannabis establishments and set a maximum number of each class of license permitted to operate within the municipality; and

WHEREAS, on June 22, 2022, by way of Ordinance No. 1653-22, the Township restricted the number of Class 5 Cannabis Retailer Licenses to only allow for one (1) license of this class; and

WHEREAS, on October 5, 2022, the Township Committee adopted Resolution 440-22, which determined that it was in the best interest of the Township to issue local support for a Class 5 Cannabis Retailer License to Insa Middle Township pursuant to Ordinance No. 1653-22; and

WHEREAS, on September 6, 2023, by way of Ordinance No. 1676-23, the Township amended the number of Class 5 Cannabis Retailer Licenses available to allow for two (2) licenses of this class; and

WHEREAS, Ganja Babe, LLC, (the "Applicant"), applied for proof of local support from the Township as required by the Act for its application for a Class 5 adult use Cannabis Retailer License with the Cannabis Regulatory Commission ("the CRC"); and

WHEREAS, the Township has received multiple applications for proof of local support for a Class 5 Cannabis Retailer License; and

WHEREAS, the Legislature specifically authorizes a municipality, pursuant to N.J.S.A. 24:6i-36(b)(1)(c)(i) and N.J.S.A. 24:6i-36(b)(1)(d)(i), to give its preferences for whom a license should be issued when the municipality has set a limit on the number of licenses that are to be issued; and

WHEREAS, the Redevelopment Committee reviewed the application of the Applicant and made recommendations to the Township Committee regarding said application; and

WHEREAS, the Township Committee has reviewed the recommendation of the Redevelopment Committee and the Applicant's submitted materials; and

WHEREAS, because Ordinance No. 1676-23 only permits two (2) Class 5 Cannabis Retailer Licenses to operate within the Township, and because the Township has already authorized the issuance of local support for another license, the Township desires to reserve issuance of the final available licenses under Township Ordinance: and

WHEREAS, the Township Committee has determined that pursuant to the limitations set forth in Ordinance No. 1676-23, and the authority granted to it pursuant to N.J.S.A. 24:6i-36(b)(1)(c)(i) and N.J.S.A. 24:6i-36(b)(1)(d)(i), the Township will not provide local support for a Class 5 Cannabis Retailer License to Ganja Babe, LLC.

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

1. That the aforementioned recitals are incorporated herein as though fully set forth at length.
2. That the Mayor and Township Committee for the Township of Middle hereby denies local support for the application of Ganja Babe, LLC, to the CRC for an annual Class 5 Cannabis Retailer License to operate within the Township of Middle.
3. This Resolution shall take effect immediately.

(B) WHEREAS, on November 3, 2020, more than two-thirds of the registered voters in New Jersey voted to approve Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called "cannabis" for adults 21 years of age and older; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act", N.J.S.A. 24:6I-31, et seq. (the "Act"), which legalized the recreational use of marijuana by adults 21 years of age or older; and

WHEREAS, the Act establishes a comprehensive regulatory and licensing scheme for commercial, recreational (adult use) cannabis operations, use, and possession; and

WHEREAS, an applicant that seeks to own and operate a proposed cannabis business is required to demonstrate local support from a municipality as to the suitability and appropriateness of its business location pursuant to N.J.A.C. 17:30-5.1(g) and/or N.J.S.A. 24:6I-36; and

WHEREAS, on October 18, 2021, pursuant to the provisions of N.J.S.A. 24:6I-45, the Mayor and Township Committee ("Township Committee") of the Township of Middle ("Township") adopted Ordinance No. 1635-21, which, amongst other things established a process for obtaining local support for cannabis businesses from the Township and requires the Township Committee to adopt a resolution to either approve or deny the request for local support; and

WHEREAS, on July 6, 2022, by way of Resolution No. 309-22, the Township appointed members to a Redevelopment Committee of the Township (the "Redevelopment Committee") for the purpose of reviewing applications for cannabis businesses made to the Township and issuing recommendations to the Township Committee regarding said applications; and

WHEREAS, in accordance with the Act and N.J.A.C. 17:30-5.1, a municipality may enact ordinances or regulations governing the number of cannabis establishments and set a maximum number of each class of license permitted to operate within the municipality; and

WHEREAS, on June 22, 2022, by way of Ordinance No. 1653-22, the Township restricted the number of Class 5 Cannabis Retailer Licenses to only allow for one (1) license of this class; and

WHEREAS, on October 5, 2022, the Township Committee adopted Resolution 440-22, which determined that it was in the best interest of the Township to issue local support for a Class 5 Cannabis Retailer License to Insa Middle Township pursuant to Ordinance No. 1653-22; and

WHEREAS, on September 6, 2023, by way of Ordinance No. 1676-23, the Township amended the number of Class 5 Cannabis Retailer Licenses available to allow for two (2) licenses of this class; and

WHEREAS, Garden State Marijuana, LLC, (the "Applicant"), applied for proof of local support from the Township as required by the Act for its application for a Class 5 adult use Cannabis Retailer License with the Cannabis Regulatory Commission ("the CRC"); and

WHEREAS, the Township has received multiple applications for proof of local support for a Class 5 Cannabis Retailer License; and

WHEREAS, the Legislature specifically authorizes a municipality, pursuant to N.J.S.A. 24:6i-36(b)(1)(c)(i) and N.J.S.A. 24:6i-36(b)(1)(d)(i), to give its preferences for whom a license should be issued when the municipality has set a limit on the number of licenses that are to be issued; and  
 WHEREAS, the Redevelopment Committee reviewed the application of the Applicant and made recommendations to the Township Committee regarding said application; and  
 WHEREAS, the Township Committee has reviewed the recommendation of the Redevelopment Committee and the Applicant's submitted materials; and  
 WHEREAS, because Ordinance No. 1676-23 only permits two (2) Class 5 Cannabis Retailer Licenses to operate within the Township, and because the Township has already authorized the issuance of local support for another license, the Township desires to reserve issuance of the final available licenses under Township Ordinance: and  
 WHEREAS, the Township Committee has determined that pursuant to the limitations set forth in Ordinance No. 1676-23, and the authority granted to it pursuant to N.J.S.A. 24:6i-36(b)(1)(c)(i) and N.J.S.A. 24:6i-36(b)(1)(d)(i), the Township will not provide local support for a Class 5 Cannabis Retailer License to Garden State Marijuana, LLC.  
 NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Committee of the Township of Middle, County of Cape May, State of New Jersey:

1. That the aforementioned recitals are incorporated herein as though fully set forth at length.
2. That the Mayor and Township Committee for the Township of Middle hereby denies local support for the application of Garden State Marijuana, LLC, to the CRC for an annual Class 5 Cannabis Retailer License to operate within the Township of Middle.
3. This Resolution shall take effect immediately.

21. ENGINEER REPORT:



Township of Middle  
 Project Status Report  
 November 20, 2023

Prepared By: Vincent C. Orlando, P.E., P.P., L.L.A.

**Norbury Landing Project**

- Park Opened.
- Landscaping – Completed.
- Storm Damage Repair – Completed.
- Punchlist being developed.

**3<sup>rd</sup> Ave & Walsh- Reconstruction & Construction of New Roadway**

- Bids received 12/21/22.
- Contract Awarded to CTX Construction.
- Paving Completed.
- Change Order for concrete curb on 3<sup>rd</sup> Avenue.

**Magnolia Avenue**

- NJDOT Grant received 04/25/2022 for \$300,000.00.
- Project consists of repaving from Magnolia Avenue to entrance drive into Acme Shopping Center.
- Construction drawing and specifications completed.
- NJDOT Approved.
- County Engineering division will bid and inspect site. EDA will provide administrative services for the Grant.

**Church Street**

- Grant received for fiscal year 2023 in the amount of \$221,075.00
- Schedule
  - Survey – Completed.
  - Project currently under design.
  - NJDOT Approval (waiting on approval).
  - NJ Transit requesting full crossing specifications, including signals.
  - Revised plans were sent to NJDOT confirming their comments.

Project Status Report  
 November 20, 2023

Page 2 of 2

**Oekie Wisting Park**

- Working on a re-design due to light pole changes.

**Avalon Fishing Pier**

- Waiting for Certificate of Authorization from sales representatives.

**Rio Grande Re-Development**

- Report to be completed by August 11, 2023.
- Reviewed report with attorney during site visit.
- Report currently being revised.

**Middle Township Public Works Parking Lot**

- Survey to be completed.
- Working on Plans and Specifications (Completion December 15, 2023)

**Clarence Davies Sports Complex**

- Completing plans for ADA playground.
- Estimated bid date – January 2024.

**Del Haven Road Paving**

- Plans and Specifications Completed.
- Bids received.
- Contract to be awarded at the December 4, 2023 meeting.

**Lena Bike Path**

- Paving to be completed on Tuesday, November 21, 2023.

Cambridge Professional Offices  
 5 Cambridge Drive, Ocean View, New Jersey 08230  
 PHONE: (609) 390-0332 • FAX: (609) 390-9204

FINAL/MIDDLE/GENERAL/PROJSTATUS/2023/11-20-23

22. PUBLIC COMMENT:

*Ed Dillio, Cape May Court House, thanked Committee and all those on the Dias, Chief of Police and officers for all their hard work for the community.*

*Kevin Dungee, Board of Public Utilities, advise that his company will be applying for a solar project in the Shoprite shopping center. He further explained the requirements to make the Township Committee aware of their projects. He reviewed the projects and its benefits and continued to discuss their application requirements.*

*Mayor Donohue explained that the Township's understanding was that a letter of support is no longer required.*

*Kimberly Osmundsen explained discussion with Ronnie Town from Atlantic City Electric. Advised that they have received the documents and have forwarded it to the Township Solicitor for review of the requirements. She recommended not providing any letters of support prior to that review.*

*Vince Orlando explained the roof mount does not require board approval but a ground mount does.*

*Kevin Dungee, Board of Public Utilities, advised that no where in the letter does it require that the Township endorse the company but to simply acknowledge that the company advised the Governing Body of the project. Further provided Committee with an information packet.*

*Mayor Donohue asked about community engagement.*

*Kevin Dungee, Board of Public Utilities, explained the various ways his company's reaches out to the community regarding their benefits.*

COMMITTEE COMMENTS:

*Committeeman Norris:*

- *Advised of the upcoming basketball camp with coach Lamar Green.*
- *Stated the Christmas Parade would be December 8<sup>th</sup>.*

*Committeeman Gandy:*

- *Spoke of residents that came out regarding the Rent Leveling Board. Explained he will be looking more into the reason the board was initially established. Advised he heard their concerns but wants to ensure it is fair for all parties.*

*Mayor Donohue:*

- *Mentioned the recent elections. Recognized Chris Leusner on his election win. He further recognized three members of the School Board who were not re-elected. Explained the Governing Body's efforts to keep a good relationship with the Middle Township School Board. Thanked all former members and congratulated the newly elected members.*

Motion to adjourn meeting – 6:45 pm

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

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

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Kimberly D. Osmundsen, Township Clerk

Minutes prepared by: E. Bartleson