

A Swim Club Utility Meeting of the Township Committee of the Township of Middletown was held in the Conference Room at Town Hall, One Kings Highway, Middletown, New Jersey at 7:00 PM on July 6, 2009.

Deputy Clerk Kirkman called the meeting to order and read the following notice:

The Notice Requirements provided for the Open Public Meetings Act have been satisfied. Notice of this meeting was properly given by transmission to the Asbury Park Press and The Courier and by posting at the Middletown Township Municipal Building and filing with the Township Clerk all on January 8, 2009.

Roll Call: Present- Byrnes, Fiore, Scharfenberger, Short  
Absent- Mayor Brightbill

Greg Silva, Director of Parks and Recreation discussed the lower enrollments this year in the Swim Club. The Director discussed the rain for the month of June and its effect on membership. The Director discussed the vendor franchise fees. The Committee discussed the day camp registration and the increase in attendance. The Director discussed the swim team and the chemicals used for the pool. The Director stated the pool was running on a full staff but there were concerns because school started early this year. The concern is that if there is enough staff because the staff has returned to school they will have to cut down on the number of pools operating. The Director stated that some of pools will need repairs. The committee questioned the overall revenue for the pools. The Director stated part of the loss of revenue is due to the bad weather and poor economy.

It was moved by Committeeman Byrnes, seconded by Deputy Mayor Scharfenberger to close the swim club utility meeting and move to executive session.

The Township Attorney read the following notice:

**RESOLUTION EXECUTIVE SESSION:**

**WHEREAS**, the Open Public Meetings Act provides that the Township Committee may go into Executive Session to discuss matters that may be confidential or listed in N.J.S.A. 10:4-12, and

**WHEREAS**, it is recommended by the Township Attorney and Township Administrator that the Township Committee go into Executive Session at this time to discuss matters set forth hereinafter which are permissible for discussion in Executive Session.

**NOW THEREFORE BE IT RESOLVED** by the Township Committee of the Township of Middletown that the Township Committee shall go into Executive Session to discuss the following items:

1. Property Acquisition or Sale– NJSA 10:4-12(b)(5)
  - Various Property Acquisitions –“ATOD” upon formal action, estimated December 2009.
2. Litigation - NJSA 10:4-12(b)(7)

- DiPietro v Middletown Township – “ATOD” upon formal action, estimated December 2009.
  - Best v. Middletown Township – “ATOD” upon formal action, estimated December 2009.
  - Prevost v. Middletown Township – “ATOD” upon formal action, estimated December 2009.
  - Schwebel v Middletown Township (Civil Rights Claim) – “ATOD” upon formal action, estimated December 2009.
3. Personnel - N.J.S.A. 10:4-12(b)(8)
- Status of CFO –“ATOD” upon formal action, estimated July 2009.
4. Contract Negotiations – N.J.S.A. 10:4-12(b)(4)
- Union Collective Bargaining Negotiations- “ATOD” upon formal action, estimated July 2009.

Roll Call:                   Aye: Byrnes, Fiore, Scharfenberger, Short  
                                  Nays: None  
                                  Absent: Mayor Brightbill

Deputy Clerk Kirkman stated motion carries to move to executive session.

An Action Workshop Meeting of the Township Committee of the Township of Middletown was held in the Conference Room at Town Hall, One Kings Highway, Middletown, New Jersey, at 8:00 PM on July 6, 2009.

Deputy Clerk Lauren Kirkman called the meeting to order and read the following notice:

The Notice Requirements provided for the Open Public Meetings Act have been satisfied. Notice of this meeting was properly given by transmission to the Asbury Park Press and The Courier and by posting at the Middletown Township Municipal Building and filing with the Township Clerk all on January 8, 2009.

Roll Call:                   Present- Byrnes, Fiore, Scharfenberger, Short  
                                  Absent- Mayor Brightbill

**PLEDGE OF ALLEGIANCE**

- a. Moment of Silence to Honor the Troops Serving Word Wide Defending our Freedoms and Way of Life

**KNOWN ACTION ITEMS:**

**INTRODUCTION OF PROPOSED ORDINANCES:**

**Ordinance 2009-2979 Ordinance Amending Chapter 16 of the Code of The Township of Middletown (1996) Facilitating Development of Inclusionary Sites as Proscribed Pursuant to the Provisions of the Township's Element and Fair Share Plan**

It was moved by Deputy Mayor Scharfenberger, seconded by Committeeman Fiore to pass the ordinance on first reading with the public hearing to be held for the July 20, 2009 Regular Meeting.

Roll Call Vote:       Ayes: Byrnes, Fiore, Scharfenberger, Short  
                          Nays: None  
                          Abstention: None  
                          Absent: Mayor Brightbill

Deputy Clerk Kirkman stated motion carries to introduce Ordinance 2009-2979 with a public hearing to be held on July 20, 2009.

**CONSENT AGENDA:**

Deputy Township Clerk Kirkman requested a consent agenda for resolutions 09-181 through 09-188.

It was moved by Committeeman Fiore, seconded by Deputy Mayor Scharfenberger to pass resolutions 09-181 through 09-188.

Roll Call Vote:       Ayes: Byrnes, Fiore, Scharfenberger, Short  
                          Nays: None  
                          Abstention: None  
                          Absent: Mayor Brightbill

Deputy Clerk Kirkman stated motion carries to pass consent agenda.

**RESOLUTION NO. 09-181**

**RESOLUTION AUTHORIZING EXECUTION OF  
SETTLEMENT AGREEMENT RELATING TO INTERLOCAL SERVICES AGREEMENT  
FOR CONSTRUCTION SERVICES IN THE MATTER OF  
TOWNSHIP OF HOLMDEL v. TOWNSHIP OF MIDDLETOWN  
DOCKET NO. L-1532-07**

**WHEREAS**, commencing in 1993 the Township of Holmdel ("Holmdel") and the Township of Middletown ("Middletown") entered into an Interlocal Services Agreement pursuant to which the Middletown Construction office performed construction inspection services for Holmdel for payment of approximately 70% of the inspection fees paid as detailed in the Agreement; and

**WHEREAS**, the Interlocal Services Agreement was continued, with minor changes, by renewal agreements in 1997 and 2002, and Middletown continued to perform inspection services as per this Interlocal Agreement until Holmdel terminated the Agreement and inspection services in November 2003; and

**WHEREAS**, Holmdel thereafter asserted a claim for reimbursement totaling \$385,000 for construction inspection fees paid by Holmdel for inspections allegedly not performed by Middletown due to various cancellations and/or the termination of the interlocal services; and

**WHEREAS**, after unsuccessful efforts to resolve the claim, Holmdel filed a lawsuit in March 2007, entitled Township of Holmdel v. Township of Middletown, Docket L-1532-07, for this reimbursement claim; and

**WHEREAS**, after certain litigation and mediation efforts, the parties have concluded the matter should be settled by a reimbursement by Middletown to Holmdel in the amount of \$92,000 --- \$46,000 to be paid by August 2009 and \$46,000 to be paid by May 2010 --- and this settlement is recommended by the Township Administrator as an equitable resolution of this reimbursement claim and to avoid extended litigation costs by the municipalities.

**NOW THEREFORE BE IT RESOLVED** by the Township Committee of the Township of Middletown that the Mayor and Township Clerk are hereby authorized to execute a Settlement Agreement with the Township of Holmdel, settling the matter of Township of Holmdel v. Township of Middletown, Docket L-1532-07, mutually releasing any and all claims asserted thereunder, and authorizing two payments to Holmdel as follows: \$46,000 by August 2009 and \$46,000 by May 2010 for a total of \$92,000.

**RESOLUTION NO. 09-182**

**TOWNSHIP OF MIDDLETOWN**

**RESOLUTION TO JOIN THE NEW JERSEY  
SUSTAINABLE ENERGY JOINT MEETING**

**WHEREAS**, local government units in the State of New Jersey are authorized to enter into a joint contract to provide for the formation of a joint meeting for the joint procurement of natural gas, electricity and other forms of energy as permitted by N.J.S.A. 40A:65-14 et seq.; and

**WHEREAS**, the statutes regulating the creation and establishment of a Joint Meeting contain a mechanism for local government units to aggregate their collective energy consumption in order to negotiate and contract for energy in a cost-effective, environmentally sensitive manner, furthering the public interest entrusted to such a Joint Meeting; and

**WHEREAS**, the governing body of the Township of Middletown has determined that membership in the Joint Meeting is in the best interest of the taxpayers of the Township of Middletown.

**NOW THEREFORE, BE IT RESOLVED**, that the Township Committee of the Township of Middletown, County of Monmouth, State of New Jersey, does hereby resolve and agree to become a member in the New Jersey Sustainable Energy Joint Meeting (NJSEM) for the purpose of

joining with other local government units in the State to aggregate purchasing power of energy so as to achieve financial savings and to encourage cooperation in seeking ways to jointly implement sustainable energy alternatives;

**BE IT FURTHER RESOLVED** that the Mayor is hereby authorized to execute the Joint Contract Joinder Agreement, attached hereto, and that Township Administrator Anthony Mercantante, or his designee, is hereby assigned to represent the Township of Middletown as a member of the State Management Committee of the NJSEM; and

**BE IT FURTHER RESOLVED** that the Mayor is authorized and directed to execute such other documents signifying their membership in the NJSEM, and make payment of the Initial Membership Fee of \$600, subject to the certification of the Township's Chief Financial Officer, as required by the NJSEM's Bylaws, and to deliver same to the Executive Director of the NJSEM.

**JOINT CONTRACT JOINDER AGREEMENT  
BETWEEN THE TOWNSHIP OF MIDDLETOWN  
AND THE NEW JERSEY SUSTAINABLE  
ENERGY JOINT MEETING**

**THIS JOINT CONTRACT JOINDER AGREEMENT** (this "Joinder"), is being executed by the Township of Middletown, a municipal corporation of the State of New Jersey, having offices at 1 Kings Highway, Middletown, New Jersey 07748, providing public and essential governmental functions (as such term is defined in N.J.S.A. 40A:65-4) (hereinafter designated as the "Municipality") pursuant to that certain Joint Contract Establishing The New Jersey Sustainable Energy Joint Meeting dated July \_\_, 2009 (the "Joint Contract").

**WHEREAS**, Article 4 of the Joint Contract requires any contracting local unit under N.J.S.A. 40A:65-3 desiring to become a member of the Joint Meeting (as defined in the Joint Contract) to adopt a resolution in accordance with applicable laws substantially in the same form attached to the Joint Contract as Exhibit A (the "Resolution") approving the execution of an agreement in the form of this Joinder; and

**WHEREAS**, the Municipality has adopted the Resolution and transmitted a certified copy to the Chairman of the Executive Committee (as defined in the Joint Contract), or his designee, for transmission to the State of New Jersey pursuant to applicable law; and

**WHEREAS**, the Municipality has reviewed the terms of the Joint Contract and the Bylaws (as defined in the Joint Contract) and desires to be bound thereby.

**NOW THEREFORE**, for and in consideration of the promises herein contained and intending to be legally bound, the Municipality, covenants and agrees as follows:

1. The Municipality hereby acknowledges, consents to, joins in and agrees to be bound by the Joint Contract and all of the terms and conditions thereof, including the terms and conditions of

the Bylaws, all of which are incorporated herein by this reference, as if the Municipality had been an original signatory thereto.

2. The Municipality agrees that (a) the representative appointed to the State Management Committee, and thereby to its respective County Management Sub-Committee, is hereby granted a power of attorney to vote by proxy the interests of the Municipality; and (b) the County Management Committee representative to the State Management Committee is hereby granted a power of attorney to vote by proxy the interests of the Municipality.

**Resolution No. 09-183**

**RESOLUTION AUTHORIZING AWARD OF CONTRACT  
FOR:  
2009 ROAD RESURFACING PROGRAM CONTRACT # 1  
CONTRACT 09-03**

WHEREAS, bids were received on June 23, 2009; and

WHEREAS, eleven (11) bids were picked up by vendors, and five (5)

Responsive Bids were received as follows:

<u>VENDOR</u>	<u>AMOUNT</u>
1. A. MONTONE CONSTRUCTION INC. P.O. BOX 760 HOLMDEL, N.J. 07733	\$ 618,313.15
2. LUCAS BROTHERS INC. 80 AMBOY ROAD MORGANVILLE, N.J. 07751	\$ 669,658.45
3. LUCAS CONSTRUCTION GROUP INC. 173 AMBOY ROAD MORGANVILLE, N.J. 07751	\$ 689,842.75
4. FIORE PAVING COMPANY INC. 4 FIORE COURT OCEANPORT, N.J. 07757	\$ 712,206.25
5. DEFINO CONTRACTING COMPANY INC. 28 INDUSTRIAL DRIVE CLIFFWOOD BEACH, N.J. 07735	\$ 713,994.35

Bids were advertised as per N.J. State Statutes and affidavit of publication is on file in the Office of the Township Clerk.

A. MONTONE CONSTRUCTION INC., P.O. BOX 760, HOLMDEL, N.J. 07733. shall Furnish & Deliver the following as per Bid Proposal & Specifications & Covenants thereof dated June 23, 2009. said bidder being the Lowest Responsible Bidder.

<u>DESCRIPTION</u>	<u>VENDOR</u>
2009 ROAD RESURFACING PROGRAM CONTRACT # 1 CONTRACT 09-03	A. MONTONE CONSTRUCTION INC. P.O. BOX 760 HOLMDEL, N.J. 07733

WHEREAS, bids have been reviewed by the Purchasing Agent, and Robert R. Keady Jr, Consulting Engineer, T&M Associates and it is their recommendation that the contract be awarded to A. MONTONE CONSTRUCTION INC., P.O. BOX 760, HOLMDEL, N.J. 07733. in the amount of: \$ 618,313.15

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Middletown, County of Monmouth, State of New Jersey as follows:

1. It hereby awards the contract for the "2009 Road Resurfacing Program Contract 1" to A. Montone Construction Inc., P.O. Box 760, Holmdel, N.J. 07733 for a total of: \$ 618,313.15

BE IT FURTHER RESOLVED, this contract is awarded pursuant to a Fair and Open Process in accordance with N.J.S.A. 19:44A-20.5 et seq.

WHEREAS, the Chief Financial Officer of the Township of Middletown has certified that adequate funds for such contract are available, and are designated to line item appropriation of the official budget no. C-04-55-908-949. A copy of the said certification is attached hereto and made a part hereof and the funds to be expended herein are assigned to line item no. 002. A copy of the

within resolution and certification shall be certified by the Township Clerk. The Township Attorney is satisfied that the certification of availability of funds has been provided and a copy of the within resolution shall be made a part of the file concerning said resolution and appointment.

2. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- A) Purchasing Agent
- B) Comptroller
- C) Robert Keady, T&M Associates
- D) All of the above bidders

**Resolution No. 09-184**

**RESOLUTION AUTHORIZING AWARD OF CONTRACT  
FOR:  
2009 ROAD RECONSTRUCTION  
ERIE ROAD, FIRST AVENUE, COOPER BOULEVARD AND GRAND TOUR  
CONTRACT # 09-04**

WHEREAS bids were received on June 23, 2009; and

WHEREAS, ten (10) bids were picked up by vendors and four (4)

Responsive Bids were received as follows:

<u>VENDOR</u>	<u>AMOUNT</u>
1. LUCAS BROTHERS INC. 80 AMBOY ROAD MORGANVILLE, N.J. 07751	\$ 390,528.69
2. DEFINO CONTRACTING COMPANY INC. 28 INDUSTRIAL DRIVE CLIFFWOOD BEACH, N.J. 07735	\$ 428,895.19
3. LUCAS CONSTRUCTION GROUP INC. 173 AMBOY ROAD MORGANVILLE, N.J. 07751	\$ 435,789.24
4. A. MONTONE CONSTRUCTION INC. P.O. BOX 760 HOLMDEL, N.J. 07733	\$ 491,436.30

Bids were advertised as per N.J. State Statutes and affidavit of publication is on file in the Office of the Township Clerk.

LUCAS BROTHERS INC., 80 AMBOY ROAD, MORGANVILLE, N.J. 07751. shall

Furnish and Deliver the following as per Bid Proposal & Specifications & Covenants thereof dated June 23, 2009. said bidder being the Lowest Responsible Bidder.

DESCRIPTION

VENDOR

2009 ROAD RECONSTRUCTION  
ERIE ROAD, FIRST AVENUE  
COOPER BOULEVARD AND  
GRAND TOUR  
CONTRACT # 09-04

LUCAS BROTHERS INC.  
80 AMBOY ROAD  
MORGANVILLE, N.J. 07751

WHEREAS, bids have been reviewed by the Purchasing Agent and Robert R. Keady Jr, Consulting Engineer T&M Associates and it is their recommendation that the contract be awarded to LUCAS BROTHERS INC., 80 AMBOY ROAD, MORGANVILLE, N.J. 07751. in the amount of: \$ 390,528.69

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middletown, County of Monmouth, State of New Jersey as follows:

1. It hereby awards the contract for "2009 Road Reconstruction" to Lucas Brothers Inc., 80 Amboy Road, Morganville, N.J. 07751. for a total of: \$ 390,528.69

BE IT FURTHER RESOLVED, this contract is awarded pursuant to a Fair and Open Process in accordance with N.J.S.A. 19:44A-20.5 et seq.

WHEREAS, the Chief Financial Officer of the Township of Middletown has certified that adequate funds for such contract are available, and are designated to line item appropriation of the official budget no. C-04-55-909-963. A copy of the said certification is attached hereto and made a part hereof and the funds to be expended herein are assigned to line item no. 001. A copy of the within resolution and certification shall be certified by the Township Clerk. The Township Attorney is satisfied that the availability of funds has been provided and a copy of the within resolution shall be made a part of the file concerning said resolution and appointment.

2. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- A) Purchasing Agent
- B) Comptroller
- C) Robert Keady, T&M Associates
- D) All Bidders

**Resolution No. 09-185**

**RESOLUTION AUTHORIZING AWARD OF CONTRACT  
FOR:  
CAMPBELL AVENUE AND BAYSIDE PARKWAY RECONSTRUCTION  
CONTRACT # 09-02**

WHEREAS, bids were received on June 23, 2009: and

WHEREAS, ten (10) bids were picked up by vendors, and five (5)

Responsive Bids were received as follows:

<u>VENDOR</u>	<u>AMOUNT</u>
1. DEFINO CONTRACTING COMPANY INC. 28 INDUSTRIAL DRIVE CLIFFWOOD BEACH, N.J. 07735	\$ 283,000.02
2. JADS CONSTRUCTION COMPANY P.O. BOX 513 SOUTH RIVER, N.J. 08882	\$ 296,736.30

- |   |               |
|---|---------------|
| 3. A. MONTONE CONSTRUCTION COMPANY<br>P.O. BOX 760<br>HOLMDEL, N.J. 07733     | \$ 312,972.32 |
| 4. FERNANDEZ CONSTRUCTION INC.<br>32 JOHN STREET<br>SOUTH RIVER, N.J. 08882   | \$ 315,814.00 |
| 5. LUCAS CONSTRUCTION GROUP INC.<br>173 AMBOY ROAD<br>MORGANVILLE, N.J. 07751 | \$ 324,585.02 |

Bids were advertised as per N.J. State Statutes and affidavit of publication is on file in the Office of the Township Clerk.

DEFINO CONTRACTING COMPANY INC., 28 INDUSTRIAL DRIVE, CLIFFWOOD BEACH, N.J. 07735. shall Furnish and Deliver the following as per Bid Proposal & Specifications & Covenants thereof dated June 23, 2009. said bidder being the Lowest Responsible Bidder.

<u>DESCRIPTION</u>	<u>VENDOR</u>
CAMPBELL AVENUE AND BAYSIDE PARKWAY RECONSTRCUTION CONTRACT 09-02	DEFINO CONTRACTING COMPANY 28 INDUSTRIAL DRIVE CLIFFWOOD BEACH, N.J. 07735

WHEREAS, bids have been reviewed by the Purchasing Agent and Robert R. Keady Jr, Consulting Engineer T&M Associates and it is their recommendation that the contract be awarded to DEFINO CONTRACTING COMPANY, 28 INDUSTRIAL DRIVE, CLIFFWOOD BEACH, N.J. 07735. in the amount of: \$ 283,000.02

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middletown, County of Monmouth, State of New Jersey as follows:

1. It hereby awards the contract for the "Campbell Avenue and Bayside Parkway Reconstruction" to Defino Contracting Company, 28 Industrial Drive,

Cliffwood Beach, N.J. 07735. for a total of: \$ 283,000.02

BE IT FURTHER RESOLVED, this contract is awarded pursuant to a Fair and Open in accordance with N.J.S.A. 19:44A-20-5 et seq.

2. WHEREAS, the Chief Financial Officer of the Township of Middletown has certified that adequate funds for such contract are available, and are designated to line item appropriation of the official budget no. C-04-55-909-963. A copy of the said certification is attached hereto and made a part hereof and the funds to be expended herein are assigned to the line item no. 001. A copy of the within resolution and certification shall be certified by the Township Clerk. The Township Attorney is satisfied that the certification of availability of funds has been provided and a copy of the within resolution shall be made a part of the file concerning said resolution and appointment.

3. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- A) Chief Financial Officer
- B) Purchasing Agent
- C) Robert R. Keady Jr, Township Engineer
- D) All Vendors

**Resolution No. 09-186**

**RESOLUTION AUTHORIZING AWARD OF CONTRACT  
TO VENDOR(S) WITH STATE CONTRACTS  
FOR JANITORIAL SERVICES**

BE IT RESOLVED, by the Township Committee of the Township of Middletown, County of Monmouth, State of New Jersey as follows:

1. In accordance with the requirements of the Local Public Contract Law N.J.S.A. 40:11-12 et seq., and the regulations promulgated thereunder, the following purchase without competitive bids from vendor(s) with State Contract is hereby approved:

ITEM # 1

VENDOR

ACCSES OF NJ INC. CNA SERVICES  
150 WEST STATE STREET  
SUITE 120  
TRENTON, N.J. 08608

STATE CONTRACT # A89099

AMOUNT \$ 69,000.00

DESCRIPTION

PROVIDE JANITORIAL SERVICES  
TO TOWNSHIP BUILDINGS FOR  
A SIX (6) MONTH PERIOD

WHEREAS, the Chief Financial Officer of the Township of Middletown has certified that adequate funds for such contract are available, and are designated to line item appropriation of the official budget no. 9-01-26-310-100. A copy of the said certification is attached hereto and made a part hereof and the funds to be expended herein are assigned to line item no. 259. A copy of the within resolution and certification shall be certified by the Township Clerk. The Township Attorney is satisfied that the availability of funds has been provided and a copy of the within resolution shall be made a part of the file concerning said resolution and appointment.

2. A certified copy of this resolution shall be provided by the Office of the Township Clerk to each of the following:

- A) Purchasing Agent
- B) Comptroller
- C) Lawrence M. Werger, Director of Public Works
- D) Vendor

**Resolution 09-187**

**RESOLUTION AUTHORIZING AWARD FOR INSURANCE  
POLICY COVERAGE FOR EXCESS HEALTH INSURANCE COVERAGE-  
GERBER INSURANCE COMPANY**

**WHEREAS**, the Township requires Excess Health Insurance Coverage and, after a review of available policies, rates and carriers, a recommendation has been made by the Township Administrator to bind and obtain a policy with Gerber Insurance Company for such coverage for the period of July 1, 2009 to June 30, 2010, and

**WHEREAS**, authorization for the award of this contract and policy coverage is as per N.J.S.A. 40A:11-5(m) in order to obtain and continue proper insurance coverage.

**NOW THEREFORE BE IT RESOLVED** by the Township Committee of the Township of Middletown that the Mayor and/or Township Administrator and other appropriate Township officials are hereby authorized to enter and provide for the Excess Health Insurance Policy and coverage from Gerber Insurance Company through the Township's broker Brown & Brown.

1. Nature of Services – Excess Health Insurance Coverage and Policy covering potential health coverage claims and liabilities relating from the Township Self-Insured Health Plan covering employees and retirees.

2. Duration – Coverage is July 1, 2009 to June 30, 2010.

3. Estimated Amount of Contract – Premium is approximately \$238,250 for one year's coverage; approximately \$119,125 to be paid in 2009 and \$119,125 to be paid in 2010.

4. Reason for Awarding the Contract – The Township and its employees and officials require Excess Health Insurance Coverage in order to provide insurance coverage related to catastrophic claims that might arise in the employee health plan. The Township has solicited rates and coverages from reputable companies providing such coverage in order to obtain the best coverage and rate. Gerber is the insurer currently providing the coverage and its quote for coverage was the most reasonable. The binding of such coverage is appropriate in order to properly protect and insure the Township and its officials/employees from liability for health claims and coverage in excess of Township self-insurance limits.

5. This Contract is awarded without competitive bidding as a contract for insurance pursuant to N.J.S.A. 40A:11-5(m) of the Local Public Contracts Law.

6. The Township Chief Financial Officer advises that there are funds available for the purpose of the within resolution. A copy of the Notice to that effect from the Chief Financial Officer is attached hereto and made a part thereof as Exhibit A.

7. Attached hereto as Exhibit B is a copy of the Mandatory Affirmative Action Language Applicable to Goods, Services and Professional Services Contracts required by N.J.A.C. 17:27 which is expressly incorporated herein and made a part hereof.

**RESOLUTION #09-188**

**RESOLUTION RELEASING THE PERFORMANCE GUARANTEE  
FOR MOUNTAIN HILL SCHOOL**

WHEREAS, the developer of the site plan known as Mountain Hill Scholl Block 835 Lot 15 had posted with the Township a Performance Guarantee in the form of a Surety Bond (#70274507) issued by Western Surety Co., in the amount of \$74,988.00; and

WHEREAS, the developer has requested a release of said Performance Guarantee; and

WHEREAS, the Township Engineer, as set forth in his letter of July 2, 2009, indicates he has inspected the premises and has recommended that the performance guarantee in the form of surety bond in the amount of \$74,988.00 be released upon submission of a Cash Bond to cover the deficiency items in the amount of \$2,500.00; and

WHEREAS, the Township Committee agrees with said recommendation.

NOW, THEREFORE, BE IT RESOLVED by the Middletown Township Committee that the performance guarantee be released.

A certified copy of this resolution shall be provided by the Office of the Township Clerk to the following:

- a. T&M Associates
  - b. Planning
  - c. Andrew Kaiser
- Mountain Hill School

**TOWNSHIP COMMITTEE ACTING AS THE LOCAL ABC ISSUING AUTHORITY**

Deputy Township Clerk Kirkman requested a consent agenda for resolutions 09-189 through 09-190

It was moved by Deputy Mayor Scharfenberger, seconded by Committeeman Fiore to pass resolutions 09-189 through 09-190.

Roll Call Vote:       Ayes: Byrnes, Fiore, Scharfenberger, Short,  
                              Nays: None  
                              Abstention: None

Absent: Mayor Brightbill

Deputy Clerk Kirkman stated motion carries to pass resolutions 09-189 to 09-190.

**RESOLUTION No. 09-189**

WHEREAS, applications have been made to the Middletown Township Committee for PLENARY RETAIL DISTRIBUTION LICENSES for the year beginning July 6, 2009 and ending June 30, 2010 accompanied by the statutory fee of \$1,382.00.

<u>NUMBER</u>	<u>LICENSEE</u>	<u>TRADE NAME</u>
1. 1331-44-007-001	Anne & Chris DeFilippo 483 West Front Street Red Bank, NJ 07701	Chris's Deli

WHEREAS, the premises where the licenses are sought have been duly inspected by the Office of the Chief of Police of the Township of Middletown, and it appearing that the applications are in due form and that all legal formalities have been met.

NOW, THEREFORE, BE IT RESOLVED that PLENARY RETAIL DISTRIBUTION LICENSE be granted to: Anne and Chris DeFilippo, for the year beginning July 1, 2009 and ending June 30, 2010.

BE IT FURTHER RESOLVED that the Township Clerk issue the necessary licenses pursuant to this resolution and that a certified copy of this resolution be forwarded to the Director of Alcoholic Beverage Control of the State of New Jersey, provided that in each case payment of \$200.00 filing fee by the licensee have been made to the Division of Alcoholic Beverage Control in accordance with P.L. 1970, Chapter 77.

**RESOLUTION No. 09-190**

WHEREAS, applications have been made to the Middletown Township Committee for PLENARY RETAIL CONSUMPTION LICENSES for the year beginning July 6, 2009 and ending June 30, 2010 accompanied by a statutory fee of \$1,900.00.

<u>NUMBER</u>	<u>LICENSEE</u>	<u>TRADE NAME</u>
1. 1331-33-010-009	S&A Route 35, Inc. 1285 Route 35 North Middletown, NJ 07748	Crown Palace
2. 1331-33-030-011	DARON LLC.	Midtown Restaurant

Highway 35  
Red Bank, NJ 07701

WHEREAS, the premises where the licenses are sought have been duly inspected by the Office of the Chief of Police of the Township of Middletown, and it appearing that the applications are in due form and that all legal formalities have been met.

NOW, THEREFORE, BE IT RESOLVED that PLENARY RETAIL CONSUMPTION LICENSES be granted to: S & A Route 35, Inc. and DARON LLC, for the year beginning July 1, 2009 and ending June 30, 2010; and

BE IT FURTHER RESOLVED that the Township Clerk issue the necessary licenses pursuant to this resolution and that a certified copy of this resolution be forwarded to the Director of Alcoholic Beverage Control of the State of New Jersey, provided that in each case payment of \$200.00 filing fee of licensee has been made to the Division of Alcoholic Beverage Control in accordance with P.L. 1970, Chapter 77.

**REGULAR AGENDA FOR JULY 20, 2009**

1. CERTIFICATE OF APPRECIATION/PROCLAMATION
  - a. Employee of the Month for June 2009
  - b. Recognition of Army National Guard Sgt. Major Roger Miller
2. MINUTES
  - a. May 4, 2009 Executive Session
  - b. May 4, 2009 Workshop Meeting
  - c. May 18, 2009 Executive Session
  - d. May 18, 2009 Regular Meeting
3. PUBLIC HEARING OF PROPOSED ORDINANCES
  - a. 2009-2976 Repealing Chapter 220 Of The Code Of The Township Of Middletown Creating Sex Offender Residency Limitations Pursuant To Decision Of The New Jersey Supreme Court
  - b. 2009-2977 Ordinance Authorizing The Vacation Of A Portion Of Trent Avenue Within The Township Of Middletown, Monmouth County, New Jersey
  - c. 2009-2978 Ordinance Cancelling Unexpended Balances Authorized for Settlement of Tax Appeals Provided Under Ordinance 2006-2893
4. INTRODUCTION OF PROPOSED ORDINANCES
5. CONSENT AGENDA

- a. Payment of Bills
- b. Bingo and Raffles
- c. Volunteer Firefighter Applications

6. DISCUSSION FOR JULY 6, 2009

- a. Discharge of Mortgage
- b. DEDR County Grant Funding Application for the Municipal Alliance
- c. Grant Application for Greenhouse Gas Reduction and Climate Change Showcase
- d. Regional Solid Waste Study
- e. Fee Ordinance Amendment
- f. Purchasing Items for Bid
  - i. Police Uniforms
  - ii. Leaf Collection Services

Grant Application for Greenhouse Gas Reduction and Climate Change Showcase- The Township Planner discussed this state grant and applicability to the Master Plan. The Township Planner discussed the limits on the amount of request and the possibility of doing joint projects though this grant. The Committee discussed the possibility of additional federal money being available. The Township Administrator discussed the application of the funds to hybridizing township vehicles and the Dock and Roll vehicles.

Fee Ordinance Amendment- The Township Attorney discussed the amendment in relation to the farmer's market. The current fees would not be feasible for the farmer's market as they are transient vendors.

Leaf Collection Services- The Township Committee discussed the bid specifications and the return of the system utilized the year before last. The Committee discussed the costs and efficiency of the program. The Committee further discussed the staff needed to accommodate all the leaves needed for pick-up. Deputy Mayor Scharfenberger discussed a resolution passed in Matawan regarding unfunded mandates. The Township Attorney discussed the council of local mandates.

**TOWNSHIP COMMITTEE COMMENTS:**

Committeeman Fiore stated he has been receiving calls regarding people abandoning their property, which causes problems like high grass. The Township Attorney discussed that code enforcement can do some things but this issue is why statutes have been put in place requiring banks to notify the clerk's office when they are going to foreclose. Code enforcement can contact the mortgage company but difficulty lies when the homeowner still owns the property but has left. Committeeman Fiore stated he hoped that an agreement could be reached in regards to the turf fields. Committeeman Fiore discussed action for Monmouth Avenue and the drain pipe. Committeeman Fiore urged people to support the Farmer's market.

Committeeman Byrnes questioned the update about the flood gates and pump stations to keep water out. Committeeman Byrnes questioned the progress on the Arts Center and the HVAC.

Committeeman Byrnes discussed the energy audit and what it may reveal for the Arts Center. The Administrator discussed the time-line for sending it out to the state. The Administrator discussed how the energy audit would work and the benefits of the program. Committeeman Byrnes mentioned that he had received a resident complaint about the light on West Front Street. Committeeman Byrnes discussed his concern regarding the upcoming budget meeting on the 13<sup>th</sup>. Committeeman Byrnes requested that he receive the packet early. The Township Administrator explained that part of the budget was dependant upon the approval of the Local Finance Board which would not be completed until later in the week. Committeeman Byrnes requested that the Township have a finance committee.

Committeeman Short commented on the amount of rain that fell in June and the flooding of the Bayshore area. Committeeman Short requested that the committee discuss this issue further in the near future. Committeeman Short commented on the access road near the Acme. Committeeman Short stated the committee would be recognizing Officer Miller of the Army National Guard. Committeeman Short stated that Officer Miller was an impressive individual.

Deputy Mayor Scharfenberger mentioned the upcoming open air market and his hope for its success. Deputy Mayor Scharfenberger stated that road repairs are fully underway. Deputy Mayor Scharfenberger mentioned he has been discussing with the engineers progress on the drainage issues. Deputy Mayor Scharfenberger also mentioned that the township had gotten their 100<sup>th</sup> vendor in the Buy Middletown campaign. Deputy Mayor Scharfenberger stated that in regards to the finance committee, the Township already had one it was all the members of the Township Committee. Deputy Mayor Scharfenberger stated the key to getting feedback from all members of the Committee. Deputy Mayor Scharfenberger mentioned the possible use of solar panels on the Art Center to cut energy costs. Deputy Mayor Scharfenberger stated this Friday is the monthly social for ballroom dancing, all levels are welcome. The Director of Parks and recreation discussed the humidity levels in the art center. Discussion ensued among the committee regarding the cause of the humidity and possible solutions.

Mayor Brightbill was absent.

#### **PUBLIC COMMENTS:**

Joseph Valentino, 57 Broadmoor Drive, complained about the administration of the summer camp. Mr. Valentino felt that it was unfair that children under the age of 6 are excluded from the camp. Mr. Valentino stated he had other children in the camp and he would like them all to be able to attend at the same time. Mr. Valentino also complained about the noise from the Parkway and the police shooting range. Mr. Valentino requested a barrier be built. The Committee discussed that the Parkway was under the auspices of the State but a request could be submitted.

Jeannette Ronka, Monmouth Ave, Port Monmouth, stated she was glad to hear of the progress on the drain pipe and questioned the costs. The Committee discussed that this issue was on the priority list and they had hopes they would have funds to eliminate part of the problem.

Mike Mascolla, 6 Schindler Lane, requested if the Township could change their rail-road crossings to the new "quiet zone" crossings. At these crossings the engineer would not blow a whistle but the area itself would include additional safety features. The Administrator stated this could be reviewed but it would be a capital project costing several hundred thousand dollars to meet all the quality standards.

Cindy Walker, 244 Church, stated that Church is a narrow street and people are using it to park for the train parking. Ms. Walker requested that limiting parking on the street be examined.

Bruce Stafford, 39 Brainard, stated that in the last rain storm Brainard had two feet of water. Mr. Stafford stated he thought there was a problem with the pipe.

Jim Grenefege, 5 Red Coach Lane, stated he had looked at the charter report and found the Township Committee to be the least effective form of government. Mr. Grenefege stated he recommend five standing sub-committees, finance, personnel, DPW, etc. Mr. Grenefege stated the point was that different members had what expertise, so in forming a sub-committee you could have experts in different areas.

Don Watson, 10 Collison Drive, questioned the drainage and the issue of the water not leaving the street. Mr. Watson stated he felt the outfall pipe would be great.

#### **ADJOURNMENT:**

Upon motion by Deputy Mayor Scharfenberger, seconded by Committeeman Fiore it was carried to adjourn the meeting to executive session:

The Township Attorney Read the following executive session resolution for the record:

#### **RESOLUTION EXECUTIVE SESSION:**

**WHEREAS**, the Open Public Meetings Act provides that the Township Committee may go into Executive Session to discuss matters that may be confidential or listed in N.J.S.A. 10:4-12, and

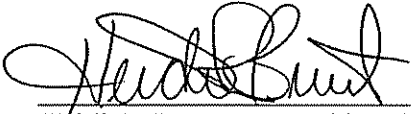
**WHEREAS**, it is recommended by the Township Attorney and Township Administrator that the Township Committee go into Executive Session at this time to discuss matters set forth hereinafter which are permissible for discussion in Executive Session.

**NOW THEREFORE BE IT RESOLVED** by the Township Committee of the Township of Middletown that the Township Committee shall go into Executive Session to discuss the following items:

5. Property Acquisition or Sale– N.J.S.A. 10:4-12(b)(5)
  - Various Property Acquisitions –“ATOD” upon formal action, estimated December 2009.
6. Litigation - N.J.S.A. 10:4-12(b)(7)
  - DiPietro v Middletown Township – “ATOD” upon formal action, estimated December 2009.

- Best v. Middletown Township – “ATOD” upon formal action, estimated December 2009.
  - Prevost v. Middletown Township – “ATOD” upon formal action, estimated December 2009.
  - Schwebel v Middletown Township (Civil Rights Claim) – “ATOD” upon formal action, estimated December 2009.
7. Personnel - NJSA 10:4-12(b)(8)
- Status of CFO –“ATOD” upon formal action, estimated July 2009.
8. Contract Negotiations – N.J.S.A. 10:4-12(b)(4)
- Union Collective Bargaining Negotiations- “ATOD” upon formal action, estimated July 2009.

Roll Call Vote:           Ayes: Byrnes, Fiore, Scharfenberger, Short,  
                                  Absent: Brightbill

  
Heidi R. Brunt, Township Clerk

Approved by:  
  
Pamela M. Brightbill, Mayor