

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 September 8, 2009.

Township Clerk, Heidi Brunt, 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, The Star Ledger, The Independent and Two River Times 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, Mayor Brightbill
Absent- None

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:

Resolution 09-218

Resolution Authorizing Award of Contract for Vehicle Wash

It was moved by Mayor Brightbill, seconded by Deputy Mayor Scharfenberger to pass resolution 09-218

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

Clerk Brunt stated motion carries adopt resolution 09-218.

Resolution No. 09-218

**RESOLUTION AUTHORIZING AWARD OF CONTRACT FOR:
MIDDLETOWN VEHICLE WASH FACILITY
CONTRACT # 09-05**

WHEREAS, bids were received on September 2, 2009; and

WHEREAS, nine (9) bids were picked up by vendors and six (6)

Responsive Bids were received as follows:

<u>VENDOR</u>	<u>AMOUNT</u>
1. CONSOLIDATED DESIGN & BUILDING CORPORATION 440 E. WESTFIELD AVENUE ROSELLE PARK, N.J. 07204	\$ 375,000.00
2. PRECISE CONSTRUCTION INC. 1016 HIGHWAY 33 FREEHOLD, N.J. 07728	\$ 396,950.00
3. McCAULEY CONSTRUCTION COMPANY INC. 65 SWARTZEL DRIVE MIDDLETOWN, N.J. 07748	\$ 405,000.00
4. BURMARC CONSTRUCTION GROUP LLC 1602 LAWRENCE AVENUE, SUITE 113 OCEAN, N.J. 07712	\$ 409,000.00
5. ROCON CONTRACTING DEVELOPMENT 705 ROUTE 71 BRIELLE, N.J. 08730	\$ 413,843.00
6. APEX ENTERPRISES OF UNION INC. 2254 CORLIES AVENUE ROUTE 33 NEPTUNE, N.J. 07753	\$ 447,000.00

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

CONSOLIDATED DESIGN AND BUILDING CORPORATION, 440 E. WESTFIELD AVENUE, ROSELLE PARK, N.J. 07204, shall Furnish, and Deliver the following as per Bid Proposal & Specifications & Covenants thereof dated September 2, 2009, said bidder being the Lowest Responsible Bidder.

<u>DESCRIPTION</u>	<u>VENDOR</u>
MIDDLETOWN VEHICLE WASH FACILITY CONTRACT # 09-05	CONSOLIDATED DESIGN & BUILDING CORP 440 E. WESTFIELD AVENUE ROSELLE PARK, N.J. 07204

WHEREAS, bids have been reviewed by Robert R. Keady Jr., Township Engineer and the Purchasing Agent and it is their recommendation that the contract be awarded to CONSOLIDATED DESIGN & BUILDING CORPORATION, 440 E. WESTFIELD AVENUE, ROSELLE PARK, N.J. 07204, in the amount of: \$ 375,000.00

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 "Middletown Vehicle Wash Facility" to Consolidated Design & Building Corporation, 440 E. Westfield Avenue, Roselle Park, N.J. 07204. in the amount of: \$ 375,000.00

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 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. 007. 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 R. Keady Jr, T&M Associates
- E) All of the above bidders

Resolution 09-219

Resolution Authorizing Development Commitment Agreement for the Mountain Hill, LLC Property on Route 35

It was moved by Mayor Brightbill, seconded by Deputy Mayor Scharfenberger to pass resolution 09-219

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

Clerk Brunt stated motion carries adopt resolution 09-219.

Resolution No. 09-219

**RESOLUTION AUTHORIZING EXECUTION OF COAH
COMMITMENT AGREEMENT PURSUANT TO COAH
REGULATIONS WITH MOUNTAIN HILL, LLC**

WHEREAS, on December 11, 2008, the Middletown Township Planning Board adopted an amended Master Plan Housing Element and Fair Share Plan pursuant to COAH's revised third round rules; and

WHEREAS, the Township Committee subsequently endorsed the action of the Planning Board and petitioned the New Jersey Council on Affordable Housing (“COAH”) for Substantive Certification of said Fair Share Plan just before COAH’s deadline for compliance on December 30, 2008; and

WHEREAS, on April 13, 2009, COAH determined the Township’s petition for substantive certification to be complete; and

WHEREAS, on July 15, 2009, consistent with the intent and purpose of the Housing and Land Use Elements of the Township Master Plan, the Planning Board has recommended the legal necessity of making certain zoning changes in accordance therewith to comply with COAH’s rules; and

WHEREAS, on July 20, 2009, the Township Committee adopted Ordinance No. 2009-2979 amending Chapter 16 of the Code of the Township of Middletown (1996) providing zoning for the provision of inclusionary sites as required by the COAH rules pursuant to the Township’s Housing Element and Fair Share Plan; and

WHEREAS, further agreements with the landowner(s), contract purchaser(s) and/or developer(s) will be necessary at a future date to ensure that all on and off-tract improvements are completed at defined stages of site development relating to matters including but not limited to utility infrastructure, public services and uses, traffic impact mitigation and building demolition; and

WHEREAS, Mountain Hill, LLC, is the owner of a +/- 120-acre tract known as Block 825, Lots 53, 54, 55, 56, 57, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69.01, 72, 73, 74, 75, 76, 77, 78, 79, 80 and 81 as identified on the Middletown Township Official Tax Map; and

WHEREAS, Mountain Hill, LLC, intends to commit that, as part of any future development at this tract, it will provide inclusionary housing pursuant to the terms of the Township’s Housing Element and Fair Share Plan and as required by COAH’s rules; and

WHEREAS, it is in the best interests of the taxpayers of the Township of Middletown to take these steps at this time to ensure it is effectively protected from builder’s remedy and other litigation brought by developers that could result in a virtual loss of the Township’s zoning powers as imposed by COAH and the courts.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Middletown in the County of Monmouth, State of New Jersey, that the Mayor is hereby authorized to execute a COAH Commitment Agreement with Mountain Hill, LLC, as attached hereto as “Exhibit A” with executed copies being transmitted to COAH and maintained on file with the Township Clerk.

“EXHIBIT A”
FIRM COMMITMENT FOR THE CONSTRUCTION OF
FAMILY RENTAL UNITS
PURSUANT TO THE SUBSTANTIVE REGULATIONS OF THE NEW
JERSEY COUNCIL ON AFFORDABLE HOUSING

THIS AGREEMENT entered into this 8th day of September, 2009 between the Township of Middletown, a municipal corporation in the County of Monmouth, State of New Jersey, having an office at 1 Kings Highway Middletown, New Jersey (hereinafter "Township"), and Mountain Hill, LLC, having an office at 853 Hwy. 35, POB 278, Middletown, NJ, (hereinafter "Developer").

WHEREAS, Southern Burlington County NAACP v. Mount Laurel, 92 N.J. 158 (1983) ("Mount laurel II"), the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq., and other applicable laws require the Township to create a realistic opportunity for the provision of its fair share of low and moderate income housing (hereinafter "lower income housing"); and

WHEREAS, the Township seeks to satisfy a portion of its fair share obligation through inclusionary development of a +/- 120 acre tract identified as Block 825, Lots 53, 54, 55, 56, 57, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69.01, 72, 73, 74, 75, 76, 77, 78, 79, 80 and 81 on the Township's official tax map (hereinafter "Subject Property") in accordance with an ordinance previously adopted (hereinafter "Affordable Housing Zoning Ordinance"); and

WHEREAS, Developer is the owner of the Subject Property and desires the Subject Property to be developed in accordance with the portion of the Affordable Housing Zoning Ordinance concerning rental housing and with the general requirement of COAH and the Uniform Housing Affordability Controls (UHAC) regulations at N.J.A.C. 5:80-26.1 et seq. concerning non-age restricted rental housing; and

WHEREAS, Developer understands that the Township is entitled to rental bonuses for the 80 affordable rental units it intends to construct if it makes a firm commitment to construct the affordable rental units; and

WHEREAS, further agreements with the landowner(s), contract purchaser(s) and/or developer(s) will be necessary at a future date to ensure that all on and off-tract improvements are completed at defined stages of site development relating to matters including but not limited to utility infrastructure, public services and uses, traffic impact mitigation and building demolition; and

WHEREAS, Developer wishes to make the firm commitment sought by the Township.

NOW, THEREFORE, be it agreed as follows:

1. Developer intends to develop the Subject property in accordance with the Affordable Housing Zoning Ordinance and consistent with the Middletown Township Housing Element and Fair Share Plan. Developer intends to pursue the right to construct 400 units of which 80 will be rented to low and moderate income family households. The parties

recognize that Developer may secure the right to construct fewer or greater units as a result of the approval processes that lie ahead. In the event that Developer secures the right to construct fewer or greater than 400 units, it shall maintain a twenty (20%) percent set aside on the units it does secure the right to construct. Developer shall ensure that at least fifty (50%) percent of the affordable units will be made affordable to low income households.

2. Developer shall adhere to the provisions of COAH's regulations concerning family rental housing which the Township anticipates incorporating into its current affordable housing regulations.
3. Developer shall abide by all applicable regulations of COAH and UHAC:
4. Developer shall complete the development of the Subject property according to the implementation schedule approved by COAH subject to any necessary amendments due to any unforeseen economic or regulatory changes affecting the economic feasibility of the project.
5. Developer reserves the right to make the market units "for sale" units, as opposed to rental units. In such an event, Developer shall maintain a twenty (20%) percent set aside of rental units in the project.

The terms of this agreement shall be binding upon the parties, their successors and/or assigns.

Raffle Application Approval-Lincroft PTA 09-122

It was moved by Mayor Brightbill, seconded by Committeeman Short to approve Raffle Application 09-122-Lincroft PTA

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

Clerk Brunt stated motion carries approve raffle application.

REGULAR AGENDA FOR SEPTEMBER 21, 2009

1. CERTIFICATE OF APPRECIATION/PROCLAMATION
 - a. Employee of the Month for July 2009
 - b. Presentation of the 2009 Planning Merit Award for the Port of Belford Feasibility Study and Conceptual Plan
 - c. Proclamation Declaring September 26, 2009 Middletown Day

2. MINUTES

- a. July 6, 2009 Executive Session
- b. July 6, 2009 Workshop Meeting
- c. July 20, 2009 Executive Session
- d. July 20, 2009 Regular Meeting

3. PUBLIC HEARING OF PROPOSED ORDINANCES

- a. 2009-2980 Ordinance Amending Chapter 127 of the Code of the Township Of Middletown to Address Imposition of Fees for Township-Sponsored Marketplaces
- b. 2009-2987 Amending § 4-32 of Code of the Township of Middletown Governing the Duties of the Township Attorney
- c. 2009-2988 Ordinance Repealing Ordinance No. 2007-2937 and Restoring Ordinance No. 2006-2859, as Amended by Ordinance No. 2006-2889, Governing the Middletown Township Police Department Under Chapter 44 of the Code of the Township of Middletown (1996)
- d. 2009-2989 Ordinance Amending Chapter 16 (Planning And Development Regulations) of the General Ordinances the Township Of Middletown as it Applies to Flood Damage Control

4. CONSENT AGENDA

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

5. DISCUSSION FOR SEPTEMBER 8, 2009

- a. Cancellation of Community Development Mortgages
- b. Partial Street Vacation – Port Monmouth Road
- c. SCAT Agreement
- d. Purchasing Bid Items:
 - i. Gas Meters- Fire
 - ii. Defibrillators- Fire
 - iii. Washer/Dryer- Fire
 - iv. Ambulance-First Aid
 - v. Leaf Collection
- e. Chapter 159 Grant Funding Various Sources
- f. Monmouth County Parks Grant-Conifer
- g. Tort Claim Form - Ordinance
- h. Liquor Licenses Extension of Premises- Bottle King
- i. Joint Energy Purchases World Energy Electric and Gas
- j. Health Dept. Presentation on Swine Flu

SCAT Agreement: The Township Committee discussed the SCAT agreement as well as a report of spending on SCAT. Possible complaints on lack of service were discussed as well as the need for SCAT at the Conifer site. The Committee discussed the SCAT funding source as well as increased fees. The Committee discussed NJ Transit as a possible grant source. The Committee discussed the impact of services for transportation if fees were collected.

Monmouth County Parks Grant-Conifer: The Committee discussed a \$250,000 application for a grant. The cost of the ball field is \$940,000 - \$960,000 it is in the capital budget, a grant will reduce the budgeted amount.

Joint Energy Purchase: The Committee discussed the joint membership of Bayshore towns and a letter of research permission for utilities review.

Health Department Presentation on Swine Flu: It was noted that the Health Department presentation would be on September 21, 2009.

TOWNSHIP COMMITTEE COMMENTS:

Committeeman Fiore stated that he meet with the Assistant Administrator on the insurance coverage and some potential areas for cost savings. Committee Fiore stated he will prepare a resolution to request an audit of the insurance. Committeeman Fiore stated that firms will do at no cost. Committeeman Fiore stated that there was a good attendance for the ceremony at the 9-11 memorial in Leonardo. Committeeman Fiore thanked the Elks for the ceremony.

Committeeman Byrnes stated that the Elks did a great job with the 9-11 ceremony. Committeeman Byrnes stated an insurance audit was a great idea and requested information on the tax appeals. Committeeman Byrnes requested a review of the West Front Street light. Committeeman Byrnes commented on the SCAT extension of service requested for Conifer. Committeeman Byrnes commented on preparedness and a reverse 9-11 for swine flu education. Committeeman Byrnes discussed school not displaying the President Obama's speech and stated they should show respect to President.

Committeeman Short stated that the Elks ceremony was very nice for the 9-11. Committeeman Short stated that the Business to Business function would be held at the Arts Center on Wednesday and pointed out the Township 9-11 ceremony on Friday. Committeeman Short commented on Congressman Holt having a meeting about the health care plan at the Arts Center, noting that traffic was a problem.

Deputy Mayor Scharfenberger stated it was great the Congressman Holt had a meeting but the information was not informative regarding the Universal Health Plan. Deputy Mayor Scharfenberger stated the Elks held a wonderful ceremony.

Mayor Brightbill requested a follow up with a firm for disability insurance and requested an update for meeting with union representatives. Mayor Brightbill requested that an outreach be done by the senior center for senior housing. Mayor Brightbill commented on the movie in the park and pointed out an article in the New York times regarding the FEMA flood map changes and their effect in North Middletown. The Township Administrator discussed an application to FEMA regarding the rating system. The Township Administrator discussed the DEP management of the Dike and the Dunes and stated that FEMA will not consider the dunes as flood control.

PUBLIC COMMENTS:

Don Watson, 1 Collison Drive, commented on the President's message being broadcasted in the schools. Mr. Watson requested an update on the ground wells by Route 35 and Dunkin Donuts. Mr. Watson discussed the wells, testing and some contamination. Mr. Watson stated that they are looking at Exxon Mobil plume of contamination. Mr. Watson stated forensic evidence will be done and submitted to the DEP. Mr. Watson discussed the proposed plan for Monmouth Ave. as well as funding the job and the time-line. Mr. Watson discussed obtaining funding for the project.

Dora Cristafulli, 10 Melrose Place, complained about a political rally at the Town Hall meeting for Congressman Holt. Ms. Cristafulli discussed the set up of the meeting and complained about the timing of Arts Center and events.

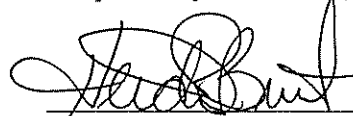
ADJOURNMENT:

Upon motion by Mayor Brightbill, seconded by Deputy Scharfenberger it was carried to adjourn the meeting at 9:15 p.m.

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


Clerk Brunt stated motion carried to adjourn.

Respectfully submitted,



Heidi R. Brunt, Township Clerk

Approved by:



Pamela M. Brightbill, Mayor
Township of Middletown