

Municipal Building  
1200 Mountain Avenue

March 10, 2009

A regular meeting of the Mayor and Council was held at the above place on the above date commencing at 8:00 p.m.

Mayor	John Fuhrmann
Council President:	Bob Schueler
	Michael Class
	Debra DeVuyst
	Bob Edwards
	Bob Gorr
	Michael Venuto

Attorney:	Edward Johnson
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Mayor Fuhrmann opened the meeting with the Sunshine Law Statement saying the meeting had been advertised in the Public Meeting Notice of December 31, 2008.

On behalf of the Mayor and Council, Mayor Fuhrmann congratulated Mike Dessino on his 4<sup>th</sup> place finish in Atlantic City for the State Wrestling finals in the 160 lbs. weight class. Also, he would like to acknowledge the Boy's Varsity Basketball Team which competed in the Group II State Championship game on Monday night.

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Mayor Fuhrmann opened the public portion of the meeting for discussion regarding any of the resolutions on the public consent agenda.

Seeing that there were no public comments, Mayor Fuhrmann closed the public portion of the meeting on the consent agenda.

Councilwoman Class moved to remove Resolution #77-09 and Resolution #79-09 from the Consent Agenda seconded by Councilman Gorr and carried by a unanimous vote of Council.

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Consent Agenda 2009(E)**

**WHEREAS**, the Mayor and Council of the Borough of Middlesex has reviewed the Consent Agenda consisting of various proposed resolutions; and

**WHEREAS**, the Mayor and Council of the Borough of Middlesex are desirous of removing Resolution No. 77-09 and Resolution No. 79-09 from this Agenda.

**NOW THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Middlesex, County of Middlesex, State of New Jersey that the following resolutions on the Consent Agenda are hereby approved and adopted.

Resolution #65-09 – Resolution #76-09  
Resolution #78-09  
Resolution #80-09 – Resolution #83-09

Councilman Class moved for adoption seconded by Councilwoman DeVuyst and carried by the following roll call votes: Ayes: Members Class, DeVuyst, Gorr, and Schueler. Nos.: None. Abstain: None.

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #65-09**

The Tax Collector is hereby authorized to refund an overpayment of 1<sup>st</sup> quarter 2009 property taxes due to an overpayment by the finance/mortgage company on the following property:

<b>BLOCK/LOT</b>	<b>NAME &amp; ADDRESS</b>	<b>AMOUNT</b>
43/36	Federal Home Loan Mortgage 349 First St	\$1,399.14

Make Check Payable to and Mail to: Countrywide Tax Services Corporation  
MS: SVW-24  
P O Box 10211  
Van Nuys, CA 91499-6089

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #66-09**

The Tax Collector is hereby authorized to refund 1<sup>st</sup> quarter 2009 property taxes on the following properties. The finance/mortgage company overpaid.

<b>BLOCK/LOT</b>	<b>NAME &amp; ADDRESS</b>	<b>AMOUNT</b>
5/11	Taylor, Michael & Deffler, Debbie 35 Warrenville Road	\$ 25.17
117/18	Weber, Ricky 307 Union Avenue	\$2,468.24
130/1	Reagent Chemical & Research Inc	\$ 27.00

124 River Rd  
Mail check to: 115 US Hwy 202  
Ringoes, NJ 08551

181/36	Gould, Steven & Kathleen 214 Cook Avenue	\$ 19.23
198/33	Bazilus, Gregory & Kaiser, Meridith 428 Howard Avenue	\$ 16.05
237/9.A	Master, Chris P 128 Second Street	\$ 45.00

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #67-09**

The Tax Collector is hereby authorized to refund 2008 taxes based on Tax Court of New Jersey judgment on the following property:

<u>BLOCK/LOT</u>	<u>NAME &amp; ADDRESS</u>	<u>AMOUNT</u>	<u>YEAR</u>
340/17	Oldbrich Middlesex LLC 270-272 Lincoln Blvd	\$3,511.00	2008

The check is to be made payable to: Daniel G. Keough, Trustee  
783 Springfield Avenue  
Summit, NJ 07901-2332

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #68-09**

Per the engineer's recommendation, the Tax Collector is hereby authorized to release a maintenance bond in the amount of \$3,699.67 on Block 174, Lot 1, 476 Union Avenue and release the planning board escrow monies in the amount of \$18.45, plus interest.

The check should be made payable to: Bara & Maser Realty, LLC  
476 Union Avenue  
Middlesex, NJ 08846

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #69-09**

**WHEREAS**, an emergent condition has arisen with respect to providing temporary appropriations sufficient to cover commitments made during the period of January 1, 2009 to the date of adoption of the annual budget and no adequate provision has been made in the 2009 temporary appropriations to cover such commitments, and N.J.S.A. 40A: 4-20 provides for the creation of an emergency temporary appropriation for the purpose of covering such commitments; and

**WHEREAS**, the total emergency temporary resolutions adopted in the year 2009 pursuant to the provisions of Chapter 96, P.L. 1951 (N.J.S.A. 40A:4-20) including this resolution total \$12,178,835.21 for the Current Fund Budget, \$263,000.00 for the Swimming Pool Utility Budget;

**NOW, THEREFORE, BE IT RESOLVED** (not less than two-thirds of all of the members thereof affirmatively concurring) that in accordance with the provisions of N.J.S.A.

<b>APPROPRIATIONS</b>	<b>ACCOUNT NO.</b>	<b>SALARIES &amp; WAGES</b>	<b>OTHER EXPENSES</b>
<b>CURRENT FUND</b>			
<b>General Government</b>			
Mayor & Council	20-1101	6,000	1,750
Municipal Clerk	20-1231	80,000	35,000
Printing & Advertising	20-1202		5,000
Postage	20-1222		10,000
Finance Administration	20-1301	49,000	9,000
Elections	20-1242		4,500
Revenue Administration	20-1451	30,500	3,000
Assessment of Taxes	20-1501	15,000	3,000
Legal	20-1551	33,000	29,000
Engineering	20-1652		16,000
Planning Board	21-1802		10,000
Zoning Board	21-1852		4,000
Ins. Liability	23-2102		58,087.08
Ins. Workmens Comp.	23-2152		98,497.20
Ins. Group	23-2202		657,250
Ins. Surety	23-2112		
Ins. Temp. Disability	23-2122		13,450
Ins. Long Term Disab.	23-2132		5,530
<b>Public Safety</b>			
Police	25-2401	1,450,000	38,050
Juvenile	25-2411	1,000	0
Emergency Management	25-2521		7,000
Fire	25-2652		50,000
Fire Hydrants	25-2572		98,000
Prosecutor	25-2752	12,000	0
Uniform Fire	25-2531	28,000	5,000

<b>Public Works</b>			
Streets & Roads	26-2901	308,000	30,000
Shade Tree	26-3001	1,200	17,000
Solid Waste	25-3051	84,000	00
Garbage	25-3071	317,000	14,500
Bldg & Grds	25-3101	19,163	16,000
Rental Rescue Squad	25-3082		3,600
Stormwater Regulation	41-7160		
Maintenance			
Communications	25-3092		00
<b>Health &amp; Human Services</b>			
Board of Health	27-3301	1,073	50,000
Animal Control	27-3453		12,500
<b>Parks &amp; Recreation</b>			
Recreation	28-3701	57,000	15,000
Celebration of Public Events	30-4200		00
Parks & Playgrounds	28-3751	111,000	8,000
Sr. Citizen Bus			
Transportation	28-3721	0	1,900
Sr. Nutrition	28-3791	9,000	0
Title III	28-3781	14,000	0
Medical Transportation	28-3761	00	0
Sr. Coordinator	28-3731	10,000	2,150
<b>Utility Expenses</b>			
Sewer Department	31-4551	8,000	20,000
Electricity	31-4302		74,000
Street Lighting	31-4352		70,000
Telephone	31-4402		21,000
Water	31-4452		8,000
Natural Gas	31-4462		18,000
Fuel Oil	31-4472		58,000
Gasoline	31-4602		60,000
<b>Other Operating</b>			
Housing & Community			
Devel.	30-4161		0
Environmental	30-4171		800
Tax Map Maintenance	30-4182		750
Landfill	32-4652		170,000
Construction	22-1951	121,000	7,000
Municipal Court	43-4901	97,000	8,000
Public Defender	43-4952		00
Library	29-3902		282,000
Utilities Authority	25-3122		725,397.73
Piscataway Sewerage	25-3112		50,000
Beautification	30-4203		750

Curbside Recycling	36-4766		51,250
<b>Statutory Expenses</b>			
Police Retirement	36-4752		
Social Security	36-4722		146,000
<b>Debt Service</b>			
Bond Principal	45-9202		250,000
Bond Interest	45-9302		34,633.13
BAN	45-9202		
Ban Interest	45-9302		(23,289.06)
Green Acres Loan & Interest	45-9402		
Hazardous Loan	45-9412		
Infrastruncture Loan	45-9413		85,333.07
Hazardous Loan Interest	45-9412		
<b>State &amp; Federal Grants</b>			
Drug Alliance	41-7032		9,300
Older American	41-7092		0
Body Armor	41-7042		5,311.48
DWI	41-7011		7,348.67
Municipal DWI	41-7022		642.55
Green Communities Grant			0
Clean Community	41-7002		0
<b>TOTAL CURRENT FUND</b>		<b>2,861,936.00</b>	<b>3,471,991.85</b>
<b>Swimming Pool Utility</b>			
Operating Appropriations	01-7001	98,000	80,000
<b>TOTAL SWIM POOL</b>		<b>98,000</b>	<b>80,000</b>

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #70-09**

Approving the Borough Clerk go out for an RFP for professional services for the COAH Third Round Rules at a cost not to exceed \$7,000.

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #71-09**

**RESOLUTION APPOINTING MARK RUDERMAN, ESQ. OF THE FIRM RUDERMAN & GLICKMAN, ESQS. TO REPRESENT THE BOROUGH IN CONNECTION WITH THE ARBITRATION PROCEEDING INVOLVING THE BOROUGH OF MIDDLESEX AND THE MIDDLESEX PBA LOCAL 181**

**WHEREAS**, Middlesex PBA Local 181 has filed a petition for arbitration in connection with the contract negotiations between the Borough of Middlesex and the Middlesex PBA Local 181; and

**WHEREAS**, the Governing Body wishes to have the firm Ruderman & Glickman represent the Borough in the arbitration process, since that firm specializes in handling arbitration matters; and

**WHEREAS**, the Borough's attorney, Edward J. Johnson, Jr., Esq. has recommended to the Governing Body that they retain the services of Ruderman & Glickman for this purpose; and

**WHEREAS**, Edward J. Johnson, Jr., Esq. has agreed that any fees paid to Ruderman & Glickman for representing the Borough in this arbitration process shall be deducted from the salary being paid to Edward J. Johnson, Jr., Esq.

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex as follows:

1. The Borough retains the services of Mark Ruderman, Esq. of the firm of Ruderman & Glickman to represent the Borough in the arbitration proceeding that has been instituted by Middlesex PBA Local 181 against the Borough of Middlesex and agrees to pay \$165.00 per hour for all work done in connection with this matter.
2. This resolution shall take effect immediately.

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #72-09**

**RESOLUTION APPOINTING THE LAW FIRM OF SOKOL, BEHOT & FIORENZO, ESQ. TO REPRESENT THE BOROUGH OF MIDDLESEX IN THE CLASS ACTION SUITS INSTITUTED BY CHRISTOPHER OBSCHINETZ V. MAPLE SHADE TOWNSHIP, ET ALS.**

**WHEREAS**, the Borough of Middlesex has been named as a defendant in two suits, one instituted by Christopher Obschinetz v. Maple Shade Township, and one instituted by Joseph W. McMullen v. Maple Shade Township, which suits are expected to be consolidated in the near future; and

**WHEREAS**, in the suit instituted by Joseph McMullen, the plaintiff is seeking to bring a class action on behalf of plaintiffs who are defined as "individuals who were cited under the municipal defendant respective public intoxication ordinances" and in the suit

instituted by Christopher Obschinetz, the complaint is similar but alleges a violation of the Fourth Amendment of the New Jersey Constitution and seeks compensatory and punitive damages, attorneys fees, interest and costs of suit; and

**WHEREAS**, the Borough did inquire of the Middlesex County Municipal Joint Insurance Fund if the Borough is afforded coverage under its policies for the damages being sought by the plaintiffs in these matters; and

**WHEREAS**, the Borough was advised in a letter dated December 4, 2008 that coverage was available for some of the relief being sought by the plaintiffs but not for all of the relief being sought by plaintiffs; and

**WHEREAS**, the Borough was advised by the Attorney handling the litigation on behalf of the Fund that there is no coverage for punitive damages nor for any rescission relief as sought by plaintiff nor is there any coverage under the Borough's policies for injunctive relief nor is there any coverage for willful violation of a statute or ordinance or regulation committed by or with knowledge or consent of the Borough; and

**WHEREAS**, the Fund has advised the Borough that it finds no basis for coverage with respect to the majority of the claims in both of the complaints and potential class actions; and

**WHEREAS**, the Fund has directed the Borough and other municipalities being defended by the Fund to obtain their individual counsel on the remaining portions not covered by the Borough's existing insurance policies; and

**WHEREAS**, each municipality will be required to retain and or employ counsel for the items in the complaints that are not covered and coordinate the overall defense of these suits; and

**WHEREAS**, the firm of Sokol, Behot & Fiorenzo, Esq. has been recommended by the Middlesex County Municipal Joint Insurance Fund to represent the Borough on claims that are not covered under the Borough's insurance policy with the Fund; and

**WHEREAS**, the Governing Body has determined to follow the recommendation of the Fund so that one law firm will be representing several of the various municipalities which are being joined as defendants and so that this law firm may coordinate all of the various defenses; and

**WHEREAS**, the firm of Sokol, Behot & Fiorenzo, Esq. has agreed to represent the Borough of Middlesex and other defendants with the understanding that the firm will bill the Borough at the same hourly rate as it currently charged to the Fund, which is a blended rate of \$165.00 for partners and associates; and

**WHEREAS**, it makes sense to have one firm represent several municipal defendants so that the cost for the defense can be divided among several municipalities and so that one firm has control over all aspects of defending the case; and

**WHEREAS**, Kathleen Anello, the Borough Clerk and Edward J. Johnson, Jr., Esq., the Borough attorney shall be designated as the contact persons for the firm to contact with regard to its representation of the Borough in this matter.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Middlesex as follows:

1. The Borough hereby retains the firm of Sokol, Behot & Fiorenzo, Esq. to represent the Borough in the suits instituted against the Borough on behalf of Christopher Obschinetz and Joseph W. McMullen and agrees to pay a fee to said firm at the rate of \$165.00 per hour for work done by that firm in connection with these suits.
2. This resolution shall take effect immediately.

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #73-09**

**WHEREAS**, Tom Griffin was issued a street opening permit on 11/6/07; and

**WHEREAS**, Tom Griffin deposited \$550.00 with the Borough of Middlesex to ensure proper repair and maintenance of the roadway; and

**WHEREAS**, said roadway at 820 Voorhees Avenue was inspected by the Dept. of Public Works and Angelo Rossi, Plumbing Inspector, and found to have been maintained in a satisfactory manner.

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that the disbursing officers be and they are hereby authorized to draw a check in the amount of \$550.00 in favor of Tom Griffin, 206 First Street, Middlesex, NJ 08846, for refund of Street Opening Permit No. 2007-006.

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #74-09**

**WHEREAS**, Tom Griffin was issued a street opening permit on 7/25/08; and

**WHEREAS**, Tom Griffin deposited \$550.00 with the Borough of Middlesex to ensure proper repair and maintenance of the roadway; and

**WHEREAS**, said roadway at 556 Voorhees Avenue was inspected by the Dept. of Public Works and Angelo Rossi, Plumbing Inspector, and found to have been maintained in a satisfactory manner.

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that the disbursing officers be and they are hereby authorized to draw a check in the amount of \$550.00 in favor of Tom Griffin, 206 First Street, Middlesex, NJ 08846, for refund of Street Opening Permit No. 2008-006.

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #75-09**

Approving the resignation of Patricia Farhy as a school crossing guard for the Middlesex Police Department effective February 6, 2009.

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #76-09**

**WHEREAS**, Bayer CropScience, Inc., Arcadis G & M, Inc. is providing a copy of the Temporary Discharge Approval Application for Groundwater Remediation Control at the Factory Lane Site in Middlesex to be submitted to the Middlesex County Utilities Authority (MCUA); and

**WHEREAS**, Bayer CropScience, Inc., Arcadis G & M is seeking MCUA's approval to discharge the treated water generated by these activities to the MCUA treatment plant via a metered connection to the Middlesex Borough's Sanitary Sewer System in Factor Lane; and

**WHEREAS**, Bayer CropScience, Inc., Arcadis G & M is required to have the Borough's approval on a yearly basis for temporary use of the culverts that run under Factory Lane and the Conrail Port Reading Railroad, as the Factory Lane Site has resulted in arsenic impacts to soil and groundwater.

**NOW THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Middlesex, County of Middlesex and State of New Jersey that:

1. At the request of Bayer CropScience, Inc., Arcadis G & M, Middlesex Borough hereby approves the execution of the Middlesex County Utilities Authority Temporary Discharge Approval Application for the Groundwater Remediation Control and approves Bayer CropScience, Inc., Arcadis G & M's temporary use of the culverts that run under Factory Lane and the Conrail Port Reading Railroad.
2. This resolution shall take effect immediately.

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #78-09**

**WHEREAS**, a bid was received on March 5, 2009 for Hydraulic Rescue Tools;

Absolute Fire Protection Company, Inc.  
2800 Hamilton Boulevard

\$35,573.30

South Plainfield, NJ 07080

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex, County of Middlesex, State of New Jersey that:

1. At the recommendation of the Purchasing Agent and the Fire Chief, the Governing Body hereby awards the contract for the Hydraulic Rescue Tools to Absolute Fire Protection Co., Inc. in the amount of \$35,573.30.
2. This resolution shall take effect immediately.

**NOW FURTHER BE IT RESOLVED** that the Chief Financial Officer hereby certifies that the funds in the amount of \$35,573.30 are available in Account No. 04-1736-00-1736-74.

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #80-09**

**RESOLUTION AUTHORIZING SADAT ASSOCIATES, INC. TO PERFORM TESTING OF THE AREA AROUND THE MUNICIPAL BUILDING AND AROUND THE PRESBYTERIAN CHURCH TO ENSURE THAT THE PRESENCE OF WASTE MATERIAL AND/OR VAPOR INTRUSION IS NOT IMPACTING THE INDOOR AIR QUALITY OF THE BUILDINGS**

**WHEREAS**, Ms. Carolyn Ent, the case manager supervising the cleanup of the Middlesex Borough Landfill Site on behalf of the New Jersey Department of Environmental Protection, has requested that the Borough undertake an indoor air sampling event at the Middlesex Presbyterian Church located at 1190 Mountain Avenue to support their reapplication for a daycare center license; and

**WHEREAS**, the New Jersey DEP cited their concern that since the previous delineation of waste material indicated that the extent of fill material approaches the northeast corner of the Middlesex Presbyterian Church building, it is the Borough's responsibility to ensure that the presence of waste material and/or vapor intrusion is not impacting the indoor air quality of the building; and

**WHEREAS**, in their e-mail to the Borough's Environmental Engineering Consultants, Sadat Associates, Inc., the NJDEP cited their current "Vapor Intrusion Guidance" as the basis for their request and the methodology for an investigation; and

**WHEREAS**, the vapor intrusion current guidance includes the development of a conceptual site model based on the known physical characteristics of the soil and groundwater regime, as well as chemical nature of the potential contaminants; and

**WHEREAS**, the guidance is primarily based on the potential for migration of vapors from the groundwater into the soils, known as soil gas, and from the soil gas into a building; and

**WHEREAS**, the NJDEP's guidance, however, does not require that the first sample be collected from the interior of a building; in fact, the NJDEP's request flies into

the face of their own guidance and the most current scientifically accepted procedure, including US Environmental Protection Agency and the Interstate Technology and Regulatory Council; and

**WHEREAS**, the knowledge base for the former landfill includes an extensive understanding of the subsurface geology and groundwater conditions; and

**WHEREAS**, previously, extensive investigations of the soil and groundwater at the landfill have indicated that the soils in the vicinity of the municipal building and the Middlesex Presbyterian Church have not exceeded the applicable NJDEP Soil Cleanup Criteria; and

**WHEREAS**, the most recent groundwater investigation, conducted in the fall of 2003, indicated that the areas with the impacted groundwater were not located in the vicinity of the municipal building and the Middlesex Presbyterian Church; and

**WHEREAS**, a number of monitoring wells with results meeting the NJDEP Groundwater Quality Criteria or the Vapor Intrusion Groundwater Screening Levels were located between the areas with groundwater exceedance and the municipal building and the Middlesex Presbyterian Church; and

**WHEREAS**, groundwater data, however, is not available for the area immediately adjacent to the municipal building and the Middlesex Presbyterian Church; and

**WHEREAS**, a limited investigation for methane and volatile organic compounds was conducted in 2003-2004; and

**WHEREAS**, elevated levels of methane were observed in the landfill gas at locations along the Cook Avenue, Pershing Avenue, and Mountain Avenue boundaries; however, levels of total volatile organic compounds detected using field screening equipment are not comparable to the current Soil Gas Screening Level established by the NJDEP guidance; and

**WHEREAS**, while there is no evidence to suggest occurrence of a potential acute or chronic exposure scenario, there is recognition that landfill conditions represent a potential preferential pathway for soil gases to migrate off the landfill site and potentially impact structures; and because of this fact, Sadat Associates, Inc. has proposed to focus the preliminary vapor intrusion investigation on the potential for impact to either the municipal or the Middlesex Presbyterian Church structures; and

**WHEREAS**, groundwater sampling and indoor air sampling are not recommended at this time by Sadat Associates, Inc., however, based on the results of the proposed preliminary investigation, these steps may be indicated in the future; and

**WHEREAS**, in order to evaluate the soil gas expeditiously, Sadat Associates, Inc. has proposed to evaluate the soil gas concentrations of methane and volatile organic compounds in the areas surrounding the municipal and the Middlesex Presbyterian Church buildings; and

**WHEREAS**, this approach has been discussed with the NJDEP by Sadat Associates, Inc. on March 2, 2009 and was verbally approved by the case manager without a requirement for the submission of a workplan; and

**WHEREAS**, upon authorization by the Borough, Sadat Associates, Inc. will mobilize a direct push drill rig to install temporary vapor extraction points into the subsurface around each building and vapor points will be installed by Subsurface Investigation Technologies, LLC, a licensed soil boring firm; and

**AND WHEREAS**, vapor points will be installed in a 100 by 100 foot grid pattern around each building, as recommended by the NJDEP guidance for undeveloped areas;

**WHEREAS**, each vapor point will be installed using the Post-Run Tubing system (GeoProbe Systems, Inc.) to a depth of approximately five feet below ground surface and each vapor point will be installed as proscribed by the current NJDEP guidance; and

**WHEREAS**, on installation, each vapor point will be screened for typical landfill gas constituents (methane, carbon dioxide, and oxygen) using a GEMS 2000 analyzer as well as for trace volatile organic compounds using a ppbRAE 3000; and

**WHEREAS**, on collection of this data, a soil gas sample will be collected in an evacuated Summa canister for laboratory analysis of volatile organic compounds using USEPA method TO-15; and samples will be submitted to TestAmerica, Inc.'s Burlington, VT facility, a NJDEP certified laboratory, in accordance with the established analytical sample handling protocol; and

**WHEREAS**, on receipt and review of the laboratory data, Sadat Associates, Inc. has agreed that they will prepare a written report documenting the field activities for submission to the Borough, NJDEP, and other interested parties; and

**WHEREAS**, at the request of the Borough, Sadat Associates, Inc. will prepare and submit separate reports for each parcel and each report will include the following information: and

- scaled site plan,
- sample logs,
- soil gas results compared to the NJDEP Soil Gas Screening Levels,
- full laboratory deliverables and QA/QC review,
- NJDEP HAZSITE electronic deliverables, and
- NJDEP Indoor Air Building Survey and Sampling Form.

**WHEREAS**, each report will provide a conclusion and recommendations as warranted by the results, and current NJDEP guidance, and stakeholder input; and

**WHEREAS**, a draft of each report will be provided to the Borough and Counsel for review and comment prior to the final submission; and

**WHEREAS**, approximately eight weeks will be required for the field activities and reporting; and

**WHEREAS**, Sadat Associates, Inc. has submitted an estimate for doing the work surrounding the municipal building at a cost of \$14,202.00 and has submitted an estimate for doing the work around the Middlesex Presbyterian Church property at a cost of \$13,494.00 for a total cost of \$27,696.00; and

**WHEREAS**, if the Borough wants a combined report covering both sites, the total cost to the Borough would be \$25,348.00 or a savings of approximately \$2,000.00 over the cost for separate reports for both properties which would be \$27,696.00; and

**WHEREAS**, the representatives from Sadat Associates, Inc. indicated that they would first do the sampling in the area surrounding the Middlesex Presbyterian Church property and, if the sampling results indicated that there was no problem with respect to any contamination, the consulting firm would so advise the Borough and would not undertake doing the testing of the area around the municipal building and would thereby save the Borough the cost for doing the sampling and reporting concerning the municipal building, which would be a savings of \$14,202.00; and

**WHEREAS**, the Governing Body has determined that Sadat Associates, Inc. should proceed with doing the work in accordance with the estimate given to the Borough.

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex as follows:

1. Sadat Associates, Inc. is hereby authorized to proceed with it's Preliminary Vapor Intrusion Investigation at the former Middlesex Municipal Landfill Site in accordance with the recommendations presented to the Governing Body at the Governing Body's meeting held on March 3, 2009.
2. Sadat Associates, Inc. is authorized to do whatever work and testing it deems necessary at the site and, if the work done by Sadat Associates, Inc. in the area surrounding the Middlesex Presbyterian Church property indicates a need for further testing, further testing should then be done of the areas immediately adjacent to the municipal building but, if, in the opinion of Sadat Associates, Inc., the testing results at the Middlesex Presbyterian Church property indicate no environmental problems, testing would then not be done in the area adjacent to the municipal building.
3. This Resolution shall take effect immediately.

**NOW FURTHER BE IT RESOLVED** that the CFO certifies that funds in the amount of \$27,696.00 are available in Account No. 04-1476-00-1476-60.

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #81-09**

Authorizing the CFO to go out for Bond Anticipation Notes in the amount of \$8,500,000.

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #82-09**

THE DISBURSING OFFICERS BE AND THEY ARE HEREBY AUTHORIZED TO PAY THE ATTACHED CLAIM LIST AS PRESENTED, IF FOUND CORRECT, AND APPROVED BY THE FINANCE COMMITTEE. EXCLUDED VOUCHERS MAY BE PAID UPON BEING FOUND ACCEPTABLE.

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #83-09**

**WHEREAS**, N.J.S.A. 10:4-12 allows for a Public Body to go into closed session during a Public Meeting; and

**WHEREAS**, the Governing Body of the Borough of Middlesex has deemed it necessary to go into closed session to discuss certain matters which are exempted from the Public; and

**WHEREAS**, the regular meeting of this Governing Body will reconvene.

**NOW, THEREFORE, BE IT RESOLVED** that the Governing Body of the Borough of Middlesex will go into closed session for the following reason listed below as outlined in N.J.S.A. 10:4-12 and the minutes will be kept, and once the matter involving the confidentiality of the items no longer require confidentiality, the minutes can be made public.

Litigation

- NIS

Personnel

- Employee Disciplinary Hearing

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #77-09**

**WHEREAS**, effective November 6, 2009 John Kapp was appointed the acting Construction Official for the Borough of Middlesex; and

**WHEREAS**, the Mayor and Council wish to appoint Mr. Kapp as the permanent Construction Official/Building Sub-Code Official effective March 30, 2009 for 37 1/2 hours per week pending a satisfactory physical and background check.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex, County of Middlesex and State of New Jersey that.

1. Mr. John Kapp is hereby appointed as the Construction Official/Building Sub-Code Inspector effective March 30, 2009 at a salary of \$55,000 per year for 37 ½ hours per week, pending a satisfactory physical and background check.
2. This resolution shall take effective immediately.

Councilman Gorr moved for adoption seconded by Councilwoman DeVuyst and carried by the following roll call votes: Ayes: Members Class, DeVuyst, Gorr, and Schueler. Nos.: None. Abstain: None.

Councilwoman DeVuyst stated that although we did a fair application process, she feels that we did have an applicant that was much better for this position.

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The Borough Clerk read the following resolution:

**BE IT RESOLVED** by the Mayor and Council of the Borough of Middlesex that:

**Resolution #79-09**

The Purchasing Agent is hereby authorized to reject bids that were received on March 5, 2009. The bids were for tree pruning, tree removal and stump grinding. The specifications are being revised to better clarify the work crews needed.

Council President Schueler Schueler moved for adoption seconded by Councilman Class and carried by the following roll call votes: Ayes: Members Class, DeVuyst, Gorr, and Schueler. Nos.: None. Abstain: None.

Councilwoman DeVuyst requested that this resolution be pulled off of the consent agenda as we did not have any documentation on it and need more clarification.

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The Borough Clerk proclaimed the week of March 8 – 14, 2009 as “Girl Scout Week”

**PROCLAMATION  
Girl Scout Week  
March 8-14, 2009**

**WHEREAS**, Girl Scouts of the USA, the largest voluntary organization for girls in the world, is built on a strong foundation of tradition and continued to grow strong; and

**WHEREAS**, Girl Scouting offers young women a place where they can be girls—where they can be what they want to be; and

**WHEREAS**, Girl Scouts serve the community; and

**WHEREAS**, Girl Scouts produces young women who grow up to be proud women; and

**WHEREAS**, Girl Scouts is a place where girls learn to like what they see in the mirror; and

**WHEREAS**, Girl Scouts provides a place, in troubled times, where things are normal and dependable; and

**WHEREAS**, Girl Scouts offer girls achievement, self-assurance, self-respect and self-confidence; and

**WHEREAS**, Girl Scouts is absolutely one of the most positive experiences in which a girl can be involved; and

**WHEREAS**, Girl Scouts is open to all girls ages 5-17, and offers a program responsive to their needs and interests.

**NOW, THEREFORE, I**, John Fuhrmann, by the virtue of the authority vested in me as Mayor of the Borough of Middlesex, hereby proclaim March 8 – March 14, 2009 as GIRL SCOUT WEEK in the Borough of Middlesex.

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Mayor Fuhrmann opened the public portion of the meeting.

Frank Ryan, 303 Maple Street questioned the status of Raritan Avenue and the manhole covers that had been painted. He recommended that if someone comes into our town like Piscataway did with the painting of the manhole covers, that notification be given to the Administrator or Clerk's Office. Mr. Ryan also questioned the status of the water problem with the drainage ditches that Piscataway is involved with. Mr. Ryan requested an update on J.H. Reid and their application to make modification to their site.

Mayor Fuhrmann indicated that J.H. Reid has made application to modify their site to grind concrete. Piscataway is opposing this application because it states that 80 vehicles will be travelling into Middlesex to take concrete into the site. When the County inspected the J.H. Reid facility there was such a large turn out of people, that this prompted the County to adjourn the SWAC meeting until April 14, at which time they will make a decision whether this matter should be sent to the Freeholders for a public meeting.

Mike Hompesch, Kalman Court stated that J.H. Reid has not been a conscientious neighbor, and he would urge the Council to do whatever can be done to persevere to get J.H. Reid to move somewhere else. He feels that J.H. Reid should not be in a municipality like Middlesex.

Dana Perone, 408 Raritan Avenue stated that the smell from J.H. Reid is awful and she constantly has to wipe her patio down. She feels that the Borough should enforce the companies that are under their jurisdiction.

Ms. Perone also addressed a question of two hour parking on Raritan Avenue in front of her home. She feels that this was set up many years ago to prevent businesses that did not have ample parking. In addition to all the other problems, there is considerable truck traffic. One problem happens with the trucks who want to pull into NIS park in front of her house. Unfortunately, the sign is not always enforced. She asked if council would consider giving residents on Raritan Avenue a parking permit.

Frank Ryan, 303 Maple Street stated that the gas station on the corner of Raritan Avenue now sells diesel fuel and because of that the trucks are now idling at the gas station and then travelling on Raritan Avenue and Route 28. He feels that these trucks are loud and this situation makes for more truck traffic in the Borough.

Seeing that there was no public participation, Mayor Fuhrmann closed the public portion of the meeting.

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Council President Schueler moved the approval of the February 24, 2009 Regular and Agenda Meeting Minutes and the February 3, 2009 Agenda Meeting Minutes seconded by Councilwoman DeVuyst and carried by a unanimous vote of the Council.

Councilman Gorr moved the approval of the January, 2009 and February, 2009 Treasurer's Report seconded by Councilwoman DeVuyst and carried by a unanimous vote of Council.

Mayor Fuhrmann appointed Council President Schueler as liaison to the Swim Pool Commission and Councilwoman DeVuyst as liaison to the Board of Education.

Mayor Fuhrmann appointed Ryan Zittell to the Technology Committee seconded by Councilman Gorr and carried by a unanimous vote of Council.

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There being no further business to discuss, the meeting was adjourned by Councilman Class and seconded by Council President Schueler and carried by unanimous vote of Council.

Respectfully submitted,

Kathleen Anello, RMC  
Borough Clerk

