

ORDINANCE NO. 2022 – 3361

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH**

Ordinance Approving Entry into Contracts for Purchase of Real Estate Identified as Block 276, Lot 77.022 (95 Main Street) And Block 136, Lot 5 (Church Street) To Advance the Port Monmouth Flood Control Project

WHEREAS, Bruce D. Walling and Arlene Walling (together, “Walling”) are the owners of the land and premises located upon Block 276, Lot 77.022 (95 Main Street) within the Township of Middletown (the “Township”) (the “Walling Property”); and

WHEREAS, Thomas Kelso Jr. was the owner of the land and premises located upon Block 136, Lot 5 (Church Street) in the Township consisting of approximately 2.07 acres (the “Kelso Property”); and

WHEREAS, Thomas Kelso Jr. is deceased and Shawn Kelso (“Kelso”) is the executor of Thomas Kelso Jr.’s estate and therefore has authority over the disposition of the Kelso Property; and

WHEREAS, the Township of Middletown (the “Township”) and Walling seek to enter into a Contract for Purchase of Real Estate (the “Walling Agreement”) for the Walling Property, which sets forth the rights, duties and obligations of the parties; and

WHEREAS, the Township and Kelso seek to enter into a Contract for Purchase of Real Estate (the “Kelso Agreement”) for the Kelso Property, which sets forth the rights, duties and obligations of the parties; and

WHEREAS, the acquisition of the Walling Property is for \$2,900; and

WHEREAS, the acquisition of the Kelso Property is for \$21,000; and

WHEREAS, Middletown’s acquisition of the Walling Property and Kelso Property by ordinance is authorized by the Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq.

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

SECTION 1. Acquisition of Property.

The Township is hereby authorized to acquire fee simple title to the land and premises located upon Block 276, Lot 77.022 (95 Main Street) on the Township’s official tax map consisting of approximately .44 acres for the sum of \$2,900.

The Township is further authorized to acquire fee simple title to the land and premises located upon Block 136, Lot 5 (Church Street) on the Township's official tax map consisting of approximately 2.07 acres for the sum of \$21,000.

SECTION 2. Agreement of Sale.

The Township approves the terms and conditions of the Walling Agreement attached hereto as Exhibit A, a copy of which is filed in the Office of the Township Clerk, subject to minor revisions thereto approved by the Township Administrator as recommended by the Township Attorney that do not substantially modify the terms and conditions of the Agreement, provided that the total consideration paid under the Agreement is not increased.

The Township further approves the terms and conditions of the Kelso Agreement attached hereto as Exhibit B, a copy of which is filed in the Office of the Township Clerk, subject to minor revisions thereto approved by the Township Administrator as recommended by the Township Attorney that do not substantially modify the terms and conditions of the Agreement, provided that the total consideration paid under the Agreement is not increased.

SECTION 3. Delegation of Authority.

The Mayor, Township Attorney and Township Clerk are hereby authorized and directed to take any and all steps reasonably necessary to effectuate the foregoing, including the execution of all documents required for the acquisition of the Walling Property and the Kelso Property, including but not limited to the Walling Agreement, the Kelso Agreement and other conveyance documents.

SECTION 4. Severability.

If any section, subsection or paragraph of this ordinance be declared unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, such chapter, section subchapter or paragraph shall to the extent that is not held unconstitutional, invalid or inoperative remain in full force and effect and shall not affect the remainder of this ordinance.

SECTION 5. Repealer.

All ordinances and resolutions, and parts of ordinances and resolutions which are inconsistent with provisions of this ordinance shall be, and are hereby, repealed to the extent of any such inconsistency.

SECTION 6. Effective Date.

This ordinance shall take effect after final adoption and approval pursuant to law.