1. May 19, 2020 Agenda

   Documents:

   20200519.PDF

1.I. May 19, 2020 Workbook

   Documents:

   05-19-2020 WORKBOOK.PDF
MIDDLETOWN CITY COUNCIL AGENDA
TUESDAY, May 19, 2020

CITY COUNCIL BUSINESS MEETING - 5:30 PM - COUNCIL CHAMBERS - LOWER LEVEL

MOMENT OF MEDITATION/PLEDGE OF ALLEGIANCE TO THE FLAG/ROLL CALL

CITIZEN COMMENTS Citizen comments will be read into the record at the time set in the agenda. Comments can be submitted to Clerk of Council Amy Schenck via email prior to the meeting until 4:30 p.m. Tuesday, May 19, 2020 at amys@cityofmiddletown.org.

COUNCIL COMMENTS

CITY MANAGER REPORTS

CONSENT AGENDA. . . Matters listed under the Consent Agenda are considered to be routine and will be enacted by one motion and one vote of consent. There will be no separate discussion of these items. If discussion is desired, that item will be removed and considered separately.
(a) To approve the City Council minutes of January 7, January 21, February 4, 2020
(b) To Receive and File Board and Commission Minutes from:
   Board of Health- February 11 and March 10, 2020
(c) Receive and File Oaths of Office for Chris Xeil Lyons and Evan Skrobot
(d) To confirm the following personnel appointments:
   Ryun Rawlins to the position of Patrol Officer in the Department of Public Safety, Division of Police; and of Geoff Getter to the position of part-time Community Security Officer in the Department of Public Safety, Division of Police.

MOTION AGENDA
(a) To approve a contract with various vendors for nuisance abatement services of vacant/city-owned properties and private properties that have failed to abide by the City’s codified ordinances within the City of Middletown. The bid has been divided into five groups with the intent to award to separate contractors since it is unknown how many work orders the City will have for nuisance abatement services in each group. The groups were created based on number of work orders completed in 2019. The contract is for the remainder of 2020 with an optional renewal of two additional one-year periods. It is recommended to award the contract to the following contractors (approximate annual cost based on 2019 work order statistics assuming all groups have equal work orders):
   Group 1 – Possum Hollar Designs, LLC $55,379.50
   Group 2 – Results By Carroll LLC $61,518.00
   Group 3 – Possum Hollar Designs, LLC $55,379.50
   Group 4 – Cams Lawn Care $62,614.17
   Group 5 – Julie’s Lawncare $62,614.17

It is the policy of the City of Middletown to make all public hearings an meetings accessible to all persons, in accordance with state and/or federal laws. If you have a disability which requires accommodation in order for you to attend and/or participate in this meeting, please contact us at 425-7831 at least forty-eight hours prior to the time of the meeting to advise us of the need for accommodation, and reasonable efforts shall be made to provide the same. This agenda may be accessed on the City of Middletown website @ http://www.cityofmiddletown.org.
LEGISLATION

1. **Ordinance No. O2020-22**, an ordinance establishing a procedure for and authorizing an amendment of the contract with CBM Managed Services now known as Summit Food Service for jail food service and declaring an emergency.

2. **Ordinance No. O2020-23**, an ordinance authorizing a collective bargaining agreement with the Fraternal Order of Police, Ohio Labor Council (Corrections Officers) for the years January 1, 2020 through December 31, 2022 and declaring an emergency.

3. **Resolution No. R2020-12**, a resolution authorizing the City Manager to enter into an agreement with the Federal Aviation Administration for CARES Act grant funding and declaring an emergency.

4. **Resolution No. R2020-13**, a resolution authorizing an amendment to a contract with the state of Ohio, Department of Transportation for the extension of the Great Miami River Trail and declaring an emergency.

5. **Resolution No. R2020-14**, a resolution to make adjustments to appropriations for current expenses and other expenditures of the City of Middletown, Counties of Butler and Warren, State of Ohio, for the period ending December 31, 2020. (Municipal Garage Fund) (First Reading)

6. **Resolution No. R2020-15**, a resolution authorizing an employment agreement with James M. Palenick to serve as City Manager of the City of Middletown and declaring an emergency.
MIDDLETOWN CITY COUNCIL AGENDA  
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<thead>
<tr>
<th>Group</th>
<th>Vendors</th>
<th>Cost</th>
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<tbody>
<tr>
<td>Group 1</td>
<td>Possum Hollar Designs, LLC</td>
<td>$55,379.50</td>
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CITIZEN

COMMENTS
COUNCIL COMMENTS
CITY MANAGER REPORTS
CONSENT
AGENDA
At 5:30 p.m., Mayor Condrey called the City Council meeting to order in Council Chambers, Lower Level of the City Building.

Mayor Condrey provided a brief history about the gavel.

**ROLL CALL**


**CITIZEN COMMENTS**

**Cynda Kash**

Cynda Kash, 1325 First Avenue, spoke in favor of the Certified Local Government. She stated that she has spent more than 10 years in historic preservation and is a proponent of saving our historic buildings. This presents a good opportunity for growth and development in Middletown because property owners can apply for historic tax credits. She stated that 1/3 of landfills are filled with old buildings.

**Detective Wargo**

On behalf of the Fraternal Order of Police Lodge 36, Detective Jason Wargo congratulated Mayor Condrey, Councilmember Nenni, and Councilmember Moon on their being elected to serve Middletown and congratulated soon to be Chief Dave Birk. He stated that the department was looking forward to working together with everyone.

**Dora Bronston**

Dora Bronston, 4817 Earl Avenue, spoke about Middletown being a Purple Heart City. Her husband, Lafayette Bronston is a decorated Marine and also a Purple Heart Recipient. She stated that Ohio is the 4th largest state populated by veterans and discussed the suicide statistics for veterans due to lack of help for their physical, mental and emotional needs. Veterans with traumatic brain injury are 60% more likely to develop dementia. Many veterans are homeless and do not qualify for financial and health benefits. Mrs. Bronston stated that these are public health issues and that she is seeking more support for veterans in our community. She stated that when she thinks of the color purple, she thinks of blue and red. Although you ran non-partisan, we are both democrats and republicans, blue and red and together, we make purple to complete our tasks. We are not fighting against one another, but fighting for one another. She is currently working to address the home health care needs of veterans. As she left the podium, she declared, “Semper Fi.”

**CITY MANAGER REPORT**

Acting City Manager Cohen thanked the City’s first responders that worked tirelessly at the scene and expressed her appreciation for the help from surrounding communities at the former Middletown Paperboard facility that caught fire on New Year’s Day. The large fire was reported at 6:40 a.m. on January 1. More than 100 firefighters at a time battled the blaze. Police arrested a man who was living in the building when a fire he started spread to his bedding. She stated that Vickers Demolition estimated the cost to assist firefighters with debris removal at $100,000, but Ms. Cohen added the City has not received the final bill. The demolition was necessary because the building was too unstable for firefighters to get inside to put the fire out. Early on, there were concerns that a search and rescue was necessary for human remains. Thankfully that turned out to be untrue and no one was injured or killed in the fire. This property was owned by B. P. Logan Corporation but has been abandoned for years. Due to unpaid taxes, the property was foreclosed on by the Butler County Treasurer during 2018-2019. The property was offered at Sheriff's sale twice but no suitable buyers were found. The property was forfeited to the state of Ohio in December 2019. There is a grey area because the tax records have not been updated to show that the property was transferred to the state. There will be more discussion about who was the property owner at the time of the fire. The City will be working to get the final bills for this fire and seeking legal remedy to recover any and all of the costs incurred. She discussed applying for grant money to get the environmental remediation completed to clean up this site. She acknowledged that the site needs to be cleaned up but that it will likely be a long process.

**CONSENT AGENDA**

Receive and File Board and Commission minutes:

- Board of Zoning Appeals- June 5, 2019
- Historic Commission- July 18, 2019
- Planning Commission- August 14 & September 11, 2019

Confirm the personnel appointments of:

- Adam Grindstaff to the position of Patrol Officer in the Department of Public Safety, Division of Police; and
- Erin Caito to the position of Police Records Clerk in the Department of Public Safety, Division of Police.

Confirm the exceptional appointments of:

- Andreas Eddy to the position of Process Control Supervisor in the Department of Public Works & Utilities, Division of Water Treatment; and
- Griffin Steffen to the position of Water Reclamation Operator in the Department of Public Works & Utilities, Division of Water Reclamation Facility.

Receive and file Oaths of Office for Councilmembers Talbott Moon and Monica Nenni and Mayor Nicole Condrey.
Receive and file a maintenance bond submitted by Sawyers Mill Project I, LLC guaranteeing public improvements constructed as part of Sawyers Mill Section 2 Subdivision.

Ms. Nenni moved to approve the issues and actions listed on the Consent Agenda. Mr. Mulligan seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori.

Ms. Cohen called David Birk to the podium and welcomed him as the Chief of Police. She stated that he earned a bachelor’s degree in criminal justice and urban affairs from Wright State University, graduated from the Criminal Justice Training Academy at Sinclair Community College and graduated with honors from the Southern Police Institute at the University of Louisville. He was hired as a Patrol Officer in 1997 and moved up the ranks as a Field Training Officer, Special Operations Detective, Sergeant, Lieutenant and most recently as Major and Deputy Chief. He has proven himself to be dedicated leader in the department and in the community. He has improved efficiency, implemented cost saving measures and applied for numerous grants to help the department. Ms. Cohen stated that she was positive that the Department was heading in the right direction under Chief Birk’s leadership. She welcomed his family to the podium for the Pinning Ceremony.

Chief Birk received a standing ovation from all of those in attendance at the meeting. He thanked Council for the opportunity and thanked his wife and family for their support. He thanked the former Chiefs in attendance for the opportunities that they provided to him throughout his career and expressed his appreciation to his staff for their hard work and dedication and their support for the numerous community events. He thanked everyone for coming out and showing their support for him and the department. He stated that the possibilities to shape the culture and the future of Middletown were wide open. Chief Birk quoted hockey coach Herb Brooks “Great moments are born from great opportunity” and that’s what we have here in Middletown.

Ms. Nenni congratulated Chief Birk and thanked the citizens who came forward to make comments.

Mr. Mulligan wished everyone a Happy New Year, welcomed the new Mayor and member of Council, and congratulated Chief Birk. He commented that there is a lot of work to do but that Middletown has an opportunity to grow as a city. He commended the great work of the City’s first responders and stated that the fire highlighted the need to address the abandoned commercial buildings in Middletown.

Ms. Vitori congratulated Chief Birk and thanked everyone for their comments. She welcomed the new Mayor and Councilmembers and remarked that at 45, she was the oldest person on City Council. She stated that she is looking forward to working with everyone. She agreed with Mr. Mulligan that the City needs to address the abandoned commercial buildings in Middletown.

Mr. Moon congratulated and welcomed Mayor Condrey, Councilmember Nenni and Chief Birk. He stated that with the outpouring of support demonstrated tonight that Chief Birk will be very successful. He discussed House Bill 252 that is exploring state funding for abandoned commercial buildings. He thanked the Middletown Division of Fire for their great work and dedication and expressed his appreciation to the surrounding communities that supplied a mutual aid response to the fire.

Ms. Condrey congratulated Chief Birk on his promotion and thanked Chief Lolli and the Fire Department for their hard work and dedication to the safety of the Middletown community. She thanked everyone for the warm welcome that she has received since becoming Mayor.

Ordinance No. 02019-102, an ordinance establishing a procedure for and authorizing amendments to contracts for grounds maintenance for 2020 was read for the second time.

Ms. Vitori moved to approve Ordinance No. 02019-102, an ordinance establishing a procedure for and authorizing amendments to contracts for grounds maintenance for 2020. Mr. Mulligan seconded. Motion carried. Ayes: Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Nenni, Ms. Vitori.

Ordinance No. 02019-103, an ordinance denying a request to change the zoning classification for one parcel located at 1407 Winona Drive from R-3 (Medium Density Residential District) to B-2 (Community Business District) was read for the second time.

Mr. Moon commented that he wanted to hear from property owners, he hates to say no to a business development.
Ms. Vitori moved to approve Ordinance No. O2019-103, an ordinance denying a request to change the zoning classification for one parcel located at 1407 Winona Drive from R-3 (Medium Density Residential District) to B-2 (Community Business District). Mr. Mulligan seconded. Motion carried. Ayes: Mr. Mulligan, Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon.

Ordinance No. O2019-103, an ordinance amending various sections the Middletown Development Code of the Middletown Codified Ordinances was read for the second time.


Ordinance No. O2020-01, an ordinance establishing a procedure for and authorizing the extension of a contract with T.R. Gear Landscaping, Inc. for gateway maintenance was read for the first time.

Ordinance No. O2020-02, an ordinance authorizing an agreement with V3 Companies to develop a Parks Master Plan was read for the first time.

At 6:05 p.m. Mr. Mulligan moved to adjourn to executive session under the authority of O.R.C. 121.22 (G) (1) To consider the appointment, employment, dismissial, discipline, promotion, demotion, or compensation of a public employee or official. Mr. Moon seconded. Motion carried. Ayes: Ms. Vitori, Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey.

At 6:47 p.m. Mr. Moon moved to return to regular session. Mr. Mulligan seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori.

Ms. Vitori moved to approve the following Board and Commission appointments:
- Hamilton-Middletown Task Force – Nicole Condrey, Mayor; Joseph Mulligan, Vice-Mayor
- Airport Commission – Tal Moon
- Architectural Review Board – Monica Nenni
- Board of Health – Nicole Condrey
- Board of Library Trustees – Ami Vitori
- City Planning Commission – Joseph Mulligan (Alternate: Monica Nenni)
- Convention and Visitors Bureau – Ami Vitori
- Emergency Management Advisory Council – Nicole Condrey
- Keep Middletown Beautiful – Monica Nenni
- Master Plan Implementation Committee – Joseph Mulligan (Alternate: Ami Vitori)
- Middletown Cemetery Board – Nicole Condrey
- Middletown Moving Forward – Nicole Condrey, Tal Moon (Alternate: Joseph Mulligan)
- OKI Regional Council of Governments – Talbott Moon (Alternate: Joseph Mulligan)
- Park Board – Ami Vitori
- SELF Board – Monica Nenni
- Tax Incentive Review Committee – Nicole Condrey
- Warren County Municipal League Representative – Talbott Moon

Mr. Mulligan seconded. Motion carried. Ayes: Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Nenni, Ms. Vitori.

At 6:49 p.m., the meeting was declared adjourned until January 21, 2020 at 5:30 p.m. in Council Chambers.

Nicole Condrey, Mayor

Adjoint:

Nicole Condrey, Mayor
At 5:30 p.m., Mayor Condrey called the City Council meeting to order in Council Chambers, Lower Level of the City Building.


The Middletown Historic Commission is recommending approval to the Middletown City Council the historic district designation of the Oakland Historic District that is generally bounded by First Avenue to the North, Verity Parkway to the West, the Pioneer Cemetery property, Cohen Brothers Inc. properties, and the west-side of Lamneck Street to the East, and Calumet Avenue to the South. The City Council will review and have final decision regarding the proposed Oakland Historic District.

Dan Barton

City Manager Cohen invited Dan Barton to the podium. Mr. Barton has been working with the City of Middletown on the revitalization of the Oakland neighborhood since 2018. Mr. Barton stated that the Oakland neighborhood is a great historic neighborhood that has fallen on hard times. He explained that southwest Ohio has been successful in rebuilding confidence in struggling neighborhoods by using a strategy of a combination of incentives. He explained that confidence is essential; confidence to buy a house in the neighborhood and confidence to invest money into the restoration of your house. He described the Oakland Historic Boundary:

A: Bound on the North by 1st Avenue, (Properties on both sides)
B: Bound on the West by Verity Parkway (Former Miami Erie Canal site)
C: Bound on the East by Pioneer Cemetery, Cohen Works Scrap Yard, and west-side of Lamneck Street
D: Bound on the South by Calumet (Properties on both sides)

He explained that the incentives for the Oakland Neighborhood would come from a self-replenishing TIF-Development Fund over a fifteen year period. New amenities in the Oakland neighborhood will include a beautiful new park, improved streetscapes, and improved lighting. He described the process of the historic designation. Once approved by
City Council, the historic district moves through the process to be recognized by the National Register of Historic Places; once approved, this will allow homeowners to apply for historic tax credits. These tax credits are a powerful tool for homeowners and investors. Banks are much more willing to invest in properties that are in historic districts. In historic districts the property values increase because the property comps are matched to other historic districts in the City. The strength of the other historic districts in the City will build the strength of the Oakland Historic District.

Mayor Condrey opened the public hearing at 5:44 p.m. and asked for those who wished to speak in favor of the historic district designation of the Oakland Historic District.

Debbie Coleman
Debbie Coleman, 1514 Forrest Avenue stated that she was in favor of the historic district designation of the Oakland Historic District.

Jim Johnson
Jim Johnson stated that he owns rental properties in the Oakland neighborhood. He asked what happens when a home goes from a valuation of $40,000 to $80,000? The people who rent there cannot afford that kind of increase. He has been a real estate appraiser for a number of years. He stated that quality of the homes in the Oakland neighborhood don’t really compare to the homes on South Main Street. He stated that the foundations of some of the Oakland neighborhood homes aren’t worth money putting into. Many of the homes and lots in the Oakland neighborhood are very small. He said that if you cut it off at Woodlawn, it would make more sense to him. He said that the area from Calumet to 14th Avenue is a trashy neighborhood. He is not in favor of the historic district designation of the Oakland Historic District.

Celeste Didlick Davis
Celeste Didlick Davis, 505 Garfield Street, stated that she was in favor of the historic district designation of the Oakland Historic District. She stated that the City needs to make a stronger effort to be more inclusive and bring people in from the community to develop the homeowners’ association rules.

Wanda Glover
Wanda Glover, 1106 Calumet Avenue, stated that Calumet has always had large homes and that she wouldn’t call it a trashy area. She stated that she was in favor of the historic district designation of the Oakland Historic District but that she agreed that the City needs to make a stronger effort to be more inclusive and bring people in from the community to develop the homeowners’ association rules. She is looking forward to the improvements to the neighborhood.

Anthony Thomas
Anthony Thomas, 533 Garfield Street, stated that he has lived there for 18 years and sits on the porch in the morning and afternoon and watches what goes on in the neighborhood. He stated that it is a good neighborhood, despite some of the riff-raff that comes and goes. He plans on staying on Garfield Street as long as God gives him breath. He is in favor of the historic district designation of the Oakland Historic District and the improvements.

Dan Tracy
Dan Tracy, 4921 Oaks Court, stated that he has been an investor in properties in Middletown for 32 years. He stated that he is in favor of the historic district designation of the Oakland Historic District but he is not in favor of the parameters, they are too broad and too long. He stated that you can’t take what’s on Main Street, which is special to Middletown, and put it in the Oakland neighborhood, unless the neighborhood is leveled. He stated that with the rising property values the tenants and the homeowners in the Oakland neighborhood will be pushed out. He stated that the rules of the historic district on Main Street are very strict.

Mayor Condrey asked for those who wished to speak in opposition to the historic district designation of the Oakland Historic District; hearing none, the public hearing was closed at 5:57 p.m.

CITIZEN COMMENTS
Dan Tracy, 4921 Oaks Court, asked who performed the appraisals on the school properties and who paid for the appraisals? Why would the City want to buy a property if there are investors? Let the investors do the investing, the City doesn’t need to get back into the real estate business. He stated that there needs to be more transparency in the City, a hand full of people are paid big dollars to decide what to do with these properties. He suggested forming committees to advise the City Council before something is brought to a vote. He stated all of the candidates of the recent election talked about improving the streets in Middletown. He said that before the City pays $600,000 for these properties from the school, it ought to put the $600,000 into improving the streets in Middletown. He said if the City has a buyer for these properties then let the buyer purchase from the school.

Kent Keller II
Kent Keller II, 2040 Wellington Road, commented on discussed Ordinance No. O2020-01, an ordinance establishing a procedure for and authorizing the extension of a contract with T.R. Gear Landscaping, Inc. for gateway maintenance. He stated that the $65,000 contract with T.R. Gear of Fairfield, Ohio was approved in 2017 and has been extended
twice before. This would extend it for the third time. He stated that during the election people campaigned that they would keep money in Middletown, and make decisions in the best interest of the citizens and businesses of Middletown. He asked why the City would not allow a bid from a Middletown based landscaper to perform the gateway maintenance. He stated that there are several reputable landscaping companies in Middletown. He asked Council not to approve the contract extension with T.R. Gear and to open the job up for bids. He suggested giving preference to Middletown businesses.

CITY MANAGER REPORT

Acting City Manager Cohen thanked everyone for coming out to speak about the Oakland Historic District and stated that the Oakland revitalization will start to improve the most disinvested neighborhood in the City. There will be a neighborhood association meeting at 6:30 p.m. at St. Johns Church on January 30, 2020, everyone is encouraged to attend.

CONSENT AGENDA

Receive and File Board and Commission minutes:
- Cemetery Board - October 16, 2019
- Park Board - December 16, 2019
Receive and File Oaths of Office for: Laura Brown, Heather Deaton, Daniel Dickten, Gary Ogden, Jesse Schulte, Sarah Thobe, and Griffin Steffen.
Confirm the personnel appointment of Cody Robertson to the position of Maintenance Worker in the Department of Public Works and Utilities, Street Maintenance Division.
To authorize a professional services agreement with Jacobs Engineering Group, Inc. for development of design drawings and specifications to add a pumping system to a new production well (Well 20) in the City’s wellfield.

Mr. Mulligan moved to approve the issues and actions listed on the Consent Agenda. Ms. Vitori seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori.

COUNCIL COMMENTS

Ms. Nenni thanked everyone for coming out and speaking tonight. She thanked Mr. Barton and Mr. Mayzum for all of the work they have done for the City to establish the Oakland Historic District. She stated that at the end of the last meeting she was appointed to serve on the SELF Board (Supports to Low Income Families). SELF has some great programs which may benefit the homeowners in the Oakland neighborhood. As a member of the Keep Middletown Beautiful Board she announced that they will be having an Earth Day cleanup on April 18th from 8 a.m. until noon at the MetroParks River Center.

Mr. Moon thanked Mr. Barton and Mr. Mayzum for all of the work they have done for the City. He encouraged homeowners in the Oakland neighborhood to stay engaged and to help share the future of the neighborhood. He congratulated and thanked the Ministerial Alliance for the Martin Luther King, Jr. Ecumenical Service; Steve Hightower was the main speaker and he did an incredible job.

Ms. Vitori thanked Mr. Barton and Mr. Mayzum for all of the creative and collaborative work they have done on the Oakland Historic District. She acknowledged that change can bring fear and encouraged everyone to communicate and work together. She stated that this project could be one of the most important the City does over the next decade.

Mr. Mulligan stated that the Oakland neighborhood has struggled for decades and if we want to see positive change, we need to try a different method. These methods have proven to be successful in Dayton and Cincinnati. He thanked the Ministerial Alliance for the Martin Luther King, Jr. events held to celebrate the spirit of Martin Luther King, Jr.

Ms. Condrey stated that she was working with Ms. Quinlivan on improving communications. She has established a Mayor Nicole Condrey Facebook page and encouraged people to reach out to her.

Waive Charter

Mr. Mulligan moved to suspend the Charter provision that requires reading on two separate days and to declare Ordinance No. O2020-03 an emergency measure to be read one time only. Mr. Moon seconded. Motion carried. Ayes: Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Nenni, Ms. Vitori.

Ord. No. O2020-01

Ordinance No. O2020-01, an ordinance establishing a procedure for and authorizing the extension of a contract with T.R. Gear Landscaping, Inc. for gateway maintenance was read for the second time.

Mr. Moon thanked Mr. Keller for his earlier comments and stated that although he was in favor of this legislation, he was also supportive of going out for bids. He stated that a Middletown business preference policy has also been discussed in the past but the execution is difficult. He is in support of using local contractors whenever possible. Ms. Cohen stated that in 2017 there were three bidders, none from Middletown. This extension was recommended because the company has done a good job in the past and offered 2019 pricing. She will pass along Council’s desire to use local contractors to City staff.
Mayor Condrey stated that she would like to see contracts opened for bidders, unless there is an exceptional reason to continue with a contractor.


Ordinance No. O2020-02, an ordinance authorizing an agreement with V3 Companies to develop a Parks Master Plan was read for the second time.

Mr. Mulligan moved to approve Ordinance No. O2020-02, an ordinance authorizing an agreement with V3 Companies to develop a Parks Master Plan. Ms. Vitori seconded. Motion carried. Ayes: Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon, Mr. Mulligan.

Ordinance No. O2020-03, an ordinance authorizing a supplemental agreement with Frost Brown Todd, LLC for legal services and declaring an emergency was read.

Mr. Mulligan moved to approve Ordinance No. O2020-03, an ordinance authorizing a supplemental agreement with Frost Brown Todd, LLC for legal services and declaring an emergency. Ms. Vitori seconded. Motion carried. Ayes: Ms. Vitori, Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey.

Ordinance No. O2020-04, an ordinance establishing a procedure for and authorizing a contract with Ulliman Schutte, LLC for progressive design-build procurement for Phase 1 of the Lakeside Redirection Project and declaring an emergency was read with no action requested until February 4, 2020.

Resolution No. R2020-01, a resolution authorizing the purchase of real property from the Board of Education of the Middletown City School District and declaring an emergency was read with no action requested until February 4, 2020.

Ordinance No. O2020-05, an ordinance designating properties located in an area generally bounded by First Avenue to the North, Verity Parkway to the West, the Pioneer Cemetery property, Cohen Brothers, Inc. and the west-side of Lamneck Street to the East and Calumet Avenue to the South as the Oakland Historic District was read for the first time.

Ordinance No. O2020-06, an ordinance repealing Ordinance No. O2019-94, in part, as it relates to the transfer of 315 Garfield Street to the Butler County Land Reutilization Corporation was read for the first time.

Mayor Condrey added that five consultants submitted proposals for the Parks Master Plan. Staff conducted interviews with the top three proposers based on qualifications and recommended proceeding with V3 Companies. The proposal includes an evaluation of the community’s desire for a new recreation center and/or aquatic center.

EXECUTIVE SESSION

At 6:25 p.m. Mr. Mulligan moved to adjourn to executive session under the authority of O.R.C. 121.22 (G) (1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official; and under the authority of O.R.C. 121.22 (G) (8) To consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance, provided that both of the following conditions apply: (1) The information is directly related to a request for economic development assistance that is to be provided or administered under any provision of Chapter 715., 725., 1724., or 1728. or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the Revised Code, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project. (2) A unanimous quorum of the public body determines, by a roll call vote, that the executive session is necessary to protect the interests of the applicant or the possible investment or expenditure of public funds to be made in connection with the economic development project. Mr. Moon seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori.

ADJOURNMENT

At 6:49 p.m., the meeting was declared adjourned until the Council Retreat on February 1, 2020 at 9:00 a.m. at Verity Lodge at Miami University.
At 5:30 p.m., Mayor Condrey called the City Council meeting to order in Council Chambers, Lower Level of the City Building.


Mayor Condrey shared an old Cherokee parable. One evening, an elderly Cherokee brave told his grandson about a battle that goes on inside people. He said "My son, the battle is between two 'wolves' inside us all. One is evil. It is anger, envy, jealousy, sorrow, regret, greed, arrogance, self-pity, guilt, resentment, inferiority, lies, false pride, superiority, and ego. The other is good. It is joy, peace, love, hope, serenity, humility, kindness, benevolence, empathy, generosity, truth, compassion and faith. The same fight is going on inside you too, and every other person." The grandson thought about it for a minute and then asked his grandfather, "Which wolf wins?" The old Cherokee simply replied, "The one that you feed."

EXECUTIVE SESSION

At 5:32 p.m. Mr. Mulligan moved to adjourn to executive session under the authority of O.R.C. 121.22 (G) (1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official. Ms. Vitori seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori.

At 6:09 p.m. Mr. Mulligan moved to return to regular session. Ms. Vitori seconded. Motion carried. Ayes: Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Nenni, Ms. Vitori.

CITIZEN COMMENTS

Tim Henry, 3901 Long Lane, stated that he owns rental property at 3108 Illinois and complained that the neighboring property looks like a junkyard. He provided photos on his phone. He said that the police have enacted many fines but the man has defaulted several times. Ms. Cohen will follow up with Mr. Henry later this week.

Dan Tracy, 4921 Oaks Court, spoke against the land deal with the school at the last City Council meeting. The Journal wrote an article about the issue and for two days after that article ran in the newspaper his phone rang off the hook. He asked City Council to listen to the people that put them in office. He urged City Council not to get in a big hurry and to table the issue. He encouraged City Council to do this deal right and do our own thing.

CITY MANAGER REPORT

Paperboard Site

Acting City Manager Cohen provided an update on the Paperboard site. The City recently received title to the property. She stated that very rough estimates for the remaining demolition of this building are between $1.5 and $2 million. The project will need to be broken into phases and the City will seek grants and other funding to offset the cost. She and Mayor Condrey met with State Representative Keller and discussed House Bill 252 which could provide $50 million to state land banks to provide grants to communities to demolish blighted commercial properties over the next two fiscal years. Representative Keller also suggested applying for capital grant funds from the unused state budget; Ms. Cohen applied for those funds immediately. There will need to be brownfield remediation at this site and she will apply for state grants later this week. She stated that it is estimated that it will take 1,900 linear feet of 6 foot fencing to secure the property. She wasn’t sure how long the fencing would be needed. A rough estimate of the cost to purchase the fencing is approximately $37,500, the fence may be reused after it is no longer needed at this site. The cost to rent the fence depends on how long it will be needed. She asked Council to provide feedback on their preferences later this week.

Mayor Condrey asked for some rental scenarios such as the cost to install and maintain for 1 year and the cost to install and maintain for 3 years. She asked for a break even comparison between renting and purchasing the fence.

Mr. Moon commented that the amount of fence would not be around the entire property. Mr. Mulligan moved to adjourn to executive session under the authority of O.R.C. 121.22 (G) (1) To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official. Ms. Vitori seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori.

Ms. Cohen stated that the fence would tie into the existing building where possible.

Ms. Nenni asked if the City has purchased fence like this before; Ms. Cohen responded not to her knowledge. Ms. Cohen stated that the fence could potentially be reused after this project was complete.

Economic Development Director Search

Ms. Cohen provided an update on the new Economic Development Director search. Thirty-six candidates applied. Staff is reviewing resumes and hopes to whittle down the list. The City hopes to have a candidate ready for Council’s confirmation in the next few weeks.

Ms. Cohen explained that each year, the City of Middletown receives an allocation of Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development (HUD). The City operates its CDBG program based on federal regulations informing the CDBG program as well as local input from residents, City staff and elected officials. The City of Middletown provides CDBG funds to community organizations
### Consent Agenda

**Receive and File the Board of Health minutes of December 10, 2019**

**Confirm the personnel appointment of appointment of:**
- Randi Newsom to the position of part-time Customer Service Lead in the Economic Development Department, Airport Division; and
- Jason Kershner, Justin Principato, Zachary Sharp, Joshua Lentz, Matthew Queen, and Lincoln Weisman to the position of Firefighter-EMT in the Department of Public Safety, Division of Fire; and
- Nathan Morgan to the position of Corrections Officer in the Department of Public Safety, Division of Police; and
- Brandon Williams to the position of Maintenance Worker in the Department of Public Works and Utilities, Street Maintenance Division; and
- Kenneth Spears to the position of HVAC/Building Maintenance Technician in the Department of Administrative Services, Building Maintenance Division; and
- Ashley Schulte to the position of part-time Customer Service Lead in the Economic Development Department, Airport Division; and
- Steven Fugate to the position of part-time Line Service Lead in the Economic Development Department, Airport Division.

**Confirm the promotional appointment of Eric Crank to the position of Deputy Police Chief in the Department of Public Safety, Division of Police.**

**Confirm the reappointment of Attorney David Kash to the Board of Zoning Appeals**

**Receive and File an Oath of Office for Erin Caito**

**Receive and File the final assessments for the 2019 Sidewalk, Curb & Gutter Program**

Mr. Mulligan moved to approve the issues and actions listed on the Consent Agenda. Ms. Vitori seconded. Motion carried. Ayes: Mr. Mulligan, Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon.

### Pinning Ceremony

**Deputy Chief Crank**

Ms. Cohen called Chief Birk to the podium. Chief Birk introduced Major Eric Crank, a 24-year veteran of the department. Major Crank was promoted to sergeant in 2009 and has served as a patrol supervisor and member of the Honor Guard. He is a veteran of the U.S. Army and attended Eastern Michigan University. Crank is also a graduate of the Southern Police Institute. Chief Birk stated that Major Crank stood out from the rest of the five candidates during the panel discussion as he shared his vision for combining code enforcement, traffic and community oriented policing into one unit that could have a major impact on the Division of Police and the entire City. He welcomed Major Crank’s family to the podium for the Pinning Ceremony.

Major Crank expressed his appreciation to the City, the department and his family.

### Council Comments

**Ms. Nenni**

Ms. Nenni congratulated Deputy Chief Crank on his promotion and thanked Ms. Cohen and City staff for putting together the City Council Retreat. City Council discussed a communication strategy, the new plans at the airport and heard Chief Birk’s plans for Community Oriented Policing and other initiatives.

**Mr. Moon**

Mr. Moon congratulated Deputy Chief Crank on his promotion and thanked him for his service to the City. He announced that on February 6th the Middle XL event is taking place at Middletown High School and on February 13th the Kiwanis Club of Middletown is hosting a Jim Breech speaker meet and greet event.

**Ms. Vitori**

Ms. Vitori expressed her appreciation for everyone’s time to put together and attend the City Council Retreat; there was a great deal of information shared. She is looking forward to joining a new county-wide homeless coalition that County Commissioner Carpenter is starting. She encouraged people to get information via the City webpage or by phone or email. She announced the First Friday downtown event of “I Love Middletown” is coming up this Friday.

**Mr. Mulligan**

Mr. Mulligan congratulated Deputy Chief Crank and the others appointed to City positions.

### Waive Charter

Mr. Mulligan moved to suspend the Charter provision that requires reading on two separate days and to declare Ordinance Nos. O2020-04, O2020-07, O2020-08, O2020-09, O2020-10, and Resolution Nos. R2020-01, R2020-02, R2020-03 emergency
Ord. No. O2020-04  
**Phase I Lakeside Redirection Project**

measures to be read one time only. Ms. Vitori seconded. Motion carried. Ayes: Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon, Mr. Mulligan.

**Ordinance No. O2020-04**, an ordinance establishing a procedure for and authorizing a contract with Ulliman Schutte, LLC for progressive design-build procurement for Phase 1 of the Lakeside Redirection Project and declaring an emergency was read.

Mr. Mulligan moved to approve Ordinance No. O2020-04, an ordinance establishing a procedure for and authorizing a contract with Ulliman Schutte, LLC for progressive design-build procurement for Phase 1 of the Lakeside Redirection Project and declaring an emergency. Mr. Moon seconded. Motion carried. Ayes: Ms. Vitori, Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey.

Res. No. R2020-01  
**Purchase Property from Middletown City Schools**

**Resolution No. R2020-01**, a resolution authorizing the purchase of real property from the Board of Education of the Middletown City School District and declaring an emergency was read.

Mr. Mulligan thanked Mr. Tracy and others for their comments on this issue. He stated that the City has been working with the Middletown City School District for months and years on this project. The Old Vail Middle School site has been identified as a strategic property in the Oakland redevelopment. It is being sold to the City as a package, 4 properties in total. The City expects to be able to sell the property for development and to recoup the taxpayer dollars in the future. The citizens will be made whole. He commented that the since he has been on Council, the City has been judicious. He stated that the risk is lower in this instance because it is vacant land and not empty buildings. He felt that the purchase was appropriate at this time.

Ms. Vitori stated that she would echo Mr. Mulligan’s comments. She stated that real estate development is a responsibility of government. There are times when the City owning a strategic piece of land makes good economic sense and the development of that property can become an economic engine and over time a significant source of income.

Mr. Moon commented that he also supports this legislation. These properties are in neighborhoods that our housing study identified as in need of investment and are strategically located. He believes that this investment will pay dividends to the City.

Ms. Nenni echoed the comments of the other Council members and stated that it is an important first step to take in the redevelopment of the Oakland neighborhood. She felt that this investment would have a lasting positive effect on the City.

Mayor Condrey commented that she was all in on the concept of the Oakland Project but that she was not comfortable because there were no separate appraisals for these properties. She stated that before the City spends more than a half a million dollars of taxpayer dollars, the City should have had the properties appraised. On the positive, one Oneida property has a cell tower that generates $990 a month which should cover the maintenance costs of all of the properties. She stated that there may be interest from third parties to purchase some of the land that the City doesn’t really want. She requested an executive session to discuss potential buyers and end users of these properties. She stated that each of the appraisals list the development of industrial or multi-family as the highest and best use of the property; the appraisals also indicate that these uses are not feasible at this time. She wanted the City to have its own appraisals of the properties before it spends so much money.

Mr. Mulligan moved to approve Resolution No. R2020-01, a resolution authorizing the purchase of real property from the Board of Education of the Middletown City School District and declaring an emergency. Mr. Moon seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Vitori. Nays: Ms. Condrey.

Ord. No. O2020-06  
**Repeal Ord. No. O2019-94 315 Garfield Street**

**Ordinance No. O2020-06**, an ordinance repealing Ordinance No. O2019-94, in part, as it relates to the transfer of 315 Garfield Street to the Butler County Land Reutilization Corporation was read for the second time.

Mr. Mulligan moved to approve Ordinance No. O2020-06, an ordinance repealing Ordinance No. O2019-94, in part, as it relates to the transfer of 315 Garfield Street to the Butler County Land Reutilization Corporation. Ms. Vitori seconded. Motion carried. Ayes: Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Nenni, Ms. Vitori.

Res. No. R2010-02  
**Advance Property Tax**

**Resolution No. R2020-02**, a resolution requesting the Auditor of Butler County to advance to the Treasurer of the City of Middletown, Ohio, taxes assessed and collected for and on behalf of the City of Middletown, Ohio and declaring an emergency was read.
Mr. Mulligan moved to approve Resolution No. R2020-02, a resolution requesting the Auditor of Butler County to advance to the Treasurer of the City of Middletown, Ohio, taxes assessed and collected for and on behalf of the City of Middletown, Ohio and declaring an emergency. Mr. Moon seconded. Motion carried. Ayes: Mr. Mulligan, Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon.

Resolution No. R2020-03, a resolution to make adjustments to appropriations for current expenses and other expenditures of the City of Middletown, Counties of Butler and Warren, state of Ohio, for the period ending December 31, 2020 and declaring an emergency was read. (Community Development Act Escrow Fund & Community Development Act 1974 Fund)

Mr. Mulligan moved to approve Resolution No. R2020-03, a resolution to make adjustments to appropriations for current expenses and other expenditures of the City of Middletown, Counties of Butler and Warren, state of Ohio, for the period ending December 31, 2020 and declaring an emergency. Mr. Moon seconded. Motion carried. Ayes: Mr. Mulligan, Ms. Condrey, Ms. Nenni, Ms. Vitori.

Ordinance No. O2020-07, an ordinance establishing a procedure for and authorizing a contract with Vickers Demolition for demolition of buildings at 300 South Verity Parkway also known as the Middletown Paperboard site and declaring an emergency.

Ms. Cohen discussed the January 1st fire at 300 S. Verity Parkway, commonly known as the Middletown Paperboard Site. The fire lasted over two days and decimated much of the structural integrity of what was left on the otherwise abandoned factory site. In order to safely put out the fire and allow emergency personnel to enter the site safely to confirm there were no human lives in the building, the City needed to employ a demolition professional to remove parts of the building. Vickers Demolition was contacted as a contractor because they have the correct knowledge and ability and have done this type of work previously. They agreed to perform demolition work to address the emergency situation. Vickers initially estimated repair work to cost $100,000 and stayed true to that estimate despite encountering additional problems at the scene. This demolition is eligible for payment by CDBG funding.

Mr. Mulligan moved to approve Ordinance No. O2020-07, an ordinance establishing a procedure for and authorizing a contract with Vickers Demolition for demolition of buildings at 300 South Verity Parkway also known as the Middletown Paperboard site and declaring an emergency. Mr. Moon seconded. Motion carried. Ayes: Ms. Vitori, Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori.

Ordinance No. O2020-08, an ordinance authorizing a contract with Management Partners to facilitate the search for a new City Manager and declaring an emergency was read.

Mr. Mulligan moved to approve Ordinance No. O2020-08, an ordinance authorizing a contract with Management Partners to facilitate the search for a new City Manager and declaring an emergency. Ms. Vitori seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori.

Ordinance No. O2020-09, an ordinance establishing a procedure for and authorizing a contract with Industrial Scientific for the use of air monitoring equipment for the Division of Fire and declaring an emergency was read.

Mr. Mulligan moved to approve Ordinance No. O2020-09, an ordinance establishing a procedure for and authorizing a contract with Industrial Scientific for the use of air monitoring equipment for the Division of Fire and declaring an emergency. Ms. Vitori seconded. Motion carried. Ayes: Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Nenni, Ms. Vitori.

Ordinance No. O2020-10, an ordinance establishing a procedure for and authorizing an amendment to a contract with Jess Howard Electric for the replacement of the airport taxiway lighting system and declaring an emergency was read.

Mr. Mulligan moved to approve Ordinance No. O2020-10, an ordinance establishing a procedure for and authorizing an amendment to a contract with Jess Howard Electric for the replacement of the airport taxiway lighting system and declaring an emergency. Ms. Vitori seconded. Motion carried. Ayes: Mr. Mulligan, Ms. Condrey, Ms. Nenni, Ms. Vitori, Mr. Moon.

Ordinance No. O2020-11, an ordinance consenting to real property tax exemption pursuant to R.C. §709.08 applicable to property owned by the City of Middletown and more particularly described as Butler County Auditor’s Parcel No. Q6511026000021 and declaring an emergency was read with no action requested until February 18, 2020.
Ordinance No. O2020-12, an ordinance amending Chapter 892 (Motor Vehicle License Tax) of the Codified Ordinances was read for the first time.

Resolution No. R2020-04, a resolution to make adjustments to appropriations for current expenses and other expenditures of the City of Middletown, Counties of Butler and Warren, state of Ohio, for the period ending December 31, 2020 was read for the first time. (Sewer Fund)

ADJOURNMENT

At 7:00 p.m., the meeting was declared adjourned until February 18, 2020 at 5:30 p.m. in Council Chambers.

Nicole Condrey, Mayor

Attest: ___________________________
CITY OF MIDDLETOWN
BOARD OF HEALTH
Minutes
February 11, 2020

The City of Middletown Board of Health met in regular session at 7:30 AM on February 11, 2020.

Members Present
Mayor Nicole Condrey, BS, President
Jeff Bonnell
Dr. Anita Scott Jones, Ed.D., MBA, BS
Sally Kash, MS, RN
Charlene Kurtz, BSN, RN
Dr. Ken Patrick, DVM
David Schul

Health Department Staff Present
Jackie Phillips, MPH, BSN, RN
Carla Ealy, RS
Paul Jennewine, MD
Amanda McDonald

Absent and Excused
Margie Davis, RN

ROLL CALL
Motion: Mr. Schul moved, seconded by Ms. Kash to excuse Mrs. Davis
Roll call Vote: Yes-6 (Bonnell, Jones, Kash, Kurtz, Patrick, Schul). No-0. Motion passed.

CITIZEN COMMENTS
None.

APPROVAL OF MINUTES-January 2020
Motion: Ms. Kash moved, seconded by Mr. Schul to approve the January 2020 Board of Health Meeting Minutes.
Roll call Vote: Yes-6 (Bonnell, Jones, Kash, Kurtz, Patrick, Schul). No-0. Motion passed.

RECEIVE AND FILE FINANCIAL REPORT- January 2020
Motion: Dr. Patrick moved, seconded by Ms. Kash to receive and file the January 2020 Financial Report.
Roll call Vote: Yes-6 (Bonnell, Jones, Kash, Kurtz, Patrick, Schul). No-0. Motion passed.

EDUCATION PRESENTATION-Envision Partnerships-Tobacco 21
Ms. Phillips introduced Kristina Latta, Envision Partnerships Director of Training and Specialized Services.
Ms. Latta explained to the Board of Health that Envision Partnerships is a prevention-only agency that has partnered with local health departments with the primary goal of reducing tobacco use. Ms. Latta stated that tobacco use had been trending downward in previous years, but the use of electronic cigarettes and vapes have increased recent tobacco use, especially in youth. The Pride Survey, is conducted every two years. This survey has led towards the possibility of Tobacco 21. Tobacco 21 passed in the state of Ohio in July, in October it passed federally.
Locally, Tobacco 21 means civil enforcement, not criminal enforcement. Fines will be placed on the establishment owners versus the clerks selling products or customers purchasing products. Local health departments would be the party responsible for enforcing this legislation through mechanisms such as: license fees, penalty fees, and ability to sell. Interaction for Health would fund the initial fees associated with the introduction of this process. The revenue generated through the licensing process would fund public education on the importance of tobacco cessation and also cover the administrative and field costs associated with enforcing Tobacco 21. Discussion followed addressing the pros and cons to retailers, enforcement, staffing, and the effectiveness of Tobacco 21. The Board of Health decided to move forward exploring Tobacco 21 initiatives.

OLD BUSINESS
PHAB
Ms. Phillips explained that the Community Health Assessment (CHA) is currently underway. The CHA is conducted every three years by City of Middletown Health Department, Butler County General Health District, and City of Hamilton Health Department. The survey is available in both English and Spanish. The primary goal of this survey is to obtain health information from a diverse representation of the residents in Butler County, allowing local health departments to better address the specific needs of its residents.

NEW BUSINESS
Travel Authorizations
Ms. Phillips requested authorization to attend the Family and Children First Council two and a half day training in Hamilton, Ohio.
Motion: Ms. Kash moved, seconded by Mr. Schul to approve travel authorizations.
Roll call Vote: Yes-4 (Jones, Kash, Patrick, Schul). No-0. Motion passed.

Agreement between City of Middletown Health Department and Wright State University’s Applied Policy Research Institution –Community Health Assessment
Ms. Phillips stated this agreement is between Wright State and all three local health departments. The agreement will be brought to the board for approval at the March meeting.

Novel CoronaVirus(n-CoV 2019)
Centers for Disease Control and Ohio Department of Health will continue to update local health departments and the public as new information becomes available. There are new travel guidelines regarding returning travelers and self-monitoring guidance. Local health departments are required to call Ohio Department of Health to initiate the risk assessment.

Annual Report
Ms. Phillips presented the Board of Health with the annual report that was submitted to Ohio Department of Health on January 15, 2020.
REPNOTS

Health Commissioner
Ms. Phillips stated that she has been engaging the community with the Community Health Assessment (CHA), in hopes of accurately depicting the diverse population and health needs of the City of Middletown. Surveys are available both in hard copies and an electronic version with a QR scan. Ohio Department of Health has been conducting daily conference calls addressing n-CoV 2019. Ms. Phillips informed the board that Atrium would be receiving a top 100 America’s Best Hospitals award. Ms. Phillips handed out Robert’s Rule of Order books to board members.

Medical Director
Dr. Jennewine addressed additional concerns and questions concerning n-CoV 2019. He explained that this virus appears to be less contagious than the common flu, however; death totals have already surpassed SARS death totals.
Dr. Jennewine informed the board that flu season was progressing typically.

<table>
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<tr>
<td>Gonococcal Infection</td>
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<td>Hepatitis B</td>
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</tr>
<tr>
<td>Invasive Streptococcus pneumoniae</td>
<td>1</td>
</tr>
</tbody>
</table>

Environmental Director
Ms. Ealy informed the board that food license renewal applications and payments are currently being processed. All food service operations and retail food establishments are required to renew their licenses annually no later than March 1st. Establishments that fail to comply with the March 1st deadline will be penalized with a 25% late fee.
Ms. Ealy stated that septic permits fees are still being collected. Certified letters were issued in January stating that unpaid permit fees would be assessed to homeowner’s property taxes.
Ms. Ealy stated that a new RV camp will be opening in the city within the next few months. The camp will be located on Carmody Boulevard and hold 63 lots.

ADJOURNMENT
The meeting was adjourned at 9:01 AM. The next meeting will be held on March 10, 2020 at 7:30 AM.

Jacqueline D. Phillips, MPH, BSN, RN
Secretary

Nicole Condrey, President
City of Middletown Board of Health
CITY OF MIDDLETOWN
BOARD OF HEALTH
Minutes
March 10, 2020

The City of Middletown Board of Health met in regular session at 7:30 AM on March 10, 2020.

Members Present
Mayor Nicole Condrey, BS, President
Jeff Bonnell
Margie Davis, RN
Dr. Anita Scott Jones, Ed.D., MBA, BS
Sally Kash, MS, RN
Charlene Kurtz, BSN, RN
Dr. Ken Patrick, DVM

Health Department Staff Present
Jackie Phillips, MPH, BSN, RN
Carla Ealy, RS
Paul Jennewine, MD
Amanda McDonald

Absent and Excused
David Schul

ROLL CALL
Motion: Ms. Kurtz moved, seconded by Ms. Davis to excuse Mr. Schul.
Roll call Vote: Yes-6 (Bonnell, Davis, Jones, Kash, Kurtz, Patrick). No-0. Motion passed.

CITIZEN COMMENTS
None.

APPROVAL OF MINUTES-February 2020
Motion: Ms. Kash moved, seconded by Dr. Jones to approve the February 2020 Board of Health Meeting Minutes.
Roll call Vote: Yes-6 (Bonnell, Davis, Jones, Kash, Kurtz, Patrick). No-0. Motion passed.

RECEIVE AND FILE FINANCIAL REPORT- February 2020
Ms. Phillips informed the board that staff has devoted an exorbitant amount of time and money on the COVID-19 pandemic. The state should be reimbursing local health departments for expenditures relating directly to the crisis. Ms. Phillips extended an invitation to new board members to review intricate parts of the budget with her if they have any questions.
Roll call Vote: Yes-6 (Bonnell, Davis, Jones, Kash, Kurtz, Patrick). No-0. Motion passed.

EDUCATION PRESENTATION-Coronavirus (COVID-19)
Coronavirus Disease 19, also known as COVID-19 or SARS-CoV-2, is part of a large family of viruses typically infecting mammals and birds. In humans, these viruses cause respiratory infections that are typically mild, such as the common cold. Rarer forms of coronavirus can be lethal. No vaccines or antiviral drugs have been proven effective against human coronavirus infections.
Currently, those being tested must meet the following criteria: fever or signs/symptoms of lower respiratory illness and the patient has had close contact with a lab-confirmed COVID-19 patient within 14 days of symptom onset, fever and signs/symptoms of a lower respiratory illness requiring hospitalization and a history of travel from affected geographic areas within 14 days of symptom onset, or fever with severe acute lower respiratory illness without an alternative diagnosis with no identified source of exposure. Human transmission is thought to be mainly from: person to person, close contact with an infected person (within six feet), and respiratory droplets. It is thought to be most contagious while an infected individual is most ill. The average incubation is thought to be five to seven days, but may be up to 14 days. Higher risk individuals seem to include older adults and those with underlying health issues.

Prevention includes standard precautions such as: avoiding close contact with those who are sick, avoiding touching the face, stay at home if you are sick, cover coughs and sneezes, clean and disinfect frequently touched objects and surfaces, wash your hands often with soap and water for at least 20 seconds. There is no specific antiviral treatment recommended for COVID-19, only supportive care to help relieve symptoms. Severe cases may require hospitalization to support vital organ functions.

OLD BUSINESS
PHAB
Ms. Phillips informed the board that the PHAB site visit has been scheduled for October 14th and 15th, 2020.

Ms. Ealy stated that she and Ms. Kash attended the Tobacco 21 meeting in Warren County to discuss enforcement. Cincinnati is in the process of licensing their facilities, and will begin compliance checks in June. The next step for CMHD will be to create the ordinance, have the law department review the ordinance, and then bring it to the Board of Health for approval and adoption.

NEW BUSINESS
Travel Authorizations
Ms. Phillips requested authorization to attend the Governor’s meeting in Columbus, Ohio.
Motion: Dr. Patrick moved, seconded by Ms. Kash to approve travel authorization.
Roll call Vote: Yes-4 (Davis, Jones, Kash, Patrick). No-0. Motion passed.

Agreement between City of Middletown Health Department and Wright State University’s Applied Policy Research Institution –Community Health Assessment
Motion: Ms. Kash moved, seconded by Ms. Davis to approve the agreement.
Roll call Vote: Yes-4 (Davis, Jones, Kash, Patrick). No-0. Motion passed.

Approval of Infant Mortality Grant Agreement
Ms. Phillips stated that City of Middletown Health Department will have the ability to receive compensation up to the amount of $13,000 for the work and efforts contributed to the reduction of infant mortality.
Motion: Dr. Jones moved, seconded by Ms. Davis to approve the Infant Mortality Grant Agreement.
Roll call Vote: Yes-4 (Davis, Jones, Kash, Patrick). No-0. Motion passed.

Approval of Agreement between Hamilton County General Health District and City of Middletown/City of Middletown Health Department-Syringe Exchange Program
Ms. Phillips explained that this agreement has previously been approved quarterly, we will now be approving every six months.
Motion: Ms. Kash moved, seconded by Ms. Davis to approve the Agreement between Hamilton County General Health District and City of Middletown/City of Middletown Health Department-Syringe Exchange Program.
Roll call Vote: Yes-4 (Davis, Jones, Kash, Patrick). No-0. Motion passed.

REPORTS
Health Commissioner
Ms. Phillips stated that the annual Innovation Weekend was held at Miami University in Oxford. This year’s problem was to solve food insecurity. Ms. Phillips was able to raise COVID-19 awareness and the additional layer of challenges with food insecurity at a time of pandemic crisis.

Environmental Director
Ms. Ealy informed the board that the septic survey results have been received from Ohio Department of Health. City of Middletown Health Department passed the survey. The septic survey is conducted every three years.

Ms. Ealy stated that Ms. Mourer has begun conducting the five year septic system survey (inspections) on the non-mechanical systems.

We are still in the process of collecting food license fees and the septic permit/inspection fees.

ADJOURNMENT
The meeting was adjourned at 9:25 AM. The next meeting will be held on April 14, 2020 at 7:30 AM.

Jacquelyn D. Phillips, MPH, BSN, RN
Secretary

Nicole Condrey, President
City of Middletown Board of Health
I, Chris Xavi Lyons, do solemnly swear that I will support the Constitution and laws of the United States and of the State of Ohio, and the Charter and Ordinances of the City of Middletown; that I will not make or authorize expenditures of public money other than for adequate consideration and efficient service; and that I will in all respects faithfully discharge the duties of my employment or office for the City of Middletown, Butler / Warren Counties, Ohio.

Signature

Economic Development Director

Position

Sworn to before me and subscribed in my presence this 1st day of May, 2020.

Notary Public

Julie A. Omsley, Notary Public

Notarial Seal

State of Ohio

1/18/2023
OATH OF OFFICE

I, Evan Groh, do solemnly swear that I will support the Constitution and laws of the United States and of the State of Ohio, and the Charter and Ordinances of the City of Middletown; that I will not make or authorize expenditures of public money other than for adequate consideration and efficient service; and that I will in all respects faithfully discharge the duties of my employment or office for the City of Middletown, Butler / Warren Counties, Ohio.

Signature

Position

Sworn to before me and subscribed in my presence this 1st day of May, 2020.

Notary Public

[Stamp]
May 8, 2020

TO: Susan Cohen, Acting City Manager
FROM: Brittany Grimes, Human Resources Specialist
SUBJECT: APPOINTMENT – PATROL OFFICER

We are recommending the appointment of **RYUN RAWLINS** to the position of Patrol Officer in the Department of Public Safety, Division of Police. Mr. Rawlins is currently a Reserve Officer for the Division of Police. He was selected from the eligibility list as a result of Civil Service testing procedures, and will fill the vacancy created by the retirement of Rodney Muterspaw through the promotion process.

Mr. Rawlins will be assigned to Range PO1, Step A which provides a salary of $2,049.84 biweekly and $53,295.84 annually. The effective date of the appointment will be May 20, 2020.

/bg

c: Amy Schenck, Clerk of Council
David Birk, Police Chief
Human Resources
Finance (Payroll)
file

ccmtg5/19/20

**POLICE OFFICER**
Authorized Strength – 56
Current Staff Level – 55
May 7, 2020

TO:       Susan Cohen, Acting City Manager
FROM:     Brittany Grimes, Human Resources Specialist
SUBJECT:  APPOINTMENT – PT COMMUNITY SECURITY OFFICER

We are recommending the appointment of GEOFF GETTER to the position of part-time Community Security Officer in the Department of Public Safety, Division of Police. Mr. Getter is currently a Reserve Officer for the Division of Police. He will fill the vacancy created by the resignation of Gary Ogdin.

Mr. Getter will be assigned to Range 228, Step A, which provides a salary of $15.68 hourly. The effective date of the appointment is May 20, 2020.

/bg

c: Amy Schenck, Clerk of Council
    David Birk, Police Chief
    Human Resources
    Finance (Payroll)
    File

Ccmtg5/19/20

PT COMMUNITY SECURITY OFFICER
Authorized Strength – 2 (Part Time)
Current Staff Level – 1
MOTION

AGENDA
May 8, 2020

TO: Susan Cohen, Acting City Manager
FROM: Samantha Zimmerman, Purchasing Agent

**PURPOSE**

To request approval for a contract with various vendors for nuisance abatement services of vacant/city-owned properties and private properties that have failed to abide by the City’s codified ordinances within the City of Middletown.

**BACKGROUND and FINDINGS**

The nuisance abatement services contract was bid with five vendors responding in the following amounts:

<table>
<thead>
<tr>
<th>NUISANCE ABATEMENT SERVICES</th>
<th>Yard Maint. per Hour Fee</th>
<th>Appliance Removal Fee</th>
<th>Car on Rim Tire Removal Fee</th>
<th>Car off Rim Tire Removal Fee</th>
<th>Semi on Rim Tire Removal Fee</th>
<th>Semi off Rim Tire Removal Fee</th>
<th>Half Load Transport Fee</th>
<th>Full Load Transport Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Possum Hollar Designs, LLC - Middletown, OH</td>
<td>$35.00</td>
<td>$50.00</td>
<td>$15.00</td>
<td>$10.00</td>
<td>$25.00</td>
<td>$20.00</td>
<td>$20.00</td>
<td>$40.00</td>
</tr>
<tr>
<td>Results By Carroll LLC - Middletown, OH</td>
<td>$40.00</td>
<td>$50.00</td>
<td>$10.00</td>
<td>$15.00</td>
<td>$20.00</td>
<td>$25.00</td>
<td>$20.00</td>
<td>$40.00</td>
</tr>
<tr>
<td>Julie’s Lawncare - Middletown, OH</td>
<td>$40.00</td>
<td>$75.00</td>
<td>$17.72</td>
<td>$13.25</td>
<td>$36.50</td>
<td>$21.25</td>
<td>$20.00</td>
<td>$40.00</td>
</tr>
<tr>
<td>Cams Lawn Care - Trenton, OH</td>
<td>$40.00</td>
<td>$75.00</td>
<td>$17.72</td>
<td>$13.25</td>
<td>$36.50</td>
<td>$21.25</td>
<td>$20.00</td>
<td>$40.00</td>
</tr>
<tr>
<td>Trinity Quality Service - Middletown, OH</td>
<td>$65.00</td>
<td>$200.00</td>
<td>$75.00</td>
<td>$70.00</td>
<td>$150.00</td>
<td>$90.00</td>
<td>$250.00</td>
<td>$350.00</td>
</tr>
</tbody>
</table>

The bid has been divided into five groups with the intent to award to separate contractors since it is unknown how many work orders the City will have for nuisance abatement services in each group. The groups were created based on number of work orders completed in 2019. See map of groups attached.

The contract is for the remainder of 2020 with an optional renewal of two additional one-year periods. It is recommended to award the contract to the following contractors (approximate annual cost based on 2019 work order statistics assuming all groups have equal work orders):

- **Group 1 – Possum Hollar Designs, LLC**: $55,379.50
- **Group 2 – Results By Carroll LLC**: $61,518.00
- **Group 3 – Possum Hollar Designs, LLC**: $55,379.50
- **Group 4 – Cams Lawn Care**: $62,614.17
- **Group 5 – Julie’s Lawncare**: $62,614.17
Annual totals are approximate and could be more or less based on the number of nuisance work orders received.

ALTERNATIVES

1. Award all five groups to the lowest bidder, Possum Hollar Designs, LLC. The department does not recommend this as the number of nuisance work orders is unknown. The intent when putting this out to bid was to award each group to a different contractor, however, with the bids the City received we believe the above is the best option for the City.

2. Do the work in-house. The City would need to purchase equipment and hire employees with benefits, which would be cost prohibitive.

FINANCIAL IMPACT

Funds have been appropriated in the 2020 budget.

EMERGENCY/NON EMERGENCY

Motion agenda

cc: Jacob Burton, Finance Director
    David Birk, Police Chief
    Eric Crank, Deputy Police Chief
LEGISLATION
ITEM 1
ORDINANCE NO. O2020-22

AN ORDINANCE ESTABLISHING A PROCEDURE FOR AND AUTHORIZING AN AMENDMENT OF THE CONTRACT WITH CBM MANAGED SERVICES NOW KNOWN AS SUMMIT FOOD SERVICE FOR JAIL FOOD SERVICE AND DECLARING AN EMERGENCY.

WHEREAS, City Council authorized a three year contract with CBM Managed Services, now known as Summit Food Service, by Motion on November 7, 2017, for the period 2018 through 2020; and

WHEREAS, the original bid was based on a jail population of approximately 60 inmates per day and three meals per day; and

WHEREAS, during the current COVID-19 pandemic, the City’s jail population has been significantly below normal at about 10 inmates per day; and

WHEREAS, the vendor has requested additional compensation to make up for the drastic and unexpected decline in jail population; and

WHEREAS, City staff is satisfied with the performance of the vendor and believes this amendment will be in the City’s best interest during the pandemic and is not expected to cause an increase in the budget for jail food services;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

The City Manager, without complying with the procedures of Chapter 735 of the Ohio Revised Code, is authorized to enter into an amendment of the contract with Summit Food Service in a form to be approved by the Law Director. The amendment to the agreement shall provide for food for 50 inmates at a flat fee of $2,520.00 per week until the jail population goes back to normal and is retroactive to March 22, 2020. The retro payments shall be off-set by any payments made since March 22, 2020. It is City Council’s preference that any food in excess of what is needed for the day’s jail population be donated to local non-profit organizations or entities.

Section 2

City Council hereby determines that the procedure to be followed in the award and execution of the aforesaid contract shall consist solely of the procedure set forth in this Ordinance and the provisions of Chapter 735 of the Ohio Revised Code shall not be applicable to the award and execution of the aforesaid contract.
Section 3

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: so that the amendment can be signed as soon as possible, and shall be in full force and effect from the date of its adoption.

Nicole Condrey, Mayor

Adopted: _____________

Attest: _____________________

Clerk of City Council
May 14, 2020

TO: Susan Cohen, Acting City Manager  
FROM: Samantha Zimmerman, Purchasing Agent

**Recommendation for Jail Food Service**

**PURPOSE**

To request an amendment to the contract for Jail Food Service with Summit Food Service (formerly CBM Managed Services), in the amount of $2,520 per week while the jail population is under fifty (50) inmates retroactively to March 22, 2020 when the jail population decreased drastically due to COVID-19.

**BACKGROUND and FINDINGS**

In 2017, the City took bids to find a contractor to provide the service of purchasing, receiving, preparing, and serving the food necessary to meet the nutritional needs of the inmates. Summit Food Service was awarded the three year contract as the only bidder.

The Middletown City Jail provides three meals per day to approximately sixty (60) inmates under normal conditions. Due to the national pandemic we are currently experiencing, Summit is requesting additional payment while the City’s jail population is significantly below normal at only approximately ten (10) inmates.

The City would pay a flat payment of $2,520 per week while the jail population is fifty (50) inmates or less. This payment is equivalent to the cost of fifty (50) inmates. Once the jail population goes back up to normal, the City would pay the normal amount of $2.40 per meal. Summit will prepare enough food for fifty (50) inmates; any additional food will be donated. The City will work with non-profit organizations to figure out the logistics.

**ALTERNATIVES**

The alternative is to not approve this additional payment to Summit. However, Summit has expressed that due to the COVID-19 and the current inmate population dropping substantially without additional payment they would be incurring a substantial financial loss.

The City needs food service to maintain operation of the City Jail; without the additional payment we run the risk of Summit exercising the 90-day notice of contract cancellation.
FINANCIAL IMPACT

Funds have been appropriated in the 2020 budget for this purchase.

The exact amount to be spent with this additional payment depends on how long the City’s inmate population is below normal. Overall, there will not be a significant financial impact since we will be paying Summit as if inmate population is normal.

EMERGENCY/NON EMERGENCY

1st reading emergency. A 1st reading emergency is requested in order to start additional payment to Summit Food Service.

cc: Jacob Burton, Finance Director
    David Birk, Police Chief
    Leanne Hood, Deputy Police Chief
LEGISLATION
ITEM 2
ORDINANCE NO. O2020-23

AN ORDINANCE AUTHORIZING A COLLECTIVE BARGAINING AGREEMENT WITH THE FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL (CORRECTION OFFICERS) FOR THE YEARS JANUARY 1, 2020 THROUGH DECEMBER 31, 2022 AND DECLARING AN EMERGENCY.

BE IT ORDAINED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

The collective bargaining agreement for three years, January 1, 2020 through December 31, 2022, between the City and the Fraternal Order of Police, Ohio Labor Council (Correction Officers) is hereby approved, and the City Manager is authorized to execute said agreement, in a form substantially similar to Exhibit A”, attached hereto.

Section 2

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: in order to allow the collective bargaining agreement to be implemented as soon as possible, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted:__________________

Attest:__________________

Clerk of the City Council
EXHIBIT "A"

AGREEMENT

BETWEEN

THE CITY OF MIDDLETOWN

AND

FRATERNAL ORDER OF POLICE,
OHIO LABOR COUNCIL, INC.

(CORRECTIONS OFFICERS)

January 1, 2017—December 31, 2019
January 1, 2020 – December 31, 2022
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<th>ARTICLE</th>
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<tbody>
<tr>
<td>ARTICLE 1</td>
<td>Recognition-the Collective Bargaining Unit</td>
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<tr>
<td>ARTICLE 2</td>
<td>No Discrimination</td>
<td>1</td>
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<tr>
<td>ARTICLE 3</td>
<td>Union Activity, Visitation &amp; Bulletin Boards</td>
<td>2</td>
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<td>ARTICLE 4</td>
<td>No Strike or Lockout</td>
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<tr>
<td>ARTICLE 5</td>
<td>Management Rights</td>
<td>3</td>
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<td>ARTICLE 6</td>
<td>Employee Rights</td>
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<td>ARTICLE 7</td>
<td>Probationary Employees</td>
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<td>ARTICLE 8</td>
<td>Dues Deduction &amp; Fair Share Fee</td>
<td>6</td>
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<td>ARTICLE 9</td>
<td>Discharges, Suspensions and Penalties</td>
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<td>ARTICLE 10</td>
<td>Grievance Procedure</td>
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<td>ARTICLE 11</td>
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<td>ARTICLE 12</td>
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<td>ARTICLE 13</td>
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<td>Longevity</td>
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<td>ARTICLE 16</td>
<td>Funeral Bereavement Leave</td>
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<td>ARTICLE 17</td>
<td>Sick Leave</td>
<td>14</td>
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<td>ARTICLE 18</td>
<td>Injury Leave</td>
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<td>ARTICLE 19</td>
<td>Unpaid Leave</td>
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<td>ARTICLE 20</td>
<td>Insurance</td>
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<td>ARTICLE 21</td>
<td>Miscellaneous Benefits</td>
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<td>Wages</td>
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<td>ARTICLE 24</td>
<td>Labor–Management Meetings</td>
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<td>Drug Testing</td>
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<td>ARTICLE 26</td>
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<td>ARTICLE 27</td>
<td>Seniority</td>
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<td>ARTICLE 28</td>
<td>Layoff and Recall</td>
<td>29</td>
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<td>Disability Leave</td>
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<td>ARTICLE 30</td>
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<td>Signatures</td>
<td>30</td>
</tr>
</tbody>
</table>
AGREEMENT

AGREEMENT made and entered into by and between THE CITY OF MIDDLETOWN, OHIO (hereinafter called the "City" or "Employer" or "Management") and THE FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC. (hereinafter referred to as "Labor Council" or "Union" or "FOP") acting herein on behalf of the employees of the City, as hereinafter defined, now employed and hereafter to be employed and collectively designated as the "Employees."

WITNESSETH:

WHEREAS, the City recognizes the Union as the collective bargaining representative for the employees covered by this Agreement as hereinafter provided; and

WHEREAS, it is the intent and purpose of the parties hereto that this Agreement protect against interruptions and interferences with services to the citizens of Middletown and surrounding communities and to set forth herein their Agreement covering wages, hours, and conditions of employment;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE 1 – Recognition – The Collective Bargaining Unit

1. The City recognizes the Union as the sole and exclusive bargaining representative of a bargaining unit consisting of all permanent, full-time Corrections Officers, formerly known as Civil Jail Matrons, employed by the Employer, but excluding all other employees of the Employer. The SERB certification number is 99-REP-05-0109 and it was certified June 3, 1999.

2. Whenever the word "Employee" is used in this Agreement, it shall be deemed to mean the employees in the bargaining unit covered by this Agreement, as defined in Article 1, Section 1 hereof.

ARTICLE 2 – No Discrimination

Neither the Employer nor the Union shall discriminate against or in favor of any employee on account of race, color, religion, creed, national origin, sex or handicap. Words used in this Agreement in the masculine gender will be read and construed in the feminine gender as well.
ARTICLE 3 – Union Activity, Visitation and Bulletin Boards

1. Upon reasonable notification to a management representative on the premises, a non-employee representative of the Union may have access to the Employer's premises for the purpose of conferring with Management, delegates of the Union and/or employees for the purpose of administering this Agreement, providing that the Employer's operation shall not be impaired. This request shall not be unreasonably denied.

2. The Employer shall provide bulletin boards which shall be used for the purpose of posting proper Union notices, including official Union publications or official communications. Such bulletin boards shall be placed conspicuously in the Jail Office. Any Union notices other than above which are considered inflammatory, political or devoted to Union organizing or grievance matters other than stated above are not permissible for posting on City bulletin boards or property and shall be removed by Management.

3. No insignia which has not been authorized by the Employer shall be worn on employee uniforms.

4. Representation.

   (a) Negotiations. The Union shall select from the bargaining unit two (2) negotiators.

   (b) Union representatives and/or alternates, on duty only, shall be paid their full pay for hours spent in contract negotiations.

   (c) Union representative and/or alternate shall be entitled to 72 hours of paid Union business leave each year for the term of this agreement. The Union representative and/or alternate shall receive their full pay for Union business leave. Union business leave will be used for the purpose of participation in conventions, pension business, educational conferences, grievance handling, negotiation preparation, and to attend to the normal operating functions of the Union, excluding contract negotiations.

ARTICLE 4 – No Strike or Lockout

1. No member shall engage in any strike, slowdown, sit-down, sit-in, cessation, stoppage or refusal to perform work.

2. The Union, its officers and agents, shall not in any way authorize, assist, encourage or participate in any strike, slowdown, sit-down, sit-in, cessation, stoppage or refusal to perform work.
3. In addition to any other liability, remedy or right provided by applicable law or statute, should a strike, slowdown, sit-down, sit-in, cessation, stoppage or refusal to perform work occur, the Union, within twenty-four (24) hours of a request by the Employer, shall:

(a) Publicly disavow such action by the employees;

(b) Advise the Employer in writing that such action by employees has not been caused or sanctioned by the Union;

(c) Notify employees of its disapproval of such action and instruct such employees to cease action and return to work immediately;

(d) Post notices at locations approved by the Employer, advising that it disapproves of such action, and instructing employees to return to work immediately.

4. The Employer agrees that it will not lockout employees during the term of this Agreement and the Union and employees agree that no picketing or handbilling against the Employer will occur during the term of this Agreement.

5. In addition to other rights and remedies provided by applicable law or statute, the Employer shall have the right to discharge or otherwise discipline any member violating the provisions of this Article if the strike has been found to be unauthorized under Section 4117.23 of the Ohio Revised Code.

ARTICLE 5 – Management Rights

1. Except as otherwise specifically provided in this Agreement, it shall be the Employer’s sole and exclusive right and responsibility to:

(a) determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the Employer, standards of services, its overall budget, utilization of technology, and organizational structure;

(b) direct, supervise, assign, reassign, schedule, evaluate, and subject to applicable civil service rules and regulations, hire, suspend, discipline, demote, discharge for just cause, or lay off, transfer, promote or retain employees;

(c) maintain and improve the efficiency and effectiveness of the Employer’s operations;
(d) determine the overall methods, process, means, or personnel by
which the Employer's operations are to be conducted;

(e) determine the adequacy of the work force, as well as to make,
amend, and enforce work rules, regulations, and standard operating
procedures and general and special orders;

(f) determine the overall mission of the Employer as a unit of
government;

(g) effectively manage the work force;

(h) take actions to carry out the mission of the Employer as a
governmental unit.

2. It is agreed that the above listing of management rights shall not be deemed
to exclude other proper functions not specifically listed herein or traditionally exercised by
the Employer.

3. It is intended by the parties that the terms of this Agreement shall be
consistent with that legislative authority which devolves upon the City Commission of the
City of Middletown, the statutes and, in so far as applicable, the rules and regulations of
the Civil Service Commission and the Chief of Police. Furthermore, it is understood by
the parties that no provision of this Agreement is intended to abrogate the duties,
obligations, or responsibilities of any agency or department of the City which is now
expressly provided for respectively by State Statute, Ordinances, Administrative
Regulations, Charter or Resolution, of the City of Middletown.

4. In the event the Employer determines to abandon its current practice of
rotating shifts, the Employer agrees that it will meet and confer with the Labor Council
regarding the implementation of its decision regarding new schedules and the effects of
such new schedules on unit employees.

5. The Employer shall not hereafter subcontract work which will adversely
affect unit employees without first notifying the Labor Council of such intention to
subcontract and bargaining with the Union about its intention to subcontract. If, after
notifying and bargaining with the Union about such subcontracting, an agreement is not
reached, the Employer shall discuss with the Union the effects of such subcontracting on
its employees and carry out any agreements which may be reached during the course of
such discussions.

6. The Employer shall not permit part-time employees to work a number of
hours in a calendar week exceeding twenty percent (20%) of the product of 40 hours
times the number of full-time Corrections Officers authorized in the annual budget (e.g.,
40 hours x 12 officers = 480 hours x 20% = 96 hours per week). Hours worked by part-
time employees, which were refused by full-time employees, shall not be considered in applying this limitation.

ARTICLE 6 – Employee Rights

1. During the course of an investigation of employee misconduct where discipline may result, an employee may request the presence of a Union representative and/or another unit employee to be present during the investigating interview.

2. The employee being interviewed shall be informed verbally of the nature of the investigation before the interview commences.

3. Copies of all reprimands, disciplinary actions will be given to the affected employee.

4. (a) Each employee may inspect their personnel file maintained by the Employer in the presence of a management representative designated by the Chief of Police, during the employee's non-working hours, at a reasonable time, and shall, upon request, receive a copy of any or all documents contained therein, provided the employee pays any reasonable charge for the copies. An employee shall be entitled to have a representative of his/her choice to accompany him/her during such review. Said representative of the employee shall not be compensated by the City. An employee's personnel file shall be made available for review and/or copying to the employee when the employee is preparing for a grievance or disciplinary hearings. In responding to requests for Employees' personnel files the City shall comply with Federal and State law.

(b) The employee is entitled to place a letter of rebuttal or explanation to be attached to any such entry relating to disciplinary action or performance so long as said explanation or rebuttal does not exceed 200 words in length and is submitted within 7 working days of the date the employee is provided with the entry.

5. Written reprimands may be kept in an employee's personnel file for 2 years. After 2 years, if no further similar disciplinary action has been taken against the employee the written reprimand shall be expunged from his/her file not be considered in additional discipline.

6. Preliminary investigations and disciplinary hearings shall be held either during the employee's scheduled working hours, or at a time in reasonable proximity to his/her shift.

7. All contacts verbal or written be it disciplinary or any other between an employee and a superior shall be conducted in a calm and professional manner.

8. If the Employer chooses to tape record a preliminary investigation or disciplinary hearing, the employee will, upon request be provided a copy of said tape
recording. If an Employee wishes to tape record a preliminary investigation or disciplinary
hearing, upon the request of the employee, the City will tape record such preliminary
investigation or disciplinary hearing and provide a copy of the tape to the employee.

8. The employee may take notes of any proceeding.

**ARTICLE 7 – Probationary Employees**

1. Newly hired employees shall be considered probationary for a period not to exceed one (1) year as set forth and defined in the rules, regulations, general orders, and policies and procedures of the Employer.

2. During the probationary period, the Employer may discharge any probationer at will and such discharge or other discipline shall not be subject to the grievance and arbitration procedure of this Agreement.

**ARTICLE 8 – Dues Deduction and Fair Share Fee**

1. The Employer agrees to deduct from the wages of all bargaining unit employees, all Labor Council membership dues uniformly required. Employees authorizing dues deduction shall submit an individual written authorization card bearing their signature. The Labor Council will notify the Employer from time to time of the dues it charges.

2. Bargaining unit employees shall either become dues paying members of the F.O.P., Ohio Labor Council, Inc. or, remit to the Labor Council monthly, through payroll deduction, a fair share fee in an amount not to exceed the monthly dues of a dues paying member and in accordance with the provisions of O.R.C. 4117.09(c). This amount shall be deducted from the wages of all such non-member(s) of the Labor Council and shall commence 60 days after initial employment in the bargaining unit.

1. The Employer agrees to deduct FOP/OLC dues from any member of the bargaining unit who signs an authorized dues deduction card. Such card shall be furnished by the FOP/OLC. It is agreed by the Employer that within two (2) weeks of signing the dues deduction card, or the next payday, whichever is later, said deductions shall commence.

2. The Employer shall notify the FOP/OLC of any new hires within the bargaining unit. Such notification shall be in writing to the FOP/OLC within 30 days of their hire date.

3. The Labor Council agrees to indemnify and to save the Employer harmless from any action commenced by an employee arising as a result of the deductions made under this Article.
4. The Employer shall be relieved from making such "check off" deductions upon:

(a) termination of employment, or
(b) transfer to a job other than one covered by the bargaining unit, or
(c) lay off from work, or
(d) an agreed leave of absence, or
(e) written revocation of the check off authorization by the employee.

5. The Employer shall not be obliged to make dues deductions of any kind from the wages of any employee, who, during any dues month involved, shall have failed to receive sufficient wages to equal the dues, initiation fees or assessment deductions.

6. All dues and fair share fees collected shall be paid over by the Employer once each month and sent to the F.O.P. Ohio Labor Council, Inc., 222 East Town Street, Columbus, Ohio 43215-4611.

7. During the first pay period in July of each year, the Employer shall provide the FOP/OLC with a roster of all bargaining unit employees. Additionally, should the Employer receive a notice from a bargaining unit member wishing to cease dues deductions and withdraw from FOP/OLC membership, the Employer shall notify the FOP/OLC in writing within 14 days of the request.

**ARTICLE 9 – Discharges, Suspensions and Penalties**

1. The Employer shall have the right to discharge, suspend or discipline any employee for just cause. Discipline will be administered in a fair and equitable manner.

2. The Employer will endeavor to notify the Union in writing of any discharge or suspension without pay within forty-eight (48) hours from the time of such discharge or suspension. If the Union desires to contest the discharge or suspension without pay, it shall give written notice thereof to the Employer within a period not to exceed seven (7) calendar days from the date of notice of discharge or suspension. In such event, the dispute shall be submitted and determined under the grievance and arbitration procedures hereinafter set forth, commencing at Step 2 of the grievance procedure. An employee shall mitigate any backpay liability resulting from his discharge or suspension pending resolution of the grievance and arbitration procedure hereinafter set forth.

3. Upon request of the Employer, an employee who has been absent from work (other than vacation, holiday or an approved leave of absence which are covered
in other Articles herein) must furnish satisfactory proof justifying the reason for the absence or be subject to disciplinary action.

4. The City shall endeavor to issue written reprimands within thirty (30) days from the date of the City's knowledge of the offense. Written reprimands shall be subject to the grievance procedure set forth in this Agreement up to and including the 2nd step only.

5. A disciplinary suspension or discharge requires:

   (a) Written notice is given to the employee of the charges against him and the evidence upon which they are based within twenty (20) calendar days of Management's knowledge of the alleged incident and within a reasonable amount of time before the hearing referred to below so the member can prepare an explanation.

   (b) A pre-suspension hearing be held, unless waived by the employee, before the Chief of the Division of Police. The employee shall be afforded, at the hearing, the right to question witnesses and a fair opportunity to be heard in opposition to the charges against him.

   (c) The member has a right to have with him an employee or Union representative of his choosing and any such meeting shall be continued at the request of the employee for a reasonable period of time, not to exceed ten calendar days, to permit the attendance of the representative.

   (d) In special cases the employee may be suspended pending a meeting; the suspended employee may request a hearing to be held by the close of the next succeeding workday.

   (e) The employee shall be informed of the Chief’s decision and the reasons for it in writing.

6. Anonymous complaints with no corroborative evidence shall not be cause for disciplinary action(s).

**ARTICLE 10 – Grievance Procedure**

1. A grievance shall be described as a dispute or complaint arising between the parties hereto under or out of this Agreement or the interpretation, application, performance, termination, or any breach thereof, and shall be processed and disposed of in the following manner:

   **Step 1:** Within a reasonable time, not to exceed five (5) calendar days following the date of occurrence, or when the employee or the Union should have
had knowledge of the occurrence, an employee having a grievance and/or his Union representative shall put the grievance in writing and present it to the Deputy Chief assigned to jail operations or his designee. The Employer shall give its answer to the employee and/or his Union representative within five (5) calendar days after the presentation of the grievance in Step 1. Within this ten (10) calendar day period, the employee is encouraged to seek to resolve this grievance on an informal basis. Grievances based on disciplinary action shall proceed immediately to Step 2 of this grievance procedure.

**Step 2:** If the grievance is not settled in Step 1, the grievance may, within five (5) calendar days after the answer in Step 1, be presented in Step 2 in writing to the Chief of Police, or his designee. A grievance so presented in Step 2 shall be answered by the Employer within five (5) calendar days after its presentation.

**Step 3:** If the grievance is not settled in Step 2, the grievance may, within five (5) calendar days after the answer in Step 2, be presented in Step 3 in writing to the City Manager or his designee. At this time a Local or State Representative of the Union may be in attendance at a meeting where, if both parties agree, witnesses and/or evidence may be presented which may relate to a resolution of the grievance. A grievance so presented in Step 3 shall be answered by the Employer within five (5) calendar days after its presentation.

2. Any disposition of a grievance from which no appeal is taken within the time limits specified herein shall be deemed resolved and shall not thereafter be considered subject to the grievance and arbitration provisions of this Agreement. If the Employer fails to respond within the time limits herein provided, the grievance will proceed to the next step unless the parties have mutually agreed, in writing, to extend the time within which to answer or appeal. Any step in the grievance procedure may be skipped on any grievance by mutual consent.

3. Filing a grievance by an employee or the Union under this Article concerning any matter otherwise appealable to the Civil Service Commission shall be deemed an election by the employee and the Union to use the provisions of this Agreement rather than an appeal to the Civil Service Commission, as the sole and exclusive remedy for resolution of the said grievance or complaint.

**ARTICLE 11 – Arbitration**

1. A grievance as defined in Article 10 which has not been resolved thereunder may, within ten (10) calendar days after the completion of Step 3 of the Grievance Procedure, be referred for arbitration by either party to this Agreement. The arbitrator shall be selected from a panel of arbitrators furnished by the Federal Mediation Conciliation Service (FMCS) or any other arbitration service provider mutually agreed to by the parties. of 12 arbitrators who have offices located within the State of Ohio or within 125 miles of Middletown, Ohio furnished by the Federal Mediation
Conciliation Service (FMCS). The arbitration shall be conducted in conformity with FMCS rules, as applicable.

2. The fees and expenses of the arbitrator shall be borne equally by the parties.
3. The award of the arbitrator hereunder shall be binding upon the Employer, the employee and the Union.

4. The arbitrator shall not have the power to add to, subtract from, or modify any of the terms of this Agreement. Furthermore, in explanation of the Employer’s right to promulgate rules and regulations, general orders and standard operating procedures set forth in the Management Rights clause, the Union or grievant shall not have recourse through the grievance and arbitration procedure to challenge the reasonableness and appropriateness of the Employer’s existing or future rules and regulations, general orders or standard operating procedures. This provision does not prevent an employee disciplined by any such existing or future rule to grieve the application of that rule to his or her particular circumstances. It is further understood that the said rules and regulations, general and special orders and standard operating procedures shall not be interpreted so as to conflict with the explicit written terms of this Agreement.

ARTICLE 12 – Paid Leave

1. Employees shall be entitled to holiday pay, vacation leave, sick leave, and injury leave, as provided in Articles 13, 14, 17 and 18 of this Agreement.

2. Employees who are called (not volunteered) to serve as jurors, will receive their regular pay less their pay as a juror.

3. Employees will be granted paid leave at their regular rate of pay less their pay as a witness, if they are subpoenaed as a witness in work related court proceedings.

4. A paid leave of absence may be granted to attend seminars or conferences which are work related. The method for approval shall be the same as set forth in Article 19 herein regarding Unpaid Leave.

5. The Employer shall have the right to demand proof of all items listed above regarding paid leave. Falsification of information with respect to any paid leave shall be grounds for discipline.

ARTICLE 13 – Holidays

1. (a) Holidays. The following days shall be celebrated as paid holidays:

   New Year's Day    Labor Day
Martin Luther King Day  Thanksgiving Day  
President’s Day  Day After Thanksgiving  
Good Friday  Christmas Eve Day  
Memorial Day  Christmas Day  
Independence Day  Employee’s Birthday*

*(b) Employees may take this holiday on their birthday or anytime during the year, subject to the approval of the Chief of Police.

2. All holiday leave shall be subject to the following terms:

(a) Employees shall not be excused from work on the above holidays unless otherwise scheduled.

(b) **Loss of Holiday.** An employee who is off without pay because of an unexcused absence either the work day before or the work day after a holiday, or, if scheduled, on the holiday itself, shall forfeit holiday pay. An unexcused absence is defined as an absence not covered by approved vacation, sick leave, unless accompanied by a doctor's certificate, approved leaves with pay or approved leaves without pay. In addition, holiday pay ceases during any period an employee is not being paid his regular salary or wage.

(c) **During Vacation.** If a holiday falls during an employee's vacation period, it shall not be charged to vacation time, except where division policy is to grant additional vacation time in lieu of granting regular holidays off.

(d) **Holiday Pay.** Employees who work on a holiday will be entitled to “bank” a holiday (up to eight hours) in addition to their regular work pay, except that employees working on New Year’s Day, Thanksgiving Day, or Christmas Day shall be entitled to an additional 1/2 hour’s pay for each hour worked between the hours of 7 a.m. the morning of the holiday and 7 a.m. the following day, in addition to their regular work pay.

(e) **Banking of Holiday.** Each employee shall be able to accumulate (bank) holidays up to 150 days. Once an employee accumulates 150 banked holidays, any holidays over and above that amount will be paid in the current pay period at current holiday rate. An employee who resigns, retires with (2) weeks notice, or dies will be paid at the employee’s current regular rate of pay for holidays which have been accumulated but not taken.

(f) **Personal Day.** All employees covered by this contract shall be granted one (1) personal day each year. This day will be scheduled
in the same manner as vacation and longevity days. A personal day cannot be accumulated, carried over to the next year or banked.

(g) Conversion to Pay. In accordance with the first payrolls in February, April, June, August, October and December of each year, an employee shall have the option to request the exchange of a total of up to twenty (20) holidays annually for their equivalent in salary, provided: (1) approval must be given by the Chief of Police and the City Manager, and (2) there are unused funds available in the police salary budget for payment. Any member with fifteen (15) years of service or more may cash in an additional forty (40) hours per year of holiday time earned, but not taken, for pay at the member’s current hourly rate.

ARTICLE 14 – Vacation

1. (a) Each employee will accrue vacation credit at a rate of 5/6 of a day for each calendar month employed in the vacation year, to a maximum of 10 working days in one year. During and after 7 years of service, each employee will earn vacation credit at the rate of 15 working days per year. After 15 years of service, each employee will earn vacation credit at the rate of 20 working days per year. An employee appointed effective the 16th of the month or earlier, earns vacation credit for that month.

(b)(a) Vacation Year and Accrual. The vacation year begins on January 1 of each year and ends on December 31. Vacation taken in any year is based upon vacation credit earned in the previous year.

(c) One Year Minimum Service. After one year of service, an employee may take that portion of his vacation earned in the previous vacation year.

(b) Vacation Credit. Employees shall receive vacation credit as follows:

1 - 4 Years – 10 days
5 - 9 Years – 13 days
10 - 14 Years – 18 days
15 - 19 Years – 20 days
20 - 24 Years – 25 days
25+ Years – 28 days

Employees who as of January 1, 2020 receive more vacation leave than provided in this schedule shall continue to receive their current level of vacation benefits until they progress to the next step in the schedule.
(c) Employees may take vacation during their first calendar year of employment after they have been employed for 90 days in accordance with the schedule below. Scheduling of vacation during the first year of employment will be at the discretion of the Chief of Police.

<table>
<thead>
<tr>
<th>Month of Hire</th>
<th># Days of Vacation</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>9</td>
</tr>
<tr>
<td>February</td>
<td>8</td>
</tr>
<tr>
<td>March</td>
<td>7</td>
</tr>
<tr>
<td>April</td>
<td>6</td>
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<tr>
<td>May</td>
<td>5</td>
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<tr>
<td>June</td>
<td>4</td>
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<tr>
<td>July</td>
<td>3</td>
</tr>
<tr>
<td>August</td>
<td>2</td>
</tr>
<tr>
<td>September</td>
<td>1</td>
</tr>
<tr>
<td>October</td>
<td>0</td>
</tr>
<tr>
<td>November</td>
<td>0</td>
</tr>
<tr>
<td>December</td>
<td>0</td>
</tr>
</tbody>
</table>

(d) (1) First Full Year of Service. On January 1st of the first full calendar year of employment, employees will be deemed to have earned their vacation credit in accordance with this provision, in full, which may be scheduled at any time during such first full year of employment in accordance with the terms of this agreement. If an employee terminates their employment with the City prior to reaching January 1st of the first full calendar year of employment no terminal pay will be made for such vacation time.

(2) Subsequent Years of Service. On January 1st of an eligible employee’s second year of service and in each year thereafter, employees shall receive vacation credit in accordance with the schedule set forth herein, based upon the length of service to be obtained in that year. Vacation credit will be deemed to have been earned in the employee’s prior year of service. Upon termination or retirement, or in the case of leave without pay, vacation shall be prorated on the basis of monthly accrual. When calculating vacation credit earned in the present year for purposes of terminal leave, the credit earned will be based on the employee’s date of hire.

(de) Non-Accrual. An employee on leave without pay for more than two (2) consecutive weeks in any calendar month for any reason shall not accrue vacation benefits.

(ef) Scheduling. Vacations shall be scheduled on a seniority basis with the approval of the Chief of Police. In general, The Chief of Police will give as much consideration as possible to the employee’s preference, while at the same time, maintaining the staff necessary to meet operational requirements. Vacation may be taken in increments of not less than four (4) hours.
(fg) **Vacation Carryover.** Vacation credit must be used by year-end, subject to departmental rules and regulations. Requests to carryover vacation must be approved by the City Manager in writing in order to be deferred to the next year.

2. **Terminal Vacation Provisions.**

(a) **Vacation from Previous Year.** An employee who voluntarily resigns with two weeks notice, or who dies, shall be paid for vacation credit earned in the previous year, but not yet taken.

(b) **Vacation for Year of Termination.** An employee who voluntarily resigns or retires with two weeks notice, must be paid for vacation credit earned in the present year, provided such is recommended by the Chief of Police. In the case of death of an employee, vacation for the present year will be paid.

(c) **Vacation Upon Dismissal.** An employee who has been employed for more than five (5) years and is dismissed will receive payment for his vacation which he has earned in the previous year and not yet taken. He may receive vacation credit earned in the present year as determined by the Chief of Police. Total vacation credit will be calculated to the nearest full day.

**ARTICLE 15 – Longevity**

1. **Longevity Vacation Provision.**

(a) An employee will be entitled to two (2) longevity vacation days annually after the first full five (5) years of service; thereafter, each employee shall be entitled to one (1) additional longevity vacation day annually for each additional full five (5) years of service.

(b) Eligible employees may take longevity vacation days as of his or her appropriate anniversary date subject to the approval of the Chief of Police.

Example:
- 5 years - 2 longevity days
- 10 years - 3 longevity days
- 15 years - 4 longevity days
- 20 years - 5 longevity days, etc.

(c) Longevity vacation credit may not be advanced from one vacation year to the next, nor can it be deferred.

(d) Longevity vacation days may be taken in four (4) hour increments.
2. **Longevity Pay Provision.** Each employee will receive longevity pay calculated and paid in the following manner:

After 20 years of service with the Employer - 3%
After 15 years of service with the Employer - 2%
After 10 years of service with the Employer - 1%

Longevity pay is due by the first payday in December of the year in which it is due and shall be paid in a separate check.

**ARTICLE 16 – Funeral Bereavement Leave**

1. In the event of death in the immediate family, an employee shall qualify for funeral leave with pay up to 3 consecutive work days (24 hours) for participation in funeral services or arrangements. For purposes of this Section, immediate family is defined as the employee’s spouse, child or step-child, grandchild, parent, step-parent, grandparent, brother, sister, parents or step-parents of spouse, and grandparents of spouse.

1. Bereavement leave shall be granted to full-time employees, including probationary employees, in the amounts listed below:

<table>
<thead>
<tr>
<th>Relationship to Employee</th>
<th>Number of Work Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spouse, child, step-child, parent, step-parent or someone standing in loco parentis</td>
<td>5</td>
</tr>
<tr>
<td>Immediate family: Grandchild, grandparent, brother, sister, step-brother, step-sister, brother or sister-in-law, parents or step-parents of spouse and grandparents of spouse</td>
<td>3</td>
</tr>
</tbody>
</table>

2. **Funeral Bereavement** pay will be provided to accommodate absences occurring only on regularly scheduled workdays at the employee’s base rate of pay. **Funeral Bereavement** leave will not be granted for any period during which the employee is already in a paid or unpaid leave status, (unpaid leave status is interpreted as being military leave, disciplinary suspension, or voluntary unpaid leave of absence).

3. (a) Eligibility is further conditioned upon submission by the employee to his supervisor of a certificate as to the purpose and validity of leave usage and, if required by the Employer, proof of death and relationship.

(b) Requests for funeral **bereavement** leave with pay will not be approved for absences not taken within a seven (7) calendar day period of the date of death or funeral services. Leave requests meeting the conditions of Sections 1 and 2 of this Article must be approved by the employee’s shift commander or shift supervisor.
4. In the event of the death of a relative in other than the immediate family, as defined above, leave time with pay of up to one **eight (8)** hour work day may, at the sole discretion of the Chief of Police, be taken for participation in funeral services.

5. In the event an employee should require additional time in excess of the allowances established in the above provisions, such additional time may be charged against sick leave time with the approval of the Chief of Police.

**ARTICLE 17 – Sick Leave**

1. **Eligibility.** Each employee is credited with 10 hours of sick leave for each full calendar month of service.

2. **Accumulation.** There will be no limit on the amount of sick leave credits that may be accumulated.

3. **Approval of Usage.**

   (a) An employee may use sick leave, upon approval of the Chief of Police, for absence due to illness, injury, exposure to contagious disease which could be communicated to other employees, participation in funeral service or arrangements, and for illness in the employee’s immediate family requiring the employee’s presence at home. Immediate family is defined as the father, mother, sister, brother, spouse, child or stepchild of the member.

   (b) Upon the request of the Employer, an employee must furnish satisfactory proof of his or her illness or disability before a day of sick leave is paid. In the case of an illness or disability for three (3) or more consecutive days, an employee may not return to work without a statement from the employee’s physician.

   (c) In cases of illness in the employee’s immediate family requiring him to be at home, the employee may be required to submit a certificate from the attending physician attesting to the need, before sick leave will be allowed.

4. **Computation of Sick Leave.** An employee shall be charged for sick leave usage on a half hour basis in increments of not less than one-half hour.

5. **Reporting Off Sick.** Sick leave will be paid only when the employee or a member of his immediate family notifies the employee’s immediate supervisor of his absence one hour prior to the start of the employee’s shift.
6. **Non-Accrual.** An employee on leave without pay for any reason for more than two (2) consecutive weeks in any calendar month shall not accrue sick leave benefits.

7. **Employee’s Claim for Sick Leave.** An employee shall submit those forms and follow those procedures specified in the Division of Police Rules and Regulations for sick leave claims.

8. **Conversion to Vacation Credit.** Employees may convert sick leave credit to vacation once a year on the following basis:

   (a) An employee with more than 280 sick leave hours credit may convert all those hours over 280 hours to vacation credit at the rate of 24 sick leave hours for one vacation day, providing that not more than 96 sick leave hours are so converted in any one vacation year.

   (b) An employee with more than 800 sick leave hours may convert all those hours over 800 to vacation credit at the ratio of eight (8) sick leave hours for one (1) vacation day, providing that not more than 40 sick leave hours are so converted in any one vacation year.

   (c) The employee must have accumulated these hours prior to January 1 of the year in which these days are to be converted and must have sufficient hours at the time of conversion.

9. **Conversion to Terminal Leave.**

   (a) Upon the death or retirement of an employee with less than 25 years of service, all unused sick leave credit will be converted to terminal leave pay on the basis of 24 sick leave hours for one day’s pay, to a maximum of 5 weeks pay (25 working days).

   (b) Upon the death or retirement of an employee with 25 or more year’s service, unused sick leave credit will be converted to terminal leave pay on the basis of 16 sick leave hours for one day’s pay, to a maximum of 40 weeks pay (50 12 working days).

   (c) Upon the retirement of a member with twenty-five (25) or more years service, and at least 48 years old, all unused sick leave credit will be converted to terminal leave pay on the basis of sixteen (16) sick leave hours for eight (8) hours pay to a maximum of 500 hours, provided, the member gives six (6) months notice. The notice must be in writing with a specific date, with the understanding that this is a valid resignation date, which the City is not obligated to extend.
(d) If a member chooses to take a disability retirement, due to injury or illness, the same procedures will apply if the member files for the disability pension within 60 days of the injury or illness, and the disability retirement is granted within 120 days of the injury or illness.

(e) Any hours left over after the conversion set forth in the immediate preceding paragraphs shall be banked to be available for use for a member who suffers a catastrophic illness and whose sick leave time has run out. Catastrophic illness is defined as an unusual serious health disorder or injury of a duration of three months or more. In no event shall these banked hours be available to any member who has used or has available 12 months or more of sick leave.

10. If accumulated sick leave is exhausted, an employee may request an advance of sick leave credit in accordance with Administrative Regulation 2-27.

**ARTICLE 18 – Injury Leave**

Employees are entitled to receive injury leave for on-the-job injuries, in accordance with the conditions and limitations set forth in this article. Such leave shall be in addition to all other leaves provided in this agreement.

A. An on-the-job injury is a physical injury that an employee suffers during the course and scope of his/her employment for the City of Middletown. On-the-job injury does not include pre-existing injuries, injuries suffered at the workplace that are not in the course and scope of the employee's work activity, psychological or psychiatric injuries or conditions. However, any member who suffers a heart attack or stroke, is over forty (40) years of age and has been employed by the City of Middletown for a period of ten (10) consecutive years as a corrections officer shall be presumed to have suffered an on-the-job injury.

B. An employee who suffers an on-the-job injury shall receive up to one hundred and thirty (130) working days of injury leave.

1. Injury leave shall be used consecutively from the date of injury, except that if an employee has not exhausted the leave for an injury, he/she may take such leave for the same injury at anytime within two (2) years of the on-the-job injury. However, any such non-consecutive use of injury leave shall be available only after the employee uses five (5) consecutive days of sick leave before each such non-consecutive use of injury leave. In no event shall injury leave be available more than two years after the initial date of the injury.

C. In order to be eligible for injury leave, the employee must submit, within twenty-four (24) hours of the on-the-job injury, a report, in a form established by the
employer, to the appropriate supervisor. In addition, the employee must submit to the employer, within five (5) days of the on-the-job injury, a physician’s statement, describing the nature of the injury, limitations on the employee’s ability to work, and an expected date of return to work. If an employee is hospitalized immediately following the injury, he shall submit the physician’s statement within five days after his dismissal from the hospital to the employer.

1. If the employee fails to comply with the requirements of paragraph C of this article, the first ten (10) days of leave shall be charged as sick leave and subtracted from the injury leave balance, unless the employee fails to submit either the report or the physician’s statement within thirty (30) days of the injury, in which case, the employee shall lose his/her entitlement to any injury leave.

D. An employee claiming the right to receive, or who is receiving injury leave compensation, may be required by the employer from time to time to submit himself for a medical examination by a licensed physician, selected by the employer. The employer will pay any legitimate cost for examination that the employee’s medical insurance or workers’ compensation does not cover, including travel expenses.

If an employee refuses to submit to a medical examination, or if the report from the physician conducting the medical examination, provides that the employee is either not injured or is able to return to work, further injury leave compensation may be suspended or denied.

If the report from the physician selected by the city is in conflict with the report submitted by the member's physician regarding the nature of the injury, limitations on the member's ability to work or the expected date of return to work, the member shall be examined by a third physician selected by the employer from a list of physicians to be mutually agreed to by the parties. The opinion of said third physician shall be determinative.

E. An aggravation or re-injury of an existing injury or condition shall be treated as part of the original injury, and shall be subject to the limitations in paragraph B of this Article. The employer retains the right to require written evidence of the aggravation or re-injury from the employee's physician. This provision is subject to paragraph D of this Article.

F. A member who is injured and unable to perform his regularly assigned duties may be assigned at the sole discretion of the Chief of the Division to perform duties not requiring great physical exertion in lieu of receiving injury leave compensation, with the approval of the member's physician or the employer's physician as set forth in paragraph (D) above.
ARTICLE 19 – Unpaid Leave

Employees shall be eligible for unpaid leave in accordance with the following:

1. Maternity Leave. Upon exhaustion of sick leave and all other paid leave that the employee is entitled to, a member who is off of work due to maternity leave shall, subject to the requirements of the insurer, have continued the health insurance provided by this agreement, with the City and the employee paying their respective amounts for a period not to exceed a maximum of 9 months.

2. Military Leave. Leaves of absence, for the performance of duty with the United States Armed Forces or with a Reserve component thereof, shall be granted in accordance with applicable City ordinances and the Policy and Procedures Manual.

3. Other Leaves. Leaves of absence without pay or benefits for other reasons may be granted at the sole discretion of the Employer.

4. When an employee returns to work following a leave of absence, he shall be returned to his former classification without the loss of seniority and with all across the board wage increases, unless otherwise provided in this Agreement.

5. Except as otherwise provided in this Agreement, benefits and insurance will not accrue during any period of unpaid leave exceeding two (2) consecutive weeks, except that during such leave of absence, upon the employee’s request, the Employer will continue group health insurance coverage at the expense of the employee.

6. An employee desiring to apply for a leave of absence without pay must submit an application to his immediate supervisor outlining the reason for the request. Leave requests of five (5) days or less will be acted upon by the Chief of Police. Leave requests exceeding five (5) days will be forwarded to the City Manager by the Chief of Police, together with his recommendations. Approval of all such leaves of absence without pay will be in writing with a copy to the employee and the Director of Employee Relations Human Resources Division.

7. Family and Medical Leave. An employee may take Family and Medical Leave in accordance with the provisions of the Family and Medical Leave Act and the appropriate City policy and procedures as promulgated by the City Manager governing such leave.

ARTICLE 20 – Insurance

1. Members shall be entitled to participate in the City’s health insurance program as recommended by the Health Care Committee and described in the documents on file in the Finance Department.
(a) The City agrees to maintain a City Health Care Committee for the purpose of regularly reviewing employee health care needs, and implementing a health care program for its employees. The Committee shall act in accordance with the Final Report of the Health Care Task Force Report dated July 10, 2006, and further amendments by the Committee. If the Committee is not maintained by the City, the City will provide the health care benefits in place at the time of the dissolution of the Committee for the remainder of the Agreement and health insurance shall be a mandatory subject of collective bargaining in successor agreements unless otherwise agreed to by the parties.

(b) The Union agrees to participate in the City Health Care Committee and to adhere to the recommendations of the Committee regarding all aspects of health issues, including, but not limited to, the selection of carrier, determination of coverage and determination of co-payments, deductibles, and employee contributions. The City agrees to adhere to recommendations of the Committee as such recommendations apply to the members. The Union shall have one (1) designee that serves on the Committee and may exercise voting rights on behalf of the Union. Any member appointed as the Union’s designee shall be paid for attending the Committee meetings. Any overtime incurred by a member while attending meetings of the committee shall be paid at one and one-half times their regular rate of pay.

(c) All coverage shall be subject to the insurance company’s requirements and eligibility.

2. All employees shall receive $15,000 group life insurance coverage paid by the City. Double Indemnity premiums shall be paid by the City on all coverage.

3. Members retiring from the City who were hired prior to January 1, 2011 shall receive $5,000 life insurance coverage paid by the City. Double indemnity will not be provided on such coverage.

**ARTICLE 21 – Miscellaneous Benefits**

1. **Influenza Shots.** Employees may receive free annual immunization against influenza, at such times as may be scheduled by the Health Department, at the discretion of the City Manager.

2. **Skin Tests for Tuberculosis.** So long as there is no cost to the City, an employee and his family living in Butler County, may obtain skin tests at the Butler County Clinic, 701 North University Boulevard, Middletown, Ohio.
ARTICLE 22 – Wages

1. There are hereby established the following pay ranges for Corrections Officers:

(a) All employees hired before March 1, 2020 shall follow Wage Scale 1, attached hereto. All employees hired before March 1, 2020, if transferred to another City of Middletown bargaining unit, shall be placed in the wage schedule in effect with the lowest number of steps.

(b) Members hired March 1, 2020 or later shall follow Wage Scale 2, attached hereto.

(c) Effective January 1st of each contract year there shall be wage increases as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020</td>
<td>2.5%</td>
</tr>
<tr>
<td>2021</td>
<td>2.5%</td>
</tr>
<tr>
<td>2022</td>
<td>2.5%</td>
</tr>
</tbody>
</table>

Prior Contract — Effective January 1, 2016:

<table>
<thead>
<tr>
<th></th>
<th>Pro</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual</td>
<td>$31,453.76</td>
<td>$32,933.68</td>
<td>$34,479.12</td>
<td>$36,107.76</td>
<td>$37,800.88</td>
<td>$39,582.40</td>
<td>$41,436.72</td>
<td>$43,494.88</td>
</tr>
<tr>
<td>Bi-Weekly</td>
<td>$1,209.76</td>
<td>$1,266.68</td>
<td>$1,326.12</td>
<td>$1,388.76</td>
<td>$1,453.88</td>
<td>$1,522.40</td>
<td>$1,593.72</td>
<td>$1,672.88</td>
</tr>
</tbody>
</table>

Effective January 1, 2017 — 1.5% increase:

<table>
<thead>
<tr>
<th></th>
<th>Pro</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual</td>
<td>$31,925.92</td>
<td>$33,427.68</td>
<td>$34,987.04</td>
<td>$36,649.60</td>
<td>$38,368.72</td>
<td>$40,176.24</td>
<td>$42,058.64</td>
<td>$44,148.00</td>
</tr>
<tr>
<td>Bi-Weekly</td>
<td>$1,227.92</td>
<td>$1,285.68</td>
<td>$1,346.04</td>
<td>$1,409.60</td>
<td>$1,475.72</td>
<td>$1,545.24</td>
<td>$1,617.64</td>
<td>$1,698.00</td>
</tr>
</tbody>
</table>

Effective January 1, 2018 — 2% increase:

<table>
<thead>
<tr>
<th></th>
<th>Pro</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual</td>
<td>$32,564.48</td>
<td>$34,096.40</td>
<td>$35,696.96</td>
<td>$37,382.80</td>
<td>$39,136.24</td>
<td>$40,980.16</td>
<td>$42,900.00</td>
<td>$45,030.96</td>
</tr>
<tr>
<td>Bi-Weekly</td>
<td>$1,252.48</td>
<td>$1,311.40</td>
<td>$1,372.96</td>
<td>$1,437.80</td>
<td>$1,505.24</td>
<td>$1,576.16</td>
<td>$1,650.00</td>
<td>$1,731.96</td>
</tr>
</tbody>
</table>

The current wages shall be increased by the following rates: year one (2017), increase wages 1.5%; year two (2018), increase wages by 2.0%. Article 22 shall be reopened for the negotiation of wage rates to be effective January 1, 2019, as well as the
rate of uniform allowance, in accordance with the provisions of Chapter 4117 of the Ohio Revised Code. No other issue in Article 22 or any other article of this Agreement shall be subject to negotiation by the parties, except as agreed by the parties.

(d) Members shall participate in the “Performance-Based Compensation” set forth in the Pay & Benefits Ordinance, as adopted by the City Council of Middletown each year.

(e) Members shall receive a signing bonus of $1,000.00 to be paid as follows: $500.00 on the first payroll following the execution of this agreement and $500.00 on the first payroll following January 1, 2021.

2. **Shift Differential.** For any regularly assigned shift commencing between the hours of 2:45 p.m. and 6:44 a.m. of the following day, differential pay shall be as follows:

   (a) For any shift starting at 2:45 p.m. or after, but not later than 7:44 p.m. shall be:
       - $0.80 per hour effective January 1, 2017
       - $1.00 per hour effective January 1, 2018

   (b) For any shift starting at 7:45 p.m. or after, but not later than 6:44 a.m. shall be:
       - $0.60 per hour effective January 1, 2017
       - $0.75 per hour effective January 1, 2018

3. **Salary Adjustment.** The salary of each member in the bargaining unit shall be reviewed annually by the Chief of Police for the purpose of determining which member may be entitled to a step increase. Upon reaching Step C, the salary of each member in the bargaining unit shall be reviewed every 6 months. All personnel records, performance, and length of service shall be considered in making recommendations with major emphasis placed on the evaluation of services rendered. On the recommendation of the Chief of Police, the City Manager may advance an employee until the maximum step has been reached.

4. (a) **Clothing and Equipment Maintenance Allowance.** Each member shall receive a clothing and equipment maintenance allowance in the amount of $700 $1,100.00 to be paid in two equal installments on January 15 and July 15 of each year.

   (b) All monetary allowances under Section 4(a) of Article 22 of this contract should be prorated with no allowance paid for periods prior to hire, or after resignation, retirement, death, dismissal or during leaves of absence without pay. Said allowance shall be paid during disability leaves of absence. All allowances shall be paid on the 15th of the payment month and the pro-rations shall be calculated by looking back retroactively for the six month period before the payment date to determine the above prorated factors. Partial allowance payment shall be paid in accordance with the above prorated factors.
5. When a trainee is assigned to a shift, all non-probationary employees on that shift shall receive a Field Training Officer (FTO) adjustment of one dollar and twenty-five cents ($1.25) per hour for all hours that the trainee is working. The length of an employee’s training period shall be determined by the City.

6. Employees will be granted paid leave at their regular rate of pay, less their pay as a witness, if they are subpoenaed as a witness in work related court proceedings. If the court proceedings are during an off-duty period for the employee, the employee will be paid for court time, which is three (3) hours pay at time and one-half. If the employee is required to be at the court proceedings for longer than three (3) hours, the employee will be paid at time and one-half for the time spent in court. In the event less than three (3) hours has elapsed between a scheduled court appearance and the scheduled beginning of work on a particular day, the employee will be compensated for the elapsed time between the scheduled court appearance and the scheduled beginning of work on that day.

7. Members agree that all payroll payments will be direct deposited in an account of their choice in compliance with the guidelines established by the City of Middletown Finance Department.

**ARTICLE 23 – Hours of Work and Overtime**

1. Effective January 1, 1990, the workweek of all employees covered by this Agreement will be forty (40) hours per week with work schedules and starting times to remain flexible based on the needs of the Employer.

2. (a) An employee working in excess of forty (40) hours in one week, as defined by the Fair Labor Standards Act, as amended, (provided that holidays for which the employee is paid, injury leave and funeral bereavement leave, are counted in the 40 hours) shall be paid time and one half his/her regular rate or receive compensatory time off on the basis of one and one half hours off for each hour of overtime worked. Each employee shall have the right to request payment of overtime work in compensatory time off at a rate equal to the rate of pay to which he would be entitled for the overtime. Time off to use earned compensatory time will be granted within twenty (20) days of the request made by the employee. When compensatory time is used, it shall not count as hours worked during the applicable work period for purposes of determining overtime.

No employee shall be permitted to accrue more than four hundred and eighty (480) 300 hours of unused compensatory time. **Members that have more than 300 hours at execution of this agreement shall be allowed to draw down their balance to below 300 hours before being subject to the new limit. Once members go below 300 hours their limit cannot go back over 300 hours.**

Any member who has accrued unused compensatory time to the four hundred and eighty (480) 300 hours limit shall be paid in cash for additional overtime worked. If an employee is paid in cash for accrued compensatory time, he/she shall be paid at the employee’s regular rate at the time of
payment. Upon termination of employment, unused compensatory time shall be paid at the employee’s average regular rate for the last three (3) years of employment or the employee’s final regular rate, whichever is higher.

Any member may request to receive pay for accrued compensatory time in excess of 300 hours at the member’s current hourly rate for up to 40 hours in each year. The request is subject to the availability of funds in the budget to pay such request and must be approved by the Chief of Police, Finance Director and City Manager.

(b) It is the intention of the parties, for reasons of efficiency and economy, that the Employer be permitted to utilize work scheduling and compensatory time to minimize its overtime liability.

(c) An employee shall not be ordered to work two (2) consecutive calendar days of overtime. An employee voluntarily working overtime on their day off shall not be ordered to work any time over the amount the employee has volunteered to work on that day.

3. Shift differential shall be paid for any and all overtime worked.

(a) An employee who is already in overtime status will not be subject to an involuntary holdover. Employees who are involuntarily held over shall receive pay at the rate of 1 1/2 times their regular rate of pay.

ARTICLE 24 – Labor–Management Meetings

1. In the interest of sound labor/management relations, labor management meetings will be held. The meetings will not be held more frequently than every 90 days unless mutually agreed upon. The meetings will be held on a mutually agreeable day and time for approximately 1 hour. The Employer or his designee shall meet with one (1) Union representative from each bargaining unit, to discuss pending problems and to promote a more harmonious labor/management relationship.

Upon request by an FOP/OLC Union representative, one (1) Ohio Labor Council Representative may be present at the above-mentioned meetings.

2. An agenda will be exchanged by the parties at least (5) working days in advance of the scheduled meeting with a list of matters to be taken up in the meeting and the names of those who will be attending. The committee will alternately consider items of each party’s agenda during the meetings. The purpose of such meeting shall be to:

(a) Discuss the administration of this agreement.
(b) Notify the FOP of changes made by the Employer which affect bargaining unit employees of the FOP.

(c) Discuss grievances which have not been processed beyond the final step of the grievance procedure when such discussions are mutually agreed to by the parties.

(d) Disseminate general information of interest to the parties.

(e) Discuss ways to increase productivity and improve effectiveness.

(f) To consider and discuss health and safety matters relating to employees.

(g) To discuss changes in work orders, regulations, standard operating procedures, and/or general orders.

3. Any issue unresolved at the labor-management meeting may be appealed to the City Manager or his designee.

**ARTICLE 25 – Drug Testing**

1. **PURPOSE OF DRUG TESTING PROGRAM**

   (a) The Police Department has a legal responsibility and management obligation to ensure a safe work environment; as well as paramount interest in protecting the public by ensuring that its employees have the physical stamina and emotional stability to perform their assigned duties. A requirement for employment must be an employee who is free from drug dependence or illegal drug use.

   (b) A reasonable drug-testing program must establish a balance between the rights of the employee and the compelling governmental interest in maintaining a police agency free of illegal drugs. Liability could be found against the Department and the employee if we fail to address ourselves or the public.

   (c) There is sufficient evidence to conclude that use of illegal drugs and/or drug abuse (whether illegal or prescription drugs) seriously impairs an employee’s performance and general physical and mental health. The illegal use of drugs by police employees (therefore, possession) is a crime in this jurisdiction, and clearly unacceptable. There are unique corruption hazards with drug use by the police.

2. **DEFINITIONS**
(a) **Drug Test** – A urinalysis test administered under approved conditions and procedures to detect drugs by a laboratory certified no later than 12/31/90 in accordance with Department of Health and Human Services rules and regulations.

(b) **Reasonable Suspicion** – An apparent state of facts and/or circumstances found to exist upon inquiry by the supervisor, which would warrant a reasonable, prudent person to believe the employee was under the influence of drugs/narcotics.

3. **GENERAL RULES**

(a) Department employees shall not take any narcotic or other dangerous drug unless prescribed by a person licensed to practice medicine. Employees who are required to take prescription medicine shall notify their immediate supervisor if the medication prescribed has the potential to impair the employee’s performance. The specific medication prescribed need not be identified, but the employee shall provide a statement from the prescribing physician that medication is prescribed for a physical, mental or psychological condition, and any potential side effects of the medication which may impact on the employee’s ability to perform his or her job. If side effects exist, which are not certified by the physician, the employee shall present such side effects to his/her supervisor in writing. Any statutorily defined illegal use of drugs by an employee, whether on or off duty, is prohibited.

(b) All property belonging to the Department, including the entire premises of the department, is subject to inspection at any time without notice as there is no exception of privacy.

1. Property includes, but is not limited to, City owned vehicles, desks, files, and storage lockers.

2. Employees assigned lockers (including those that may be locked by the employee) are subject to inspection by the employee’s supervisor after accepted reasonable advance notice (unless the requirement for notice is waived by the Chief of Police) and in the presence of the employee.

(c) Failure of any police employee to comply with the intent or provisions of this article of the contract is grounds for disciplinary action, including dismissal or other action determined appropriate by the Chief of Police. Refusal by a police employee to take a required test, i.e., a test that is ordered based upon reasonable suspicion as defined in paragraph 2 (B) above, or under circumstances described in paragraphs 4, (A) and (B), below, or follow this article of the collective bargaining agreement, will result in immediate relief from police duties pending disposition of any administrative personnel action. A refusal occurs if the employee fails to agree to submit to a required test within two (2) hours of receiving the order.

4. **POLICY-DRUG TESTING/URINALYSIS**
(a) Employees of the department shall be required to submit to a test for drug or narcotic use as outlined below:

1. The Chief of Police or a police supervisor may order a drug test when he or she has reasonable suspicion that an employee is using, or is under the influence of drugs or narcotics.

2. The employee shall be advised of circumstances surrounding the order to test.

3. Whenever practical, prior approval should be obtained from the Chief of Police before the Supervisor orders the test.

4. A supervisor who orders a drug test when he has reasonable suspicion of an employee’s usage or possession, or that an employee is under the influence of drugs, shall forward a report containing the facts and circumstances directly to the Chief of Police. The report shall be made available to the employee upon request. The employee may provide the report to the Union if he/she so chooses.

5. Test results reporting illegal drugs, narcotics, the use of controlled substances without a lawful prescription, or the abuse of prescribed drugs, will be submitted as a part of a written complaint by the supervisor ordering the test.

(b) In the event that an employee is required to submit to a drug test, the following guidelines should be observed:

1. The employee shall be granted enough time to change from uniform to civilian clothing.

2. The employee will be transported to the designated testing center by a supervisor.

3. The employee may request that a police department employee of his/her choice be present for the transportation and test, provided said individual is off duty and reasonably available.

4. A controlled test will be conducted by personnel of the testing site.

5. The sample will be properly labeled, sealed, and turned over to the site personnel by the employee.

6. All parties involved will be transported back to the police department.
7. If the employee is held over his/her assigned time, he/she will be compensated for that time.

(c) A negative test result shall bar the City from further discipline, for refusing to submit to a test, and the use or abuse of drugs, in violation of this policy, as it relates to the test in that instance. Nothing in this provision is intended to limit the ability to test an employee under this policy, either randomly or under other facts establishing a basis for a test under this policy.

(d) A positive result, after a second qualifying test, may serve as a basis to refer the employee to the Employee Assistance Program maintained by the City of Middletown. If the employee refuses or fails to attend the EAP or to follow any and all recommendations of the EAP, the employee shall be subject to disciplinary action. The Employer shall have the option to have a third test performed. The third test shall be performed by the designated test center, or a laboratory designated by the test center. The third test shall be a G.C. Mass spec. or a test of equal or greater accuracy (at the designating test center’s option). A positive result on the third test may result in discipline.

(e) Employees who have found to be using illegal drugs or narcotics, or abusing prescription drugs, shall be provided a hearing before the City Manager or his designee where evidence is presented and preserved, before final action is taken against the employee.

5. RANDOM DRUG TESTING

Random drug testing will be implemented in accordance with a General Order to be issued by the Chief of the Division of Police. The General Order implementing random drug testing for Corrections Officers shall not be amended without the agreement of the parties.

ARTICLE 26 – Modification and Separability

1. The Employer and the Union acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. The Employer and the Union for the term of this Agreement each further agree that the other shall not be obligated to bargain collectively with the respect to any subject matter referred to or governed by this Agreement unless the Employer and the Union mutually agree to alter, amend, supplement, enlarge, or modify any of its provisions.
2. The parties to this contract agree that, where the contract deals with a particular subject, the contract takes precedence over sections of Ohio law, City ordinances, administrative regulations, including the policies and procedures manual, and rules of the Chief of Police, unless specifically prohibited by Ohio law, court decision, or a decision by the State Employment Relations Board. Where this contract does not speak to a particular subject, then the relevant section of Ohio law, City ordinance, administrative regulations, including the policies and procedures manual, or the rules of the Chief of Police shall prevail.

3. If a Court of competent jurisdiction finds any provision of this Agreement to be contrary to any applicable statute, such provision shall be of no further force and effect, but the remainder of the Agreement shall remain in full force and effect. The parties agree that should any provision of this Agreement be found to be invalid, they will schedule a meeting within thirty (30) days at a mutually agreeable time to negotiate alternative language on the same subject matter.

**ARTICLE 27 – Seniority**

1. Seniority shall be defined as total length of service in a permanent full-time position(s) with the City.

2. Classification seniority shall be defined as the uninterrupted length of service in any one classification. If two or more employees have the same classification seniority, employment seniority shall be used to establish seniority among those employees. The length of any temporary demotion shall be excluded from the length of service of that employee for purposes of calculating classification seniority.

3. Seniority shall be broken, i.e., interrupted, when an employee:

   (a) resigns, unless reinstated within one (1) year;

   (b) is discharged for just cause;

   (c) is laid off and not recalled within the time limits;

   (d) retires;

   (e) engages in a strike or work stoppage during the term of this agreement;

   (f) fails to return to work after a leave of absence.

4. The City shall establish and post a seniority list no later than December 1 of each calendar year, and such list shall be effective the following January 1. The list shall contain the following information:
(a) names of bargaining unit members;
(b) classification;
(c) date of original City hiring;
(d) date of classification appointment.

Employees shall have the right to challenge their seniority listing for fifteen (15) days after the date of posting. Thereafter, the list shall remain unchanged until the next yearly posting. A copy of the list shall be given to the Union on the date of posting.

5. Seniority, as defined in this Article, shall be used for all seniority applications specifically set forth in other Articles this Agreement. If those Articles do not specifically apply to seniority, the City shall not be required to consider seniority in applying the provisions of that Article. Seniority does not apply and shall not be required to be used as a factor in assigning particular types of work to employees with a position classification, or in assigning employee’s machines, equipment or places of work.

ARTICLE 28 – Layoff and Recall

1. Layoff. In the event the City should decide to layoff personnel in the job classifications covered by this collective bargaining agreement, the following procedure shall be followed:

(a) The employee(s) with the least continuous classification seniority shall be laid off first from the affected classification.

(b) Before a bargaining unit employee is laid off from their position all seasonal, part-time and government funded program employees in the same classification subject to the lay off shall be laid off prior to the layoff of any full-time bargaining unit employee in the affected classification. The City will not negate this provision by transferring seasonal, part-time and government funded program employees to other classifications prior to laying off bargaining unit employees.

(c) In the event an employee is laid off, the employee shall receive payment for earned but unused vacation, birthday, personal day and sick leave conversion, with the employee’s termination pay.

2. Recall. Employees who are on layoff shall be placed on a recall list by classification for a period of twelve (12) months and shall be recalled in reverse order of their layoff by position in the affected classification with the last employee laid off being
the first to be called back and continuing in like manner until the required number of employees has been obtained.

3. **Recall Notification.** No new employee shall be hired in a classification until all employees who have been laid off in that classification in the previous twelve (12) months have been given the opportunity to return to work. Laid off employees will be notified by registered mail at their last known address to return to work within twenty-one (21) calendar days. Failure to report within the time limit removes them from the recall list. In addition, no seasonal, part-time, or government funded program employees shall be hired in the affected classification(s) until all employees on the layoff list have been recalled to the affected classification or until after the twelve (12) month recall period expires.

4. **Layoff/Termination.** An employee who is on layoff for a period of twelve (12) months is automatically terminated and loses all seniority.

5. **Insurance.** To the extent that applicable Federal law permits such coverage, an employee on layoff shall have the opportunity to continue health insurance coverage at the sole expense of the employee.

**ARTICLE 29 – Disability Leave**

The City shall comply with State law in regards to disability leave.

**ARTICLE 30 – Termination**

This agreement shall become effective January 1, 2017 **2020** and shall remain in force until December 31, 2019 **2022**.

**SIGNATURES**

FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.  

CITY OF MIDDLETOWN

_____________________________  ________________________________  
Tom Fehr  
Staff Representative, FOP  
Ohio Labor Council, Inc.  

Susan H. Cohen  
Acting City Manager

_____________________________  ________________________________  
Candi Stultz  
Bargaining Team Member  

Major Leanne Hood  
Deputy Police Chief
Alexander Ewing, Esq., Chief Negotiator
and on behalf of the Law Director
May 11, 2020
REVISED: May 18, 2020

TO: City Council

FROM: Susan Cohen, Acting City Manager
Prepared by: Julie Owsley, Paralegal

PURPOSE

The objective of this staff report is to present to City Council a tentative bargaining agreement between the City of Middletown and the Correction Officers (FOP/OLC) bargaining unit.

BACKGROUND AND FINDINGS

The present collective bargaining agreement between the City and this unit expired on December 31, 2019. The City was represented by Frost Brown Todd during the negotiations. The parties have been actively negotiating the terms of the new contract since last fall. The tentative agreement includes the following:

(1) The term of the contract is for three years – 2020, 2021 and 2022.

(2) Wages. Increase of 2.5% for each year of the contract; two lump sum signing bonuses of $500 per member (upon signing and in January 2021); and a new 12-step wage scale for employees hired March 1, 2020 or later. Additionally, accrued compensatory time will be decreased from 480 to 300 hours. Employees currently having in excess of 300 hours will be able to receive pay for up 40 hours in each year of the contract, as long as funds are budgeted for this purpose. Once the accumulated hours are 300 or less, the accrual cannot go back above 300. Currently, there are only 2 CO’s with more than 300 hours.

(3) Uniform allowance. This benefit will be increasing from $700.00 to $1,100.00.

(4) Bereavement leave. Modified to be consistent with other bargaining units.

(5) Vacation. Vacation credit was increased slightly to match the amounts for current non-union employees that receive vacation.

(6) Sick Leave. Upon death or retirement of an employee with 25+ years of service, unused sick leave can be converted to terminal pay at a rate of 16 hours to 8 hours pay (2:1), up to 12 weeks/60 working days. Currently, this is 10 weeks/50 working days.
(7) There are some additional non-economic changes to the articles for Dues Deduction, Employee Rights and Arbitration.

**RECOMMENDATION**

City Staff recommends that City Council approve this tentatively agreed upon collective bargaining agreement and authorize the City Manager to enter into this agreement.

**ALTERNATIVES**

City Council could choose not to approve the agreement. In that case, the City would proceed into the fact-finding process. If at the completion of the fact-finding process both parties accept the decision of the fact-finder, that decision become the contract between the parties. However, either party can reject the fact-finder’s report, which moves the process forward. The CO’s unit is eligible for binding conciliation. A conciliator could issue an award that the City simply cannot afford. While the risk of a substantial award is small, the risk nonetheless exists.

**FINANCIAL IMPACT**

The wages for the proposed collective bargaining agreements are consistent with the 2020 budget. The new costs of implementation of the agreement is $5,500.00 in 2020 for the signing bonus ($500/member) and $4,400.00 per year for the increased uniform allowance ($400/member). If the City chose to go through the statutory process, there would be significant costs, including the time of our negotiator and City Staff to prepare and present the information at the necessary hearings and the City share of the appointed third parties. In the end, the costs would certainly exceed the estimated costs associated with this agreement.

**EMERGENCY/NON-EMERGENCY LEGISLATION**

The present contract expired December 31, 2019. Emergency legislation is requested so that the new contract can be signed and back pay can be issued as quickly as possible.
LEGISLATION
ITEM 3
RESOLUTION NO. R2020-12

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION FOR CARES ACT GRANT FUNDING AND DECLARING AN EMERGENCY.

WHEREAS, the Federal Aviation Administration (FAA) is providing grant funding to airports due to the coronavirus pandemic to be used for operational or capital needs;

NOW. THEREFORE, BE IT RESOLVED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

The City Manager is authorized to enter an agreement with the Federal Aviation Administration to receive CARES Act grant funds to be used for operational or capital needs at Middletown Regional Airport (MWO). The City Manager is further authorized to submit any other documentation or application that may be required. The agreement is subject to the review and approval of the Law Director.

Section 2

It is hereby determined that the subject matter of this legislation is not a general and permanent nature, does not provide for a public improvement and does not assess a tax or payment.

Section 3

This resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: to permit the application and agreement to be submitted so that funds can be distributed as soon as possible to facilitate the CARES Act program goals, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted: __________________

Attest: __________________

Clerk of the City Council
May 5, 2020

TO: Susan Cohen, Acting City Manager

FROM: Chris Xeal Lyons, Economic Development Director
Submitted by Matt Eisenbraun, Assistant Economic Development Director

PURPOSE
To authorize the City Manager to enter into a grant agreement with the Federal Aviation Administration (FAA) to accept $69,000 in CARES Act Grant funding for the 2020 program year.

BACKGROUND AND FINDINGS
Due to the impact of the Corona Virus on the aviation industry, the FAA has been authorized to provide CARES Act Grant Funding to airports that are part of the National Plan of Integrated Airports System (NPIAS). Funding levels were determined by the role and classification within the system.

Middletown Regional Airport (KMWO) has been tentatively awarded $69,000. CARES Act funds can be utilized for a variety of operational needs that are described within the NPIAS Grant Assurances and has no deadline for use. CARES Act funds do not need to be expended on capital projects normally supported by annual NPIAS grant funding but can be if desired. No Local Match is required to accept or expend the funds.

FINANCIAL IMPACT
None – no local match is required.
Grant must be used within the Airport Fund.

ALTERNATIVES
The alternative would be to turn down the grant funding.

EMERGENCY/NON-EMERGENCY
Emergency – the FAA has asked that the CARES Act Grant funds be distributed as soon as possible to facilitate the CARES Act program goals.

DEPARTMENTAL CLEARANCES
Law
Finance
LEGISLATION
ITEM 4
RESOLUTION NO. R2020-13

A RESOLUTION AUTHORIZING AN AMENDMENT TO A CONTRACT WITH THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION FOR THE EXTENSION OF THE GREAT MIAMI RIVER TRAIL AND DECLARING AN EMERGENCY.

WHEREAS, City Council authorized a contract with the State of Ohio, Department of Transportation for the extension of the Great Miami River Trail in Resolution No. R2020-07, adopted April 7, 2020; and

WHEREAS, after bids were opened by ODOT on April 23, 2020, ODOT determined that the project costs exceeded their estimate and the previously approved contract would need to be amended; and

WHEREAS, the City of Middletown’s share of the project cost will be increasing from $436,900.00 to $606,740.00;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

The City Manager is hereby authorized to enter into an amendment to the contract with the State of Ohio, Department of Transportation for the extension of the Great Miami River Trail. The amendment to the contract shall be in a form approved by the Law Director.

Section 2

For said purpose the Finance Director is hereby authorized and directed to pay a sum not to exceed $606,740.00 from the Capital Improvement Fund (Fund #220).

Section 3

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: in order to meet state deadlines and assure the availability of funding, and shall take effect and be in force from and after its adoption.

__________________________
Nicole Condrey, Mayor

Adopted:_________________

Attest: ____________________
Clerk of City Council
DATE   May 6, 2020

TO:   Susan Cohen, Acting City Manager

FROM: Scott Tadych, Public Works and Utilities Director
Prepared by Rob Nicolls, City Engineer

PURPOSE

Authorize the City Manager to amend the contract with the Ohio Department of Transportation (ODOT) for the extension of the bike path (But/War GMR Trail Extension) to include additional funding due to higher than anticipated bids.

BACKGROUND AND FINDINGS

City Council approved the original contract at the April 7 meeting. The funding in that contract was based on ODOT’s estimated project cost. Bids were opened by ODOT on April 23, 2020 and the costs exceeded their estimate. Therefore, the contract needs to be amended.

ODOT attributed the increase mainly due to the retaining wall item. All twelve bidders were higher than ODOT’s estimate on this particular item which is a substantial portion of the project. Otherwise the bids were consistent with the ODOT estimate.

The large retaining wall is 706 feet long and up to seven feet tall. The retaining wall is necessary due to the elevation difference and narrow horizontal separation between State Route 73 and the Great Miami River through this corridor.

This project is a joint project between Middletown and Franklin. Franklin has an additional share also and has indicated they want to proceed.

ALTERNATIVES

1. Delay the project and request ODOT rebid. ODOT indicated they prefer not to rebid because the bulk of overages were due to the retaining wall and rebidding would unlikely result in lower overall costs.
2. Cancel the project and reapply for funding at a later date. Staff has concerns that future funding may be impacted by the current COVID-19 issue. There is no
guarantee future funding would be available. This would put Franklin’s funding in jeopardy as well. OKI funds are typically programmed four years in advance.

FINANCIAL IMPACTS

The original approved financial impacts were as follows:

Estimated Construction Cost: $2,486,495.63
Estimated Middletown Share: $1,038,380.00
Funding for Middletown Share: $601,480.00 OKI Grant $436,900.00 Local Match

Due to the higher than expected bids, an additional $169,840 is required.

Funds are appropriated in the General Capital Fund (220) for this expenditure.

EMERGENCY/NON EMERGENCY

Emergency legislation is requested to pay ODOT the additional amount as soon as possible to maintain the project schedule.

ATTACHMENTS

None
LEGISLATION

ITEM 5
RESOLUTION NO. R2020-14

A RESOLUTION TO MAKE ADJUSTMENTS TO APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF MIDDLETOWN, COUNTIES OF BUTLER AND WARREN, STATE OF OHIO, FOR THE PERIOD ENDING DECEMBER 31, 2020. (GARAGE FUND)

BE IT RESOLVED by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

The following sums are hereby appropriated from the Garage Fund of the City to accounts of the City for the purposes herein described as follows:

<table>
<thead>
<tr>
<th>FROM:</th>
<th>TO:</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unappropriated Garage Fund (Fund #605)</td>
<td>Purchase of Equipment, Accounts of 550 (605.550.54350)</td>
<td>$23,224.86</td>
</tr>
</tbody>
</table>

Section 2

The Finance Director is hereby authorized to draw his warrants on the City Treasurer for payments from any of the foregoing appropriations upon receiving proper certificates and vouchers therefor, approved by the Board of Officers authorized by law to approve the same, or an ordinance or resolution of the City Council to make expenditures provided that no warrants shall be drawn or paid for salaries or wages except to persons employed by authority of and in accordance with law or ordinance.

Section 3

All legislation inconsistent herewith is hereby repealed.

Section 4

This resolution shall be in full force and effect from and after its adoption as provided by law.

Nicole Condrey, Mayor

1st Reading: May 19, 2020
2nd Reading: ________
Adopted: ________
Effective: ________

Attest: ____________________
Clerk of City Council
DATE: April 28, 2020

TO: Susan Cohen, Acting City Manager

FROM: Jacob Burton, Finance Director

Supplemental Appropriations – Garage Fund

PURPOSE

To request a supplemental appropriation for the Middletown Division of Fire, Municipal Garage Fund budget in the amount of $23,224.86 for payment to Stryker for a previously delivered power load cot.

605.550.54350 (Purchase of Equipment) - $23,224.86

BACKGROUND and FINDINGS

Council approved the purchase of a power load cot and associated equipment for a fire medic from Stryker in the amount of $43,931.56 on the Consent Agenda at the March 19, 2019 Council meeting. Due to some issues with the billing when the ownership of Stryker changed, the City was issued an inadvertent credit and never received an invoice for the cot portion of the charges. After all invoicing issues were resolved between the vendor and the Division of Fire, the City still owes Stryker $23,224.86 for the previously delivered equipment. Because this was unknown when preparing the 2020 budget, a supplemental appropriation is necessary in order to pay the vendor the remaining balance.

FINANCIAL IMPACT

This legislation will reduce the Municipal Garage Fund by $23,224.86.

ALTERNATIVES

The alternative would be not to appropriate the funds which would prevent the Division of Fire from paying this invoice that should have been paid in 2019.

EMERGENCY/NON EMERGENCY

Non-Emergency
LEGISLATION
ITEM 6
RESOLUTION NO. R2020-15

A RESOLUTION AUTHORIZING AN EMPLOYMENT AGREEMENT WITH JAMES M. PALENICK TO SERVE AS CITY MANAGER OF THE CITY OF MIDDLETOWN AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

SECTION 1

The City of Middletown enter into an employment agreement with James M. Palenick to serve as City Manager of the City of Middletown in the form attached hereto and marked Exhibit “A”.

SECTION 2

That this resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: the immediate need to establish a relationship with said employee, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted:______________

Attest:________________________
Clerk of City Council

H:/Law/leg/2020 Legh Palenick City Manager Agreement
This Employment Agreement (hereinafter "Agreement" or "Contract") is entered into this ___ day of __________, 2020, by and between the City of Middletown, One Donham Plaza, Middletown, Ohio 45042, a chartered municipal corporation organized under the laws of the State of Ohio, (hereinafter "City") and James M. Palenick (hereinafter “City Manager”).

WHEREAS, the Charter of the City vests the administrative powers of government in the position of City Manager; and

WHEREAS, the City desires to employ City Manager to serve as the City Manager of the City; and

WHEREAS, both parties desire to express their mutual intent to commit to a continuing employment relationship, in accordance with the parameters of the City Charter.

NOW, THEREFORE, the parties enter into this Agreement in exchange for and in consideration of the mutual promises and covenants contained herein.

SECTION I – EMPLOYMENT

A. The City employs City Manager on the terms and conditions stated below to act as City Manager for the City of Middletown. City Manager shall satisfactorily perform the duties of City Manager as more fully described in Article III, Section 3 of the Charter of the City of Middletown, Ohio. ("Powers and Duties of City Manager").

B. Except as otherwise provided herein, City Manager shall devote his full time to conducting the business of the City and shall not directly or indirectly, during his employment, engage in any activity adverse to the City's business or welfare, whether alone or as a partner, officer, director, manager, advisor, agent, or investor in any corporation, partnership, joint venture, association or other entity. City Manager shall act in compliance with the reasonable and lawful direction of City Council and in accordance with the City Charter. City Manager shall not be permitted to perform consulting or similar services for compensation unless approved in writing by City Council.

C. City Manager’s hours of work shall be governed by the applicable provisions of City ordinance governing hours of work and the Policy and Procedure Manual of the City.

SECTION II – TERM OF EMPLOYMENT

The term of employment shall begin on July 13, 2020, and shall continue until terminated by: 1) the mutual agreement of the parties; or, 2) action by City Council in accordance with Article III, Section 4 of the Charter of the City of Middletown ("Removal of City Manager"); or, 3) written notice from City Manager of his intent to terminate this Agreement given not less than sixty (60) days, of which no more than thirty (30) days may be vacation or holidays; or, 4) City Manager’s
If City Manager is terminated in accordance with subsection 2 above, the city will, in lieu of paying the compensation required by the City Charter, as well as any earned and accrued benefits, provide City Manager a severance payment in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Length of Service</th>
<th>Severance Benefit</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-4 years</td>
<td>6 months’ salary (paid out in equal monthly intervals) with 6 months continued coverage under the City’s health insurance plan</td>
</tr>
<tr>
<td>4+ years</td>
<td>9 months’ salary (paid out in equal monthly intervals) with 9 months continued coverage under the City’s health insurance plan</td>
</tr>
</tbody>
</table>

The City manager shall not receive this severance benefit if he is terminated for just cause. “Just cause” shall mean malfeasance, official misconduct, dishonesty, moral turpitude, insubordination, neglect of duty, and/or any breach of the City Manager’s duties under this Agreement. Nothing in this paragraph shall alter the at-will nature of the City Manager’s employment by the City as described in Article III, Section 4 of the Charter of the City of Middletown or subsection 2 above. Any dispute concerning whether the City Manager was terminated for just cause shall be determined in accordance with the procedures set forth in Section VIII of this Agreement.

Any severance benefit shall become effective following the adoption of the preliminary resolution for the City Manager’s removal. Continued health insurance coverage is conditioned upon the City Manager paying the employee contribution required by City ordinance.

**SECTION III – COMPENSATION**

In consideration of the services rendered under this Agreement, the City shall pay City Manager as follows:

A. **Base Salary**

   Effective July 13, 2020 - $160,000

   Effective July 1, 2021 - $165,000* (*conditioned on a satisfactory performance evaluation, as determined by the City Council).

B. The City agrees, during the term of this Agreement, to pick up and pay as a “fringe benefit” City Manager’s statutorily required contributions to the Ohio Public Employees Retirement System in accordance with Resolution No. R2016-15, adopted August 16, 2016 by City Council.
C. The City will also, during the term of this Agreement, pay an amount equal to two percent (2%) of City Manager’s base salary into an account with the International City Management Association Retirement Corporation on behalf of Palenick.

D. Nothing in this Section III is intended to alter or limit the parties to this Agreement to exercise their rights under SECTION II - TERM OF EMPLOYMENT of this Agreement, nor is the recitation of a base salary in this Section III a promise or commitment to pay to City Manager all or any portion of that base salary if this Agreement is terminated, except as to the payment of severance detailed in Section II herein.

SECTION IV – BENEFITS

During the term of this Agreement, City Manager shall be entitled to such benefits as are provided by the applicable ordinances of the City of Middletown and the Policy and Procedure Manual, except as specifically provided herein.

A. **Car allowance.** In lieu of the allowance provided in the City ordinance, the City shall pay City Manager a monthly car allowance of four hundred and fifty dollars ($450.00) to be used to purchase, lease, own, operate and maintain a personal vehicle. City Manager shall be responsible for all expenses for such vehicle, including, but not limited to fuel, maintenance and insurance.

B. **Moving Expenses.** The City will pay City Manager the amount of fifteen thousand dollars ($15,000.00) for expenses incurred in relocating his residence to Middletown. City Manager shall begin to reside within the City on or before December 1, 2020 and shall continue to reside within the City during his tenure of office, as required by Article III, Section 2 of the Charter of the City of Middletown (“Qualifications of City Manager”).

C. **Membership Expenses.** The City agrees to budget for and pay for professional dues and subscriptions reasonably necessary for City Manager’s continuation and full participation in national (ICMA), regional, state, and local associations and organizations necessary and desirable for City Manager’s continued professional participation, growth and training, and for the good of the City. Further, City agrees to budget for and pay for reasonable travel and subsistence expenses of City Manager for professional and official travel, meetings, and occasions to adequately continue his professional development, and to pursue necessary official functions of the City.

D. **Paid Time Off.** The City Manager shall receive all paid time off benefits as set forth in the City’s Paid Time Off policy as adopted from time to time by the City Council.

E. **Health Insurance.** The City shall provide to the City Manager health and dental insurance coverage in accordance with the coverage in effect for other employees of the City. The City reserves the right to change carriers or its method of insurance during the term of this Agreement.
SECTION V – INDEMNIFICATION

The city shall defend, save harmless and indemnify City Manager against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of City Manager’s lawful duties as city Manager or resulting from the exercise of judgement or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful, wanton, or criminal conduct. City Manager may request and the City shall not unreasonably refuse to provide legal representation at City’s expense. Such legal representation, as provided by City on behalf of City Manager, shall extend until a final determination of the legal action including any appeals brought by either party.

City shall indemnify City Manager against any and all losses, damages, judgements, interest, settlements, fines, court costs, and other reasonable costs and expenses of legal proceedings including reasonable attorney’s fees for attorneys retained by the city under this paragraph and any other liabilities incurred by, imposed upon, or suffered by City Manager in connection with or resulting from any claim, action, suit, or proceeding actual or threatened, arising out of or in connection with the performance of his lawful duties. Any settlement of any claim must be made with prior approval of the City in order for indemnification, as provided in this Section, to be available.

City Manager recognizes that City shall have the right to compromise and settle any claim or suit. Further, City agrees to pay all reasonable litigation expenses of City Manager throughout the pendency of any litigation to which City Manager is a party, witness, or advisor to the City. Such expense payments shall continue beyond City Manager’s service to the City as long as litigation is pending.

SECTION VI – MODIFICATIONS

This Agreement may be modified at any time, by mutual consent of the City Manager and the City.

SECTION VII – SAVINGS CLAUSE

Should any Article, Section or portion of this Agreement be held unlawful and unenforceable by any court, legislative or administrative tribunal or competent jurisdiction, then such decision or legislation shall apply only to the specific Article, Section or portion of the Agreement. The parties will meet and discuss the abrogated provision. The remainder of the Agreement shall remain in full force and effect.

SECTION VIII – RESOLUTION OF DISPUTES

Any dispute between the parties will be settled by arbitration conducted by the American Arbitration Association. The arbitration would be conducted in Butler County, Ohio, by a single arbitrator to be chosen by mutual agreement of the parties. The City shall pay the fees and costs charged by the arbitrator. Any award rendered in arbitration shall be limited to those remedies available in any court of competent jurisdiction. The award will be final, and judgment thereon may be entered in any court of competent jurisdiction.
SECTION IX – LEGAL REPRESENTATION

The parties each separately acknowledge that they have carefully read this Agreement, that each is satisfied with all of the terms, that each has had adequate time to review and consider this Agreement and to consult with their respective legal counsel, and that each has agreed to all the provisions contained herein. Neither party shall be considered the drafter of this document.

SECTION X – ENTIRE AGREEMENT

This contract constitutes the entire agreement between the parties. The parties agree that no other promises or inducements have been made unless contained in writing, attached or incorporated by reference into this Agreement.

SECTION XI – APPLICABLE LAW

This Agreement and any amendments hereto shall be governed by and construed in accordance with the laws of the State of Ohio.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

CITY OF MIDDLETOWN

By: ____________________   ______________________
    Mayor                      James M. Palenick

___________________
Vice Mayor

__________________
Council Member

__________________
Council Member

__________________
Council Member

ATTEST:

__________________
Clerk of City Council

APPROVED AS TO FORM:

__________________
Law Director