SPECIAL CITY COUNCIL WORKSHOP – 4:30 PM – COUNCIL CHAMBERS – LOWER LEVEL
The students of the Robert Sonny Hill Leadership Academy will participate in discussion on the topic of "Youth Opportunities and Space at the Community Center".

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

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

PRESENTATION- Robert Sonny Hill Leadership Academy- Youth Opportunities and Space at the Community Center.

PRESENTATION- Dan Foley, Director of the Miami Riverway Coalition

CITIZEN COMMENTS

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) Approve the City Council Minutes of March 2 and March 16, 2021
b) Receive and file the following Board and Commission Minutes:
   Cemetery Board- January 20, 2021
   Civil Service Commission- February 25, March 18, April 15, 2021
   Planning Commission- March 10, 2021
c) Confirm the personnel appointment of Jason Mossbarger to the position of Senior Electronics Technician in the Department of Public Works & Utilities, Division of Electronic Maintenance.
d) Confirm the promotional appointment of John Clark to the position of Equipment Operator in the Department of Public Works & Utilities, Division of Street Maintenance.
e) Receive and file Oaths of Office for Rachel Combs, Rashawn Coston, Ashley Kothman, Lisa Robyn Rawlins
f) Authorize the City Manager to enter into a contract with A&A Safety, Inc. to proceed with the 2021 Pavement Marking Program.
g) Proclaim May as Military Caregivers Month

LEGISLATION

1. **Ordinance No. O2021-35**, an ordinance creating the 2021 Growth Expansion Transformation Grant Program for small businesses and declaring an emergency.

2. **Resolution No. R2021-19**, 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, 2021 and declaring an emergency. (Street Levy Fund)
3. **Resolution No. R2021-20**, a resolution authorizing the purchase of real property from Premier Health and Atrium Medical Center and declaring an emergency.

4. **Resolution No. R2021-21**, a resolution identifying four sites to be used for the relocation of city fire stations and declaring an emergency.

5. **Resolution No. R2021-22**, 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, 2021. (General Fund and Police Grant Fund) (Second Reading)

6. **Ordinance No. O2021-36**, an ordinance to enact Chapter 832 (Massage Parlors) of the Middletown Codified Ordinances. (Second Reading)

7. **Ordinance No. O2021-37**, an ordinance authorizing a land swap and development agreement with Dickie D. Brandon, Trustee of the O.L.C. Revocable Land Trust, Dickie Brandon and Phillip Brandon. (Second Reading)

8. **Ordinance No. O2021-10**, an ordinance authorizing the City Manager to enter into a memorandum of understanding with OneCity for Recovery and declaring an emergency.


10. **Ordinance No. O2021-39**, an ordinance authorizing the City Manager to enter into a grant agreement with Central Connections and declaring an emergency.

11. **Ordinance No. O2021-40**, an ordinance authorizing the City Manager to enter into a grant agreement with Community Building Institute and declaring an emergency.

12. **Ordinance No. O2021-41**, an ordinance authorizing the City Manager to enter into a cooperative agreement with the Middletown Port Authority and Warren County Port Authority related to port authority projects within their legally-authorized jurisdictions and declaring an emergency.

13. **Ordinance No. O2021-42**, an ordinance authorizing a collective bargaining agreement with the International Association of Firefighters, Local #336 for the years January 1, 2021 through December 31, 2023 and declaring an emergency.

14. **Resolution No. R2021-23**, a resolution authorizing the purchase of real property from CERTA Middletown, LLC and declaring an emergency.

15. **Ordinance No. O2021-43**, an ordinance authorizing the submission of an application for federal assistance, an action plan and a projected use of funds, under Title I of the Housing and Community Development Act of 1974, as amended for program year 2021 and declaring an emergency. (No action requested until May 18, 2021.)
16. **Resolution No. R2021-24**, 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, 2021 and declaring an emergency. (General & Storm Water Funds) (No action requested until May 18, 2021.)

17. **Ordinance No. O2021-44**, an ordinance establishing a procedure for and authorizing a contract with MCI and Butler County Regional Transit Authority for the purchase of up to five 45-foot heavy duty commuter coaches. (First Reading)

18. **Resolution No. R2021-25**, 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, 2021. (Appropriation Transfer - Downtown Improvement Fund) (First Reading)

19. **Resolution No. R2021-26**, a resolution authorizing the purchase of real property known as 69 S. Main Street from The Hutch, LLC. (First Reading)

**NEW BUSINESS**
PRESENTATION
PRESENTATION
CITIZEN COMMENTS
COUNCIL
COMMENETS
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.


Ms. Ashley Combs presented a map amendment request by applicant Haley-Dusa Group on behalf of the property owner, RY PETROLEUM INC., to rezone the property located at 1817 Highland Street, Middletown, OH 45044 (Parcel ID: Q6542068000020) from R-4 Attached Residential Zoning District to B-1 Neighborhood Business District. The property is a total of approximately 0.1722 acres. The Planning Commission’s recommendation of denial for the map amendment is being forwarded to City Council for final review and decision. The subject property is currently vacant. A residential home was demolished on the property in 2013 due to being blighted. The owner has owned the subject property since 2017. The property owner also owns two properties to the South of the subject property located at 1825 Highland Street (Sloan’s Market) and 2709 Burbank Avenue (a blighted home was demolished on this property on 2/10/21). The applicant requests to rezone the subject property so that it can be combined with the other properties so that the existing business can be enhanced and expanded to offer additional parking spaces, screening, and driveway for a future drive-through window.

Planning Commission Recommendation:
On January 13, 2021 the Planning Commission recommended denial of the Map Amendment request due to the request not meeting Map Amendment Review Criteria outlined in the Middletown Development Code (Chapter 1226.03 Code Text and Map Amendments, e. Review Criteria, specifically numbers 3 and 6). The Planning Commission determined that additional traffic generated by commercially zoning the property would negatively impact safety of the neighborhood by creating visibility issues and traffic for the surrounding property owners. The Commission also determined that the maintenance and upkeep of the subject property is a detriment to the surrounding properties and could potentially worsen by expanding the commercial use. The Commission identified that rather than expand the commercial district, the property would be better suited for a single-family residential home. The Planning Commission voted deny the map amendment due to the request not promoting the public health, safety, and general welfare of the surrounding neighborhood and because the zone change would adversely impact the surrounding residential properties.

Staff Recommendation:
Planning staff recommended approval of the map amendment to the Planning Commission. Per the 2005 Master Plan, the subject property is located in the Greentree Road Opportunity Area and is identified as “neighborhood preserve and enhance.” Staff feels that the zone change would allow the owner to enhance the existing business by offering additional parking and amenities to the surrounding neighborhood that uses the convenience store. Staff thinks that the investment made in screening/buffering would be beneficial to the surrounding properties by visually lessening activities on the convenience store property. Staff also feels that the creation of additional parking spaces would positively help alleviate on-street parking and traffic safety concerns. If approved, the proposed zone change would not cause spot zoning and would be consistent with the adjoining B-1 Neighborhood Business Zoning District properties that are located to the South of the property.

PUBLIC NOTICE REQUIREMENT:
Per the Middletown Development Code notice requirement, public notice was provided to all owners within 200 feet of the subject property and notice was published in the Middletown Journal. Comments received from neighboring properties identified traffic visibility issues, property screening issues, and property maintenance issues concerning trash/debris. One comment pertains to a gas station; however the use would not meet Middletown Development Code requirements.

Rebecca Wieser, Property Owner (comment received VIA Email: beckywieser@sbcglobal.net)
I hope you really reconsider putting gas pumps on Highland Street at that intersection. It is busy enough with two convenience markets on that corner. I own two homes on Carolina Street behind where the gas pumps will go. I do not want them there.

Brad Brubaker, Property Owner (comment received VIA email: brdmbru@gmail.com)
I own property on Carolina Street that I rent to my daughter. We have no objection to the rezoning as long as the owner is required to put in a 2’ to 3’ grass hill between the 2 properties and install an 8’ fence along with bushes on the top of the hill across the entire property and maintain the fence and keep it in good repair the bushes would be installed on our side of the fence. We would also ask that the fence be terminated on both ends so people do not have access to the properties and the trash does not blow into our yard. People in the neighborhood currently walk down our drive to get to the business on the corner and trash blows into our yard currently from that lot. I would also suggest they be
required at minimum to install an 8' fence along the property line of 1813 Highland.
Gordon Hensley, Property Owner (comment received VIA Phone)
Protesting – this is a very high traffic street and have trouble backing out of the driveways. We do not need another drive-through. Can’t hardly get out their driveway with the two convenience stores across from one another.
Brenda Maze (Property Owner) – 1820 Highland Street (comment received VIA Phone): We don’t need any more traffic because it is terrible. We have a hard enough time turning off of Burbank onto Highland Street. The property is always a mess and there is trash, rappers, and cans all over the property that blows onto all of the surrounding neighbors’ properties. The owner does not have the trash picked up and the property looks terrible. We want to see the property sold and another residential home built.

OTHER DEPARTMENT COMMENTS:
The map amendment was provided to City Departments for review.
No comments were received.

MAP AMENDMENT REVIEW CRITERIA:
Recommendations and decisions on map amendments shall be based on consideration of the following review criteria. Not all criteria may be applicable and each case shall be determined on its own facts.
1. The proposed amendment is consistent with the master plan, other adopted City plans, and the stated purposes of the Middletown Development Code;
2. The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions;
3. The proposed amendment will promote the public health, safety, and general welfare;
4. The proposed amendment is consistent with the stated purpose of the proposed zoning district;
5. The proposed amendment is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated; and/or
6. The proposed amendment is not likely to result in significant adverse impacts upon other property in the vicinity of the subject lot.

At 5:43 p.m. Ms. Condrey opened the public hearing and called for those who wanted to speak in favor of the Planning Commission’s recommendation to deny the zoning request. Hearing none, she called for those who wished to speak in opposition to the Planning Commission’s recommendation.

John Herr, 400 S. Main Street, the attorney for the applicants, spoke in opposition to the Planning Commission’s recommendation. He stated that times do change. Right now, the property is a zoning nightmare, consisting of small chunks of B1 properties. Once combined will be a fairly robust B1 and will fall under the new rules requiring buffering, fencing and landscaping. If this matter is studied objectively this is an upgrade to an existing business that will also be an upgrade for the neighborhood. This is a classic convenience store that caters to the neighborhood regulars and will not bring any more traffic. There is no evidence that the change would represent any additional burden to the neighborhood.

At 5:51 p.m. the public hearing was closed.

COUNCIL COMMENTS
Ms. Vitori
Ms. Vitori offered her condolences to the family and loved ones of James Hutchinson. She encouraged people to put their feelings into community action, there are many opportunities to give back to the community.

Mr. Mulligan
Mr. Mulligan offered his condolences to the friends and family of James Hutchinson. It is times like these that you try to make sense of the senseless and explain the inexplicable but there are no answers just grief and sadness. I pray that they find peace.

Mr. Moon
Mr. Moon echoed his colleagues’ sentiments of sympathy. It is heart breaking and tragic. A six-year-old child should not lose his life. We need to embrace and love those that are hurting.

Ms. Nenni
Ms. Nenni commented that you can hear the pain in the voices of parents during these times. She encouraged everyone to come together and serve the community and help prevent these tragic situations. She expressed her appreciation to local small businesses for being creative and trying new things in difficult times. As a small business owner, I can appreciate the need to change your business model and adapt.

Ms. Condrey
Ms. Condrey sent her condolences to the family of James Hutchinson and urged the community to come together and do some incredible things in his honor. She reported that Ohio Mayors Alliance’s Mayors and Police Chief’s Leadership Committee met and it shows that Ohio is on the leading edge of things when it come to collaboration. Three Police Chiefs from Canton, Cincinnati and Lima met with the Mayors of Youngstown, Springfield, Euclid, Beavercreek and
Middletown to discuss policies and procedures, communication and training. We will be discussing how to share resources across the state, support our police departments and keep accountability a high priority. I will keep everyone up to date on how it goes. I plan to bring up some of the things we discussed about homelessness and social services related to that, and also collaborating on those issues. We need to tighten up on the open meetings law and sunshine issues and need to be communicating with our citizens properly. There were some last-minute changes some board and commission meetings, less than 24 hours prior to the meeting. The February 15th Airport Commission meeting was changed from in person to virtual less than 4 hours before the meeting was scheduled to start. I did not see any public notice about the Port Authority meeting on February 19th and apparently there is a new board and commission the Energy Special Improvement District. She warned her fellow City Council members about copying each other on emails related to things that might decide on.

EXECUTIVE SESSION

At 6:02 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, 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, 509.40 to 509.43, 509.61 to 509.69, 507.73 to 507.75, or 507.77 to 507.81 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.
Ms. Nenni seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori.

At 7:37 p.m. Mr. Mulligan moved to return to regular session. Ms. Nenni seconded. Motion carried. Ayes: Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Nenni, Ms. Vitori.

CONSENT AGENDA

Confirm the personnel appointments of Michael David Spears to the position of part-time Community Security Officer and of Renee Athey to the position of Corrections Officer in the Department of Public Safety, Division of Police.
Receive and file Fiscal Officer’s Certificate for Income Tax Revenue Bonds.
Authorize the purchase of approximately 800 residential water meters from Badger Meter, Inc. of Milwaukee, WI, in the amount of $74.89 each.
Confirm the following Board and Commission Appointments:
Architectural Review Board- Tal Moon to serve as the City Council Alternate
Middletown Visitors Bureau- Majisola Collins
Building and Housing Board of Appeals: Greg Martin, Mike Taylor, Rita Ratliff
Mr. Mulligan moved to approve the issues and actions listed on the Consent Agenda. Mr. Moon seconded. Motion carried. Ayes: Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon.

MOTION AGENDA

Approve a contract with RedZone Robotics for Sewer Condition Assessment
Contract with RedZone Robotics
Mr. Mulligan moved to approve a contract with RedZone Robotics for Sewer Condition Assessment. Ms. Condrey seconded. Motion carried. Ayes: Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon, Mr. Mulligan.

Waive Charter
Mr. Mulligan moved to suspend the Charter provision that requires reading on two separate days and to declare Ordinance No. O2021-19, Resolution No. R2021-08, Resolution No. R2021-09, Resolution No. R2021-10 and Ordinance No. O2021-20 emergency measures to be read one time only. Mr. Moon seconded. Motion carried. Ayes: Ms. Vitori, Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey.

Res. No. R2021-07 Amend Appropriations
Resolution No. R2021-07, 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, 2021 was read for the second time. (General Fund)
Mr. Mulligan moved to approve Resolution No. R2021-07, 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, 2021. Mr. Moon seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori.
Ord. No. 02021-16, an ordinance establishing a procedure for and authorizing a contract with Gillig, LLC and Butler County Regional Transit Authority for the purchase of a 35-foot diesel bus was read for the second time.

Mr. Mulligan moved to approve Ordinance No. 02021-16, an ordinance establishing a procedure for and authorizing a contract with Gillig, LLC and Butler County Regional Transit Authority for the purchase of a 35-foot diesel bus. Ms. Condrey seconded. Motion carried. Ayes: Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Nenni, Ms. Vitori.

Ord. No. 02021-17, an ordinance amending Ordinance No. 02020-69 establishing the pay ranges, pay policy and benefits for various salaried and hourly classifications within the service of the City that are hired prior to 2018 was read.

Ms. Condrey moved to amend Ordinance No. 02021-17 and create two separate ordinances with the Assistant City Manager position in Ordinance No. 02021-17 and the Development Services Director position in Ordinance No. 02021-23. Ms. Nenni seconded. Motion carried. Ayes: Ms. Condrey, Ms. Nenni, Mr. Moon, Mr. Mulligan. Nays: Ms. Vitori.

Mr. Mulligan moved to approve Ordinance No. 02021-17, an ordinance amending Ordinance No. 02020-69 establishing the pay ranges, pay policy and benefits for various salaried and hourly classifications within the service of the City that are hired prior to 2018. Ms. Nenni seconded. Motion carried. Ayes: Ms. Vitori, Ms. Nenni, Mr. Moon, Mr. Mulligan. Nays: Ms. Condrey.

Ord. No. 02021-18, an ordinance amending Ordinance No. 02020-70 establishing the pay ranges, pay policy and benefits for various salaried and hourly classifications within the service of the City that are hired January 1, 2018 or later was read for the first time.


Mr. Mulligan moved to approve Ordinance No. 02021-18, an ordinance amending Ordinance No. 02020-70 establishing the pay ranges, pay policy and benefits for various salaried and hourly classifications within the service of the City that are hired January 1, 2018 or later. Ms. Nenni seconded. Motion carried. Ayes: Mr. Mulligan, Ms. Vitori, Ms. Nenni, Mr. Moon, Ms. Condrey. Nays: Ms. Condrey.

Ord. No. 02021-19, an ordinance amending Ordinance No. 02020-70 establishing the pay ranges, pay policy and benefits for various salaried and hourly classifications within the service of the City that are hired January 1, 2018 or later was read.

Mr. Mulligan moved to approve Ordinance No. 02021-19, an ordinance amending Ordinance No. 02020-70 establishing the pay ranges, pay policy and benefits for various salaried and hourly classifications within the service of the City that are hired January 1, 2018 or later. Ms. Nenni seconded. Motion carried. Ayes: Ms. Vitori, Ms. Nenni, Mr. Moon, Mr. Mulligan.

Ord. No. 02021-20, an ordinance amending Ordinance No. 02020-70 establishing the pay ranges, pay policy and benefits for various salaried and hourly classifications within the service of the City that are hired January 1, 2018 or later was read.

Mr. Mulligan moved to approve Ordinance No. 02021-20, an ordinance amending Ordinance No. 02020-70 establishing the pay ranges, pay policy and benefits for various salaried and hourly classifications within the service of the City that are hired January 1, 2018 or later. Ms. Nenni seconded. Motion carried. Ayes: Mr. Mulligan, Ms. Vitori, Ms. Nenni, Mr. Moon. Nays: Ms. Condrey.

Mr. Mulligan moved to amend Ordinance No. 02021-20 and create two separate ordinances with the Assistant City Manager position in Ordinance No. 02021-20 and the Development Services Director position in Ordinance No. 02021-26. Ms. Nenni seconded. Motion carried. Ayes: Ms. Condrey, Ms. Nenni, Mr. Moon, Mr. Mulligan. Nays: Ms. Vitori.

Mr. Mulligan moved to approve Ordinance No. 02021-20, an ordinance amending Ordinance No. 02020-70 establishing the pay ranges, pay policy and benefits for various salaried and hourly classifications within the service of the City that are hired January 1, 2018 or later. Ms. Nenni seconded. Motion carried. Ayes: Mr. Mulligan, Ms. Vitori, Ms. Nenni, Mr. Moon. Nays: Ms. Condrey.

Ord. No. 02021-21, an ordinance providing for the issuance and sale of income tax special obligation bonds in the maximum principal amount of $31,600,000, for the purpose of paying the costs of the construction and improvement of streets and roadways in the City where necessary and appurtenances thereto, including but...
<table>
<thead>
<tr>
<th>Resolution No.</th>
<th>Description</th>
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<tbody>
<tr>
<td>R2021-08</td>
<td>Contract with OZH &amp; R&lt;br&gt;Middletown, LLC for pre-development planning related to redevelopment of City-owned assets in downtown Middletown and declaring an emergency. Mr. Moon seconded. Motion carried. Ayes: Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Nenni, Ms. Vitori.</td>
</tr>
<tr>
<td>R2021-09</td>
<td>Amendment to Appropriations&lt;br&gt;Resolution No. R2021-09, 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, 2021 and declaring an emergency. Ms. Nenni seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori.</td>
</tr>
<tr>
<td>R2021-10</td>
<td>Amendment to Appropriations&lt;br&gt;Resolution No. R2021-10, a resolution extending the moratorium on the issuance and processing of any building permits or certificates of occupancy allowing standalone businesses providing massage therapy, relaxation massage services or the like within the City of Middletown for 90 days and declaring an emergency was read. Mr. Mulligan moved to approve Resolution No. R2021-10, a resolution extending the moratorium on the issuance and processing of any building permits or certificates of occupancy allowing standalone businesses providing massage therapy, relaxation massage services or the like within the City of Middletown for 90 days and declaring an emergency. Ms. Condrey seconded. Motion carried. Ayes: Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori, Ms. Nenni, Ms. Vitori.</td>
</tr>
<tr>
<td>R2021-11</td>
<td>Resolution No. R2021-11, a resolution declaring the necessity of repairing certain sidewalks and driveway aprons in the City of Middletown, requiring that abutting property owners repair the same and declaring an emergency was read with no action requested until March 16, 2021.</td>
</tr>
<tr>
<td>R2021-12</td>
<td>Resolution No. R2021-12, a resolution authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Federal Transit Administration Act of 1991, as amended was read for the first time.</td>
</tr>
<tr>
<td>R2021-13</td>
<td>Resolution No. R2021-13, a resolution authorizing the filing of applications for CY 2022 with the Ohio Department of Transportation for grants under the Ohio Public Transportation Grant program was read for the first time.</td>
</tr>
<tr>
<td>R2021-14</td>
<td>Resolution No. R2021-14, 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, 2021 was read for the first time. (General – Fire)</td>
</tr>
<tr>
<td>R2021-15</td>
<td>Resolution No. R2021-15, 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, 2021 was read for the first time. (Appropriation Transfer – General Fund)</td>
</tr>
<tr>
<td>R2021-16</td>
<td>Resolution No. R2021-16, a resolution to declare the necessity of repairing certain sidewalks and driveway aprons in the City of Middletown, requiring that abutting property owners repair the same and declaring an emergency was read. Mr. Mulligan moved to approve Resolution No. R2021-16, a resolution to declare the necessity of repairing certain sidewalks and driveway aprons in the City of Middletown, requiring that abutting property owners repair the same and declaring an emergency. Ms. Condrey seconded. Motion carried. Ayes: Mr. Mulligan, Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon.</td>
</tr>
<tr>
<td>R2021-17</td>
<td>Resolution No. R2021-17, a resolution declaring the necessity of repairing sidewalks, driveways, and driveway aprons in the City of Middletown, requiring that abutting property owners repair the same and declaring an emergency was read. Mr. Mulligan moved to approve Resolution No. R2021-17, a resolution declaring the necessity of repairing sidewalks, driveways, and driveway aprons in the City of Middletown, requiring that abutting property owners repair the same and declaring an emergency. Ms. Condrey seconded. Motion carried. Ayes: Mr. Mulligan, Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon.</td>
</tr>
<tr>
<td>R2021-18</td>
<td>Resolution No. R2021-18, a resolution declaring the necessity of repairing sidewalks, driveways, and driveway aprons in the City of Middletown, requiring that abutting property owners repair the same and declaring an emergency was read. Mr. Mulligan moved to approve Resolution No. R2021-18, a resolution declaring the necessity of repairing sidewalks, driveways, and driveway aprons in the City of Middletown, requiring that abutting property owners repair the same and declaring an emergency. Ms. Condrey seconded. Motion carried. Ayes: Mr. Mulligan, Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon.</td>
</tr>
<tr>
<td>R2021-19</td>
<td>Resolution No. R2021-19, a resolution declaring the necessity of repairing sidewalks, driveways, and driveway aprons in the City of Middletown, requiring that abutting property owners repair the same and declaring an emergency was read. Mr. Mulligan moved to approve Resolution No. R2021-19, a resolution declaring the necessity of repairing sidewalks, driveways, and driveway aprons in the City of Middletown, requiring that abutting property owners repair the same and declaring an emergency. Ms. Condrey seconded. Motion carried. Ayes: Mr. Mulligan, Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon.</td>
</tr>
<tr>
<td>R2021-20</td>
<td>Ordinance No. O2021-20, an ordinance an ordinance authorizing a contract with OZH&amp;R Middletown, LLC for pre-development planning related to redevelopment of City-owned assets in downtown Middletown and declaring an emergency was read. Mr. Mulligan moved to approve Ordinance No. O2021-20, an ordinance an ordinance authorizing a contract with OZH&amp;R Middletown, LLC for pre-development planning related to redevelopment of City-owned assets in downtown Middletown and declaring an emergency. Mr. Moon seconded. Motion carried. Ayes: Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon, Mr. Mulligan.</td>
</tr>
<tr>
<td>R2021-21</td>
<td>Ordinance No. O2021-21, an ordinance denying a request to change the zoning classification for one parcel located at 1817 Highland Street from R-4 (Attached Residential District) to B-1 (Neighborhood Business District) was read for the first time.</td>
</tr>
<tr>
<td>R2021-22</td>
<td>Ordinance No. O2021-22, an ordinance amending Chapter 1041 of the Codified Ordinances was read for the first time.</td>
</tr>
<tr>
<td>R2021-23</td>
<td>Resolution No. R2021-23, a resolution authorizing the filing of an application for the Ohio Public Transportation Grant program was read for the first time.</td>
</tr>
<tr>
<td>R2021-24</td>
<td>Resolution No. R2021-24, a resolution authorizing the filing of applications for CY 2022 with the Ohio Department of Transportation for grants under the Ohio Public Transportation Grant program was read for the first time.</td>
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</table>
At 8:30 p.m., the meeting was declared adjourned until March 16, 2021 at 5:30 p.m. in Council Chambers.

Nicole Condrey, Mayor

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

**ROLL CALL**

**CITIZEN COMMENTS**
Dan Mayzum, the owner of the Carnegie Library building located at 1320 First Avenue asked about the status of the Oakland Historic District being added to the National Register. It was put on hold because of COVID. Until it is on the National Registry, the tax credits for my $1.3M project are in jeopardy. The same goes for anyone that has purchased a home there in the last twelve months; the home prices and sales in the Oakland neighborhood have increased dramatically. I need to know the status of the final paperwork so that I can get my project moving forward. I cannot apply for tax credits until the process is completed.

John O’Flynn, 2213 Woodlawn Avenue and Chris Mack, 404 Aberdeen asked Council to consider a handicap spot to be established at 222 Franklin Street. The resident is wheelchair bound and the street has a lot of congestion that makes it difficult to park.

Jason Wargo, Detective Jason Wargo, Healthcare Committee member, commented on the Ordinances 2021-17 and 18. The person who benefitted from these ordinances was in charge of the health care for the City. At a previous meeting, the Healthcare Committee had asked for an increase of $25,000 to lower employees’ co-pays and prescription costs; the request was denied. The person who was in charge of the Healthcare Committee received a benefit from the savings of the employee healthcare fund. It looks bad to the employees. It was $25,000 out of a $1.6M budget.

Ms. Cohen explained that the Healthcare Committee that is set up for employees is a longstanding committee. The bylaws and agreements that were made in joining that committee was that the City would set the budget for healthcare and the committee would be responsible for choosing the plans and effectively spending that budget. The question that came up last year about the $25,000 was a question about spending over what the projected budget. The committee was asking to deficit spend. The committee’s ability is to spend the budget that is assigned, not deficit spend. The request was denied because it was to overspend the assigned budget, which is outside of the committee’s bylaws. Mr. Burton explained the healthcare fund savings at the last Healthcare Committee meeting but we will be happy to sit down with any employees that still have questions.

**COUNCIL COMMENTS**
Ms. Vitori commented that it was good to be back in person now that her parents have been fully vaccinated. She thanked the Health Department and stated that she has received great reviews about the experiences people are having at the vaccination clinics. She thanked Jake Burton for his service to the City and added that he was the ideal Finance Director. She expressed her appreciation to DMI for bringing events and people back downtown. She acknowledged the great social media content from the Economic Development.

Mr. Mulligan expressed his gratitude to Jacob Burton for his professionalism and commented that Fairfield’s gain is Middletown’s loss. He clarified that he is excited about the upcoming paving project in the City and to be investing in the City’s infrastructure. He wished everyone a safe and happy St. Patrick’s Day.

Mr. Moon commented that some questions were asked a few weeks ago about boards and commissions. I hope Mr. Palenick will clarify some of those in his comments. In my experience, I have found that if I am looking to effect change in a person’s actions or procedures calling them out publicly or embarrassing them is not the way to get the desired result. I prefer to bring it to them privately or to their supervisor and I find that policy yields much more effective results. I hope that as a Council we can adopt a similar approach.

Ms. Nenni commented that the City was sad to see Mr. Burton go. His hard work had seen the City through some of the most difficult years imaginable. She wished him the best. She acknowledged the City through some of the most difficult years imaginable. She wished him the best. She expressed her appreciation to all of the City staff members that work to make sure that the City of Middletown turns steadily on its axis every day. It is an exciting time to be a Middletonian. You all are integral to the plans that will improve this City for generations to come. Mr. Palenick’s leadership continues to push us into the future, and I cannot wait to see what lies ahead for Middletown.

Ms. Condrey thanked Mr. Burton for his service to the City. City staff is working to collaborate with some community partners on the homelessness issue. We have been in communication with other elected officials and looking at how we can work on it from a bigger perspective. It is a very rare situation where I would ever say anything up here that I haven’t already started a communication about elsewhere. I do my research and I really am trying to help everyone in the right way.

**CITY MANAGER REPORTS**
Mr. Palenick introduced Ms. Manning, Natural Resources Coordinator, Public Works and Utilities Department. Ms. Manning introduced Sarah Evans from the V3 Company. Ms. Evans
reported that V3 along with Human Nature has been hard at work over the last few months. We have moved from the Awareness Phase into the Exploration Phase.

### Awareness Phase (May 2020–Feb 2021)
- Desktop Review + Mapping
- Park Inventory
- Stakeholder Identification + Public Engagement Strategy
- Public Meeting + Survey
- Analysis
- Needs Assessment

### Exploration Phase (Feb–Mar 2021)
- Concepts Development
- Stakeholder Input
- Concepts Refinement
- Stakeholder Input
- Public Meeting

### Vision Phase (April–June 2021)
- Preferred Concept
- Preliminary Master Plan
- Stakeholder Input
- Public Meeting
- Finalize Master Plan

We have gathered information during the first phase and now we are exploring concepts based on the feedback that we gathered. We had 230 responses to the survey which was conducted through a combination of hard copy and online sources. The majority of the survey participants live in Middletown. We learned that the City has a lot of strengths that we can build on as we look at park and recreation opportunities over the next ten years.

**System-Wide Basic Needs, Gaps, Aspirations**

**What would you like to see in Middletown parks? What’s missing? (top 7 shown)**

- **Safety/Lighting/Maintenance**: 33 (19%)
- **Restrooms**: 31 (18%)
- **Trails**: 18 (10.3%)
- **Aquatics**: 18 (10.3%)
- **Playgrounds**: 17 (9.8%)
- **Programming**: 17 (9.8%)
- **Dog Park**: 15 (8.6%)
Ms. DiLandro, Human Nature, provided information about park connectivity.

System Connectivity: Parkways

System Connectivity: Boulevards
System Connectivity: **Parkways & Boulevards**

System Connectivity: **Blueways**

System Connectivity Opportunities
Ms. Manning clarified that the survey wrapped up in December. We worked through the survey information and from that we began concept development. The connectivity systems have been identified as well as special interest areas within the City. The Parks Master Plan has been paralleled with the Comprehensive Master Plan. We will be meeting with stakeholders on March 23rd and have public meetings March 26th and April 2nd. Once we receive the feedback and public input from these meetings, we will work to further refine these concepts.

Mr. Palenick stated that there were questions concerning the public notice provided for the ESID and Port Authority board meetings. He explained that an ESID is an Energy Special Improvement District that is in place to provide for green energy improvements in buildings. Both the ESID and the Port Authority are separate political subdivisions. Public notice requirements are very different from the City’s traditional boards and commissions. We did provide adequate public notice that was both legal and consistent with what is expected by the bylaws of each case. It was on the website for the meeting of the Port Authority and legal notice was provided both for the ESID and the Port Authority.

Mr. Palenick read the following press release:

Vaccination

Middletown Health Department Updates Vaccination Registration to Collaborate with Ohio Department of Health Registration Website Middletown, OH (March 16, 2021)

Beginning this Friday, March 19, 2021, all Ohioans age 40 and up are eligible to receive the COVID Vaccine. Additionally, beginning Monday, March 29, all adults age 16 and up are eligible to receive the vaccine. Due to the high volume of Ohioans that will be newly eligible, the City of Middletown Health Department will be collaborating with the Ohio Department of Health and transitioning the City of Middletown’s registration process to the State system. Therefore, the current site, covid.cityofmiddletown.org will be redirected for interested parties to register at: gettheshot.coronavirus.ohio.gov after end of business Wednesday, March 17, 2021. Anyone that previously registered on the Middletown Health Department vaccination site, don’t worry, your information will be uploaded into the new system and you will receive a call to schedule your vaccine at a future Middletown vaccination clinic. Again, the City of Middletown’s COVID registration site will be redirected to the State vaccination registration site where you will now register and be able to search for a future clinic near you.

Mr. Palenick explained that the Airport Commission changed their February 15, 2021 meeting from in-person to via zoom for the safety of the meeting participants due to a Level 1 snow emergency. Mr. Palenick stated that it was entirely appropriate. The meeting day and time were not changed just the manner in which the members would be participating.

Ms. Condrey asked if citizens were given a link to participate in that meeting.

Mr. Palenick stated that he didn’t think so but in an emergency case, that may not have been
Ms. Condrey stated that Ohio’s Open Meetings Laws state that you can do that only if there is a binding decision that needs to be made by that board or commission that cannot wait. She expressed her doubt that that was case in this instance.

EXECUTIVE SESSION
At 6:06 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. Nenni seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori.

At 6:28 p.m. Mr. Mulligan moved to return to regular session. Ms. Nenni seconded. Motion carried. Ayes: Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Nenni, Ms. Vitori.

CONSENT AGENDA
Approve the City Council Minutes November 17 and December 1, 2020
Receive and file board and commission minutes
Airport Commission- November 16, December 21, 2020 & January 18, 2021
Board of Health- January 21, 2021
Confirm the personnel appointments of Rashawn Coston to the position of Corrections Officer and Jonathon Zachary Hoover to the position of part time Community Security Officer in the Department of Public Safety, Division of Police.
Confirm the reinstatement of William Ross Green to the position of Firefighter paramedic in the Department of Public Safety, Division of Fire.
Request approval for a contract with Brechbuhler Scales, Inc., of West Chester, Ohio, for the pit truck scale replacement at the Water Reclamation Facility in the amount of $61,778.
Confirm the following board and commission appointments:
Citizens Advisory Board to the Police : Wanda Glover representing the 2nd Ward Community Council, Rick Pearce representing the Chamber of Commerce, Ruth Kelly representing the Ministerial Alliance.
Energy Special Improvement District (ESID): Tal Moon as Council Representative
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.

MOTION AGENDA
Authorize the City Manager to enter into a contract with Barrett Paving Materials, Inc. to proceed with the Great Connection Bike Path Phase 7 project (ODOT PID# 113363).
Ms. Nenni commented that City Council relies on City staff and City leadership to navigate the City’s Master Plan and make recommendations that we believe will enhance and improve our City. In this case, staff recommended approval of the zone change and the Planning Commission denied the request. I performed my own research and found that the property owners responded to all of the requests made by City staff and worked to address neighborhood concerns and put landscaping and barriers in place. They invested in architectural drawings that
were not required for a zone change so that we could have a clear picture of their plan. They represented themselves at the public hearing and at the first reading. I believe that they are investing in their neighborhood and have the calls for service record to prove it. The only two calls were made by the business owners for an abandoned vehicle and an instance of vandalism. The gas station that we discussed last year had dramatically different owners with a mile-long rap sheet from Police and Code Enforcement, and never showed up to make their case in front of Council. The neighborhood concerns in this case were based on trash and traffic, which cannot be attributed to one business in a business district. The property in question will likely never be used for residential because it only has 50’ of road frontage and the City requires 75’. It is a very small parcel of land. I believe the zoning request is reasonable and will provide a great opportunity for a small business to provide the services that their customers are looking for. I respect and appreciate the recommendation of the Planning Commission but based on the information that we have been provided and staff’s recommendation, I believe that reversing this denial is the right thing to do.

Mr. Mulligan stated that it makes it difficult when City Council was provided different information than what was provided to the Planning Commission. Generally, equally informed, reasonable men and women make similar or the same conclusions. I don’t think Planning Commission received everything that was provided to Council. He suggested that the issue be sent back to the Planning Commission.

Mr. Moon concurred, and commented that he values the Planning Commission’s decision.

Ms. Ashley Combs stated that the drawings were based on the comments received from the Planning Commission meeting. They took the comments very seriously and they want to benefit the surrounding community and their business. So, the drawings were not available at the time of the Planning Commission meeting. Ms. Combs stated that to restart the process of having the Planning Commission revisit the zone change request would add 4-6 months to the project timeline. Ms. Combs explained that the Planning Commission looks at the issue strictly from a land use perspective and cannot place any conditions based on drawings that they receive. The elevations, buffering and landscaping would be reviewed internally by City staff. Those are requirements for the addition of the drive-through and the pavement that would be added due to this project. Staff will make sure that it meets code standards. Ms. Combs stated that staff recommends the approval of the zone change.

Ms. Condrey commented that some of the public comments received were not directly related to the zone change request. I think approving this might help some of the neighboring property owners. The business must have the land to use for the drive-through to accommodate trucks and other large vehicles.

Mr. Moon suggested tabling the motion and getting additional feedback from Planning Commission members.

Mr. Mulligan withdrew his motion, Ms. Nenni withdrew her second.

Ms. Nenni moved that Ordinance No. O2021-21 be amended to read: an ordinance denying approving a request to change the zoning classification for one parcel located at 1817 Highland Street from R-4 (Attached Residential District) to B-1 (Neighborhood Business District) and brought back to the April 6th meeting as a second reading. Ms. Vitori seconded. Motion carried.

Ayes: Mr. Mulligan, Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon.

Ord. No. O2021-22
Amend Chapter 1041
Of Codified Ord.

Ordinance No. O2021-22, an ordinance amending Chapter 1041 of the Codified Ordinances was read for the second time.

Mr. Mulligan moved to approve Ordinance No. O2021-22, an ordinance amending Chapter 1041 of the Codified Ordinances. Mr. Moon seconded. Motion carried. Ayes: Ms. Condrey, Ms. Vitori, Ms. Nenni, Mr. Moon, Mr. Mulligan.

Res. No. R2021-12
Federal Transit Grant

Resolution No. R2021-12, a resolution authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Federal Transit Administration Act of 1991, as amended was read for the second time.

Mr. Mulligan moved to approve Resolution No. R2021-12, a resolution authorizing the filing of an application with the Department of Transportation, United States of America, for a grant under the Federal Transit Administration Act of 1991, as amended. Ms. Condrey seconded. Motion carried. Ayes: Ms. Vitori, Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey.

Res. No. R2021-13
State Transit Grant

Resolution No. R2021-13, a resolution authorizing the filing of applications for CY 2022 with the Ohio Department of Transportation for grants under the Ohio Public Transportation Grant program was read for the second time.
Mr. Mulligan moved to approve Resolution No. R2021-13, a resolution authorizing the filing of applications for CY 2022 with the Ohio Department of Transportation for grants under the Ohio Public Transportation Grant program. Ms. Vitori seconded. Motion carried. Ayes: Ms. Nenni, Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Vitori.

Resolution No. R2021-14, 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, 2021 was read for the second time. (General – Fire)

Mr. Mulligan moved to approve Resolution No. R2021-14, 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, 2021. (General – Fire) Mr. Moon seconded. Motion carried. Ayes: Mr. Moon, Mr. Mulligan, Ms. Condrey, Ms. Nenni, Ms. Vitori.

Ordinance No. O2021-25, an ordinance to levy special assessments for the repair of sidewalks, curbs, gutters and driveway aprons in the City of Middletown during the year 2020 against the lots and lands benefitted by said improvements was read for the first time.

NEW BUSINESS

Garbage pick-up and litter issues and concerns were discussed including reporting and enforcement.
Ms. Combs provided an update on the residential housing planned for Reinartz Boulevard and Clark Street. The owner has placed all of his projects on hold but hopes to start the townhomes early fall 2021.
Ms. Vitori asked for an update on the Goetz Tower. The crews have started working.
There was a walk through of the Lincoln School for firms interested in demolishing the building.

ADJOURNMENT

At 8:15 p.m., the meeting was declared adjourned until April 6, 2021 at 5:30 p.m. in Council Chambers.

Nicole Condrey, Mayor
MIDDLETOWN CEMETERY BOARD
MINUTES
JANUARY 20, 2021

CEMETERY BOARD: Fred Tyson, Deb Snider, Ken Blandford, Charlene Kinyalocots, Beth Birch

COUNCIL REPRESENTATIVE: Mayor Nicole Condrey

STAFF: Donna Beuregard, Public Works Parks Leader – Parks & Grounds

MEETING: Called to order at 5:02 p.m.

ROLL CALL

Present: Ken Blandford, Charlene Kinyalocots, Fred Tyson, Deb Snider and Beth Birch.

Also present was City Council Representative, Mayor Nicole Condrey, and City Staff Representative, Parks Leader, Donna Beuregard.

APPROVAL OF MINUTES

Deb Snider made a motion to approve the October 21, 2020 Minutes. Charlene Kinyalocots seconded. Motion passed.

ELECTION OF OFFICERS

Donna Beuregard opened the floor for nominations for Chair for 2021. Ken Blandford made the motion to nominate Deb Snider for Chair. Deb turned down the nomination. Deb then made the motion to nominate Ken Blandford for Chair. Fred Tyson seconded. There were no other nominations. Donna then opened the floor for nominations for Vice-Chair for 2021. Charlene Kinyalocots made the motion to nominate Beth Birch for Vice-Chair. Deb seconded. There were no other nominations. Both motions passed.

AUDIENCE COMMENTS

OLD BUSINESS

Financial Report:


Updated Priorities List:

Donna Beuregard distributed copies of the updated priorities list. Charlene Kinyalocots asked to have pergola added to the list. Obtaining a large rock for a Veterans Memorial was then discussed. Deb Snider said she has been unable to contact anyone at Journey. Several other businesses were discussed to approach about the rock donation. Beth Birch said she would contact Watson's Gravel, and see if they have a large rock to donate. Deb suggested the rock should be around 5' tall and 3' wide. Deb then mentioned she had been told by Woodside Cemetery, the rock would need to be placed on a cement pad. Donations would be needed to pay for this and for the bronze plaque to be placed on the rock. The potential location of the memorial was also discussed. It was decided that lighting for the inside of the vault could wait until the plan for the museum was more formulated. "The box" for the vault museum was then discussed. Charlene Kinyalocots suggested we take a picture of what the Board has in mind, and get a price from Alex Webb to build it. Ken Blandford then discussed the windows on the vault. He said they are stucco now, over the brick, and painted black. He had contacted Discount Glass to get a price to install a painted polycarbonate material. He reported the cost would be $1751 for four windows. He volunteered to repair the stucco and repaint with a color matching the stone around the windows. Charlene made the motion for Ken to do this. Fred Tyson seconded. Motion passed. Donna mentioned to Ken to email her with the costs for the materials. The Board will vote on these expenditures via email. Possible locations for the pergola were then discussed. The security cameras from the list were then brought up. Board felt the new, automatic front gate had really helped with the vandalism, and that the cameras were no longer needed. Possible locations for the pergola were discussed.

Beth Birch asked what the policy was regarding the maintenance of plants located next to gravesites. Donna Beuregard told her she was free to prune or cut back any plants not being maintained by the owner of the plot. Charlene Kinyalocots then discussed what the Board had done in the past on Keep Middletown Beautiful's Earth Day Event and with AK Steel volunteers. Beth then shared family pictures of the cemetery from the '70's.

Beth Birch then reported on the costs she obtained to resurface the roads in the cemetery. She said the cost for 321 tons of crushed slag, delivered, would be under $2,000. For crushed gravel, delivered, it would be between $4- and $5,000. The idea of doing a section a year was discussed, due to the high cost.

NEW BUSINESS

Maintenance Report:

Donna Beuregard reported the Parks crew had repaired several small slits and openings in the fence along Richmond Street, on the west side of the cemetery. She also reported the Swamp White Oak, from the City's Grounds Division, was planted by the crew on November 11, 2020. It is located in the circle area, behind the Children's Memorial Bench.
Schedule of Meeting for 2021:

Donna Beauregard listed the dates of Board meetings for the remainder of 2021. They are April 21, July 21, and October 20.

BOARD MEMBERS’ COMMENTS

Deb Snider stated she was glad to be back on the Board.

OTHER

Next Cemetery Board meeting will be April 21, 2021.

ADJOURN

Deb Snider motioned to adjourn the meeting, Ken Blandford seconded, motion passed. Middletown Cemetery Board adjourned at 6:10 p.m.

[Signatures]

Beth A. Birch, Chair

Ken Blandford, Chair

Beth Birch - Vice-Chair

Donna Beauregard, Secretary
ROLL CALL

Meeting called to order

Members present:  Tom Brickey, Chair
                  Bill Becker, Vice-Chair
                  Kathleen Batliner

Staff Present:  Kay Sauer, Civil Service Secretary
                Ashley Combs, Planning Director

APPROVAL OF MINUTES

Motion: Moved by Mr. Becker to approve the minutes of the meeting held January 21, 2021. Ms. Batliner seconded the motion. Motion passed.

NEW BUSINESS

1. Eligibility Lists

   a. Water Treatment Operator - Kay Sauer advised that an exam was held on February 11, 2021 and there were 4 applicants, 2 passed the written, and 2 failed. The department recommends the two who passed for the eligibility list. She stated that Mr. Becker reviewed the applications prior to the meeting.

   b. Dispatcher – Kay Sauer advised that the written exam was held on February 20, 2021 and there were 18 applicants, 8 passed, 0 failed, and there were 10 no shows. The department recommends leaving all 8 on the list. She stated that Mr. Becker reviewed the applications prior to the meeting.

      Motion: Moved by Mr. Becker to approve the eligibility lists for positions of Water Treatment Operator and Dispatcher. Mr. Brickey seconded the motion. Motion passed.

   c. Patrol Officer – Kay Sauer advised that the following requested to have their names remain on the eligibility list for Patrol Officer for an additional year: Jeremiah Fernbaugh, extended until August 5, 2022; Addison Gates, Heather Lakes, and Joseph Lietz extended until July 15, 2022.

      Motion: Moved by Mr. Brickey to approve the request from Jeremiah Fernbaugh to remain on the eligibility list for Patrol Officer for an additional year extending his name until August 5, 2022; and to approve the requests from Addison Gates, Heather Lakes, and Joseph Lietz to extend their names until July 15, 2022. Ms. Batliner seconded the motion. Motion passed.
2. **Position Description – Permit Specialist**
   Ashley Combs, Planning Director, was present via zoom for discussion. Ms. Sauer advised that the Permit Specialist is a new position in 2021 and the position description is being brought before Civil Service for approval. She further stated that they are requesting that the position be filled by exceptional appointment due to the requirements of the position to obtain a Permit Technician Certification through International Code Council (ICC) with 6 months of hire date. Ms. Combs discussed the importance of this new position with Commission in working towards a one-stop shop giving immediate answers and being business and residential friendly. She stated that this person will work closely with Building Inspection, Zoning and Public Works. Mr. Becker and Mr. Brickey commented that they were happy to hear that the City is working towards improving the process. **Motion:** Moved by Mr. Brickey to approve the position description for Permit Specialist and to approve filling the position by exceptional appointment. Ms. Batliner seconded the motion. **Motion passed.**

3. **Update on Job Announcements/Exams**
   Ms. Sauer updated Commission on the Patrol Officer Exam. She stated that they would be bringing a list to the next meeting for certification.

**REPORTS**

1. **Personnel Transactions**
   Commission received the Personnel Transactions for the month of January 2021.

**ADJOURN**

**Motion:** Moved by Ms. Batliner to adjourn the meeting. Mr. Becker seconded the motion. **Motion passed.**

Tom Brickey, Chair

Approved: 3-18-2021
MIDDLETOWN CIVIL SERVICE COMMISSION
MEETING MINUTES – MARCH 18, 2021 – 8:00 A.M.
ZOOM MEETING

ROLL CALL

Meeting called to order

Members present:  Tom Brickey, Chair
                  Bill Becker, Vice-Chair
                  Kathleen Batliner

Staff Present:  Kay Sauer, Civil Service Secretary
                Megan Ellis, Human Resources Specialist

APPROVAL OF MINUTES

Motion:  Moved by Mr. Becker to approve the minutes of the meeting held February 25, 2021. Ms. Batliner seconded the motion.  Motion passed.

NEW BUSINESS

1.  Eligibility Lists

   a. Patrol Officer - Megan Ellis advised that there were 58 applicants, 40 passed the written, 3 failed the written, 42 passed the physical agility, 1 was excused from physical due to medical and will reschedule, 0 failed physical agility, and 39 are recommended for the eligibility list. Kay Sauer stated that Mr. Becker reviewed the applications prior to the meeting. Mr. Becker commented that the applicants are impressive on the surface. Ms. Sauer commented that Holly Owens and Earl Nelson are doing a great job recruiting. Motion: Moved by Mr. Becker to approve the eligibility list for the position of Patrol Officer. Mr. Brickey seconded the motion. Motion passed.

   a. Patrol Officer (Request to extend name on list) – Kay Sauer advised that Jacob Irving has requested to have his name remain on the eligibility list for Patrol Officer for an additional year. Ms. Sauer advised that his name will be extended to August 5, 2022. Motion: Moved by Ms. Batliner to approve the request from Jacob Irving to remain on the eligibility list for Patrol Officer for an additional year extending his name until August 5, 2022. Mr. Becker seconded the motion. Motion passed.

1.  Position Description – Mechanic

   Commission reviewed the position description for the position of Mechanic. Mr. Brickey suggested that the word janitorial be changed to housekeeping. Motion: Moved by Mr. Brickey to approve the position description for Mechanic with the suggested change. Ms. Batliner seconded the motion. Motion passed.
2. **Update on Job Announcements/Exams**
   Ms. Sauer updated Commission on the upcoming exam for Mechanic and the job announcement for Permit Specialist.

**REPORTS**

1. **Personnel Transactions**
   Commission received the Personnel Transactions for the month of February 2021.

2. **Civil Service Commission Annual Report of Activities for 2020**
   Commission received the Civil Service Commission Annual Report of Activities for 2020 submitted to the State.

**ADJOURN**

Ms. Sauer advised that the next meeting will be held on April 15, 2021. **Motion:** Moved by Ms. Batliner to adjourn the meeting. Mr. Becker seconded the motion. **Motion passed.**

_Tom Brickey_, Chair

Approved: _4-15-21_
MIDDLETOWN CIVIL SERVICE COMMISSION
MEETING MINUTES – APRIL 15, 2021 – 8:00 A.M.
ZOOM MEETING

ROLL CALL

Meeting called to order

Members present:  Tom Brickey, Chair
                  Bill Becker, Vice-Chair
                  Kathleen Batliner, Member

Staff Present: Kay Sauer, Civil Service Secretary
              Ashley Combs, Development Services Director

APPROVAL OF MINUTES
Motion: Moved by Ms. Batliner to approve the minutes of the meeting held March 18, 2021. Mr. Brickey seconded the motion. **Motion passed.**

NEW BUSINESS

1. **Exceptional Appointment – Permit Specialist**
   Ashley Combs, Development Director, was present for discussion. Kay Sauer advised that there were 32 resumes for the position. Ms. Combs stated that they interviewed a total of 7 candidates and are recommending Jennifer Lyons for the appointment based on her interview and qualifications. Ms. Combs stated that Ms. Lyons is currently employed at Warren County and has experience in processing residential and commercial permits. She further stated that she will be working on getting the required Permit Technician Certification within six months. **Motion:** Moved by Mr. Becker to approve the exceptional appointment for the position of Permit Specialist. Mr. Brickey seconded the motion. **Motion passed.**

2. **Eligibility List – Mechanic**
   Kay Sauer advised that only one person applied for the position and passed the written exam. She reviewed the application with Commission. **Motion:** Moved by Mr. Brickey to approve the eligibility list for the position of Mechanic. Ms. Batliner seconded the motion. **Motion passed.**

3. **Position Description – Engineer**
   Kay Sauer reviewed the revisions to the position description for Engineer with Commission. **Motion:** Moved by Mr. Brickey to approve the position description for Engineer. Mr. Becker seconded the motion. **Motion passed.**

4. **Update on Job Announcements/Exams**
   Commission received the job postings for Senior Electronics Technician and Engineer.

REPORTS

1. **Personnel Transactions**
   Commission received the Personnel Transactions for the month of March 2021.
ADJOURN

Ms. Sauer advised that a special meeting will be held on April 22, 2021. **Motion:** Moved by Ms. Batliner to adjourn the meeting. Mr. Becker seconded the motion. **Motion passed.**

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**Tom Brickey**  
Tom Brickey, Chair

Approved: 4.22.21
PLANNING COMMISSION MINUTES
MARCH 10, 2021

TYPE: Regular Meeting
PLACE: City Council Chambers
TIME: 6:00 P.M.

MEMBERS PRESENT: John Langhorne Todd Moore Jeremy Loukinas
Paul Nenni Roger Daniel Gary Gross
David McCauley-Myers

STAFF PRESENT: Ashley Combs, Planning Director
Devra Wells, Zoning Administrator
Joe Mulligan, Councilman

OTHERS PRESENT: Ron Spaulding Dennis Beatty Gina Gehm

CALL TO ORDER
Vice Chairman Todd Moore called the meeting to order at 6:00 pm and the roll was called by Ms. Combs. Mr. Moore led the Planning Commission in the Pledge of Alliance. Ms. Combs stated that Councilman Joe Mulligan was present for the meeting.

APPROVAL OF PREVIOUS MEETING MINUTES
Mr. Moore introduced the approval of the February 10, 2021 meeting minutes and asked if there were any needed changes. A motion was made by Mr. Nenni and seconded by Mr. Daniel to approve the February 10, 2021 meeting minutes as submitted. The motion for the approval passed unanimously through roll call.

PUBLIC HEARING:
DEVELOPMENT PLAN AMENDMENT #2-21 - 3805 ROOSEVELT BOULEVARD
Ms. Moore introduced the request for amended Development Plan approval for the Wilson-Schramm-Spaulding Funeral Home property located at 3805 Roosevelt Boulevard, Middletown, OH 45044. The amendment is to allow for the construction of a 1,452 sq. ft. garage addition that will be used by the funeral home as a mortuary cooler and human cremation unit.

Ashley Combs, Planning Director, presented the case using a PowerPoint presentation.

Ms. Combs displayed property photos showing the proposed building addition location.

Ms. Combs displayed the zoning map and explained the surrounding zoning designations.

Ms. Combs explained that per the Middletown Development Code, Chapter 1226: Review Authority and Procedures, 1226.04: Planned Development District Review, any change to a Development Plan is required to be reviewed and approved by the City Planning Commission since the proposal will be changing the size of the existing building footprint.
Ms. Combs noted that per City records, the funeral home property is a part of a Planned Development that was originally approved by the City Planning Commission on October 27, 1971.

Ms. Combs stated that per the Middletown Development Code, the uses of cremation and mortuary are consistent with the “Funeral Homes and Mortuaries” use category and are principally permitted. She showed an additional photo of the rear of the existing building.

Ms. Combs displayed a site plan of the proposed addition.

Ms. Combs read the setback requirements for the R-4 Zoning District for nonresidential uses:
Front Yard: 30 feet  
Side Yards: 6 feet  
Rear Yard: 30 feet.  

Ms. Combs stated that per the site plan submitted, the addition will meet the setbacks:
Front Yard: Does not Apply  
Side yard: 91 feet  
Rear yard: 114 feet

Ms. Combs added that the addition will not be taller than one story and will meet the maximum height requirement of 40 feet.

Ms. Combs displayed elevation plans showing the existing structure and proposed addition.

Ms. Combs explained that per the Middletown Development Code, Chapter 1210: Architectural Standards, 1210.04 Design Standards for Nonresidential Development: All building facades are required to be constructed of the following materials: Stone, brick, wood, stucco, cultured stone, cement board, ceramic tile, ceramic block, or exterior insulation finish system (E.I.F.S.).

Ms. Combs stated that per the building elevation plans submitted, the proposed addition with use brick to match the existing funeral home façade.

Ms. Combs explained that per the Middletown Development Code, Chapter 1226: Review Authority and Procedures, public notices were provided to all property owners within 200 feet of the subject property. Public notice was also published in the Middletown Journal per Chapter 208 Public Meetings of the City of Middletown Code of Ordinances, and State law.

Ms. Combs stated that no comments had been received for the proposal.

Ms. Combs noted that the application and plans were provided to all City Departments to review and the following comment was received from the City Engineering Department: The construction plans need to comply with the Engineering Manual of Design (Grading, Storm Water, Utilities, Erosion Control, Traffic, etc.).
Ms. Combs displayed the following review criteria to be used by the Planning Commission:
Chapter 1226: Review Authority and Procedures
1226.04: Planned Development District Review

(1) Major Change
B. Changes that require the approval of only the Planning Commission include, but are not limited to, the following:
   i. Changes in the plans relative to the size and arrangement of buildings, the layout of streets or circulation patterns, the size, configuration and location of common open space, and changes in any approved elements of the PD that may affect adjacent property owners; and
   ii. Amendments to the conditions that were attached to the original PD approval.

Ms. Combs concluded her staff report and pointed out the applicant was in attendance.

Mr. Moore asked if there were questions for staff before opening the public hearing. Hearing none, Mr. Moore opened the public hearing.

Mr. Moore invited anyone who wanted to speak in favor of the project to come forward. Seeing none, Mr. Moore invited anyone to come forward who was in opposition of the request. Seeing none, Mr. Moore closed the public hearing and asked for staff recommendation.

Ms. Combs stated that based on the staff report provided and compliance with the Review Criteria outlined in the Middletown Development Code for a Development Plan Amendment, staff recommends APPROVAL of Development Plan Amendment Case #2-21 for approval for the Wilson-Schramm-Spaulding Funeral Home to construct a 1,452 sq. ft. addition at the property located at 3805 Roosevelt Boulevard, Middletown, OH 45044 with the following condition: Engineering Department comments are met.

Mr. Moore asked if there was a motion by the Planning Commission. Mr. Daniel made a motion to accept staff's recommendation to approve the request. Mr. Nindi seconded the motion for approval. The motion for approval carried unanimously through Planning Commission roll call.

PUBLIC HEARING:

CONDITIONAL USE CASE #2-21 - GROUP HOME - HOLLY'S EDGE

Ms. Moore introduced the request by applicant Partnerships for Housing, on behalf of the owner Abilities First Foundation INC, for conditional use approval to allow for the construction of a building that will have four one-bedroom units to be leased by individuals with developmental disabilities. The property is located in R-3 Medium Density Zoning where a group care home facility is a conditional use. The property is located near the intersection of Regent Drive and Holly Avenue (Parcel ID: Q6541027000019) and is approximately 1.14 acres.

Ms. Combs displayed property photos and noted the property is currently vacant.

Ms. Combs displayed the zoning map and explained the surrounding zoning designations. She stated to the North: Creekview Elementary School (R-3 Zoning District), East: Single Family
Residential Homes (R-3 Zoning District), West: Messiah Lutheran Church (R-3 Zoning District), and South: Single Family Residential Homes (R-3 Zoning District). Ms. Combs explained that per the City Zoning Map, the subject property is zoned R-3 Medium Density Zoning District. Per the Middletown Development Code Table 1204-3: Principally Permitted Uses, the use of a group home and group living (use category) are classified as "conditional uses" in the R-3 Zoning District.

Ms. Combs explained the history of the project and stated that property owner, Abilities First, had a similar request that was approved by the Planning Commission in October 2016 for a family care home for up to 8 individuals with developmental disabilities that required 24-hour care with the following conditions: 1. The City Architecture Review Board will review the exterior of the home to ensure it meets Architectural Standards outlined in Chapter 1225 of the Planning and Zoning Ordinance. 2. Lot Split be completed before January 1, 2017.

Ms. Combs noted that the lot split was completed by the deadline; however, the project never started and became void after 12 months due to no construction.

Ms. Combs explained that per the applicant, Partnerships for Housing currently has the property under contract to be purchased from Abilities First contingent on the approval of the conditional use.

Ms. Combs displayed a photo of the surrounding single-family homes.

Ms. Combs displayed photos of examples of projects by Partnerships for Housing.

Ms. Combs explained the proposal. She stated that Partnerships for Housing proposes to construct 4 one-bedroom units on the subject property to be leased by individuals with developmental disabilities. The units will be developed with accessibility features and a fire suppression system. The project is developed through a Community Capital Assistance grant from the Ohio Department of Developmental Disabilities. Similar developed facilities are currently in Hamilton County.

Ms. Combs noted that Partnerships for Housing has 61 sites in Butler County and solely houses individuals with developmental disabilities referred by Butler County Board of Developmental Disabilities. Each of their tenants have support provides that assist with daily living activities and deliver services appropriate to the tenant’s needs. These are not licensed settings but supportive settings for the tenants to live in the community.

Ms. Combs explained that per the Middletown Development Code, a “Group Home” is defined as: Any residential facility meant as a permanent residence for persons, licensed by the State of Ohio, designed to allow not more than sixteen (16) persons, needing specialized care, counseling, ongoing medical treatment or supervision to live in the same building or complex of buildings and engage in some congregate living activity in a non-institutional environment as regulated by the Ohio Revised Code.

Ms. Combs stated that Per the Middletown Development Code a Residential Facility is defined
as a home or facility, regulated by the Ohio Revised Code, in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a relief care home certified under Section 5126.05 of the Ohio Revised Code, a county home or district home operated pursuant to Chapter 5155 of the Ohio Revised Code, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.

Ms. Combs displayed the site plan submitted with the proposal.

Ms. Combs stated the required R-3 Zoning District Setbacks and Standards:
Front Yard: 35 feet
Rear Yard: 40 feet
Side Yards: 7 feet
Minimum Lot Area: 13,000 Sq. Ft.
Maximum Building Height: 35 feet
Livable Floor Area: 500 square ft.

Ms. Combs explained that per the Middletown Development Code, Chapter 1218: Parking, Access, and Mobility, Table 1218-1 Number of Off-Street Parking Space Requirements, the parking space requirement for Group Homes requires “One space per two beds”. The site plan shows that the facility will provide 9 parking spaces and will meet the City parking requirement.

Ms. Combs stated that per the Middletown Development Code, Chapter 1216: Landscaping and Buffering, 1216.06: Landscape Buffering Requirements, Multi-family dwellings and uses in the Group Living Use Category are required to use “Buffer Type C” when located next to residentially zoned property.

Ms. Combs displayed the two elevation options submitted for the group home.

Ms. Combs explained that per the Middletown Development Code, Chapter 1210: Architectural Standards, 1210.03 Design Standards for Residential Buildings, all building facades shall be constructed of: Stone, brick, wood, stucco, cultured stone, cement board, ceramic tile, ceramic block, or exterior insulation finish system (E.I.F.S.).

Ms. Combs stated that the first façade option was for cement board siding exterior. She explained the elevation renderings submitted propose the use of both cement board and brick building materials on the “front” of the building that would be facing along Holly Avenue. Cement board material would also be featured on the west elevation.

Ms. Combs stated the second option proposed brick & vinyl siding exterior: The elevation renderings submitted propose the use of both vinyl and brick materials. The South elevation “front” of the building would feature predominately vinyl and elements of brick. The North “rear” of the building be entirely vinyl materials. The side elevations would feature both brick and vinyl.
Ms. Combs stated that the facility rendering #1 would meet the City’s architecture review standards.

Ms. Combs explained that per the Middletown Development Code, Chapter 1226: Review Authority and Procedures, public notices were provided to all property owners contiguous and directly across the street or public right-of-way of the subject property.

Ms. Combs read the following comment received:
I thank you for notified me about the planning. I not really happy about this. We weren't notified about the one house next door to us with individual disabilities housing for males. My concern is we have teenage daughter, plus we have to remind the patient not to try and pet our dog plus he teases them, it a big problem every time he outside or opens windows. We don't need more patient to get on our nerves. We have been patience enough. I have nothing against the development disabilities people happy you are doing this for them but not behind us. Or you just build privacy fences between house. Thank you for notified us.

Ms. Combs noted that she forwarded the comment to the applicant. Ms. Combs stated that she forwarded the applicant’s information to the neighbor so that they could work together.

Ms. Combs stated that the conditional use application was provided to all City Departments to review and the following comment was received from the Engineering Department: the construction plans need to comply with the Engineering Manual of Design (Grading, Storm Water, Utilities, Erosion Control, Traffic, etc.).

Ms. Combs explained that the Planning Commission shall make specific findings of fact relative to the following facility criteria:
1. Is licensed by the appropriate authority to provide such service within the State. If such licensing is not available, a certified affidavit stating so has been presented to document this statement;
2. Will be designed, constructed, operated, and maintained so that it is harmonious and will not change the essential character of the neighborhood;
3. Will not be hazardous or disturbing to existing neighborhood from the standpoint of noise, lights, or traffic generation;
4. Will be served adequately by essential public facilities and services (such as highways, streets, police and fire protection, drainage and schools); or that the agency responsible for the establishment will adequately provide any services;
5. Will not involve uses, activities of operation that will be detrimental to any persons, property, or the general welfare; and
6. Will have vehicular approaches to the property that will be designed as not to create an interference with traffic on surrounding public streets.

Ms. Combs concluded her staff report.

Mr. Moore asked if there were questions for staff before opening the public hearing. Hearing none, Mr. Moore opened the public hearing.

Mr. Moore invited anyone who wanted to speak in favor of the project to come forward.
Gina Gehm, applicant, came forward to speak for the project. Mr. Moore swore in Ms. Gehm. Ms. Gehm provided a presentation to Ms. Combs to display for the Planning Commission. Ms. Gehm explained the Partnerships for Housing organization. She stated that the organization is a 501c3. She then explained the elevations for the project and site plan.

The Planning Commission asked for clarification regarding licensing not being provided for the facility. Ms. Gehm explained that the State of Ohio no longer provides licensing since only a certain amount were granted. The Commission asked if she would able to provide an affidavit stating that licensing was not required for the facility to operate. Ms. Gehm stated that she could get an affidavit.

Mr. Moore invited anyone to come forward who was in opposition of the request. Seeing none, Mr. Moore closed the public hearing and asked for staff recommendation.

Ms. Combs stated that based on the staff report provided and compliance with the Review Criteria for group homes outlined in the Middletown Development Code, staff recommends approval of Conditional Use Case #2-21 to allow for the construction of a building that will have four one-bedroom units to be leased by individuals with developmental disabilities at the property located at Parcel ID: Q65410270000019 with the following conditions:

1. That the plan meets the following Engineering Department comments: the construction plans need to comply with the Engineering Manual of Design (Grading, Storm Water, Utilities, Erosion Control, Traffic, etc.).
2. Façade Option #1 (using brick/hardy board) be used for the construction.
3. That an affidavit be submitted stating no licensing is required for the facility.

Mr. Moore asked if there was a motion by the Planning Commission. Mr. Loukinas made a motion to accept staff’s recommendation to approve the request. Mr. Nennl seconded the motion for approval. The motion for approval carried unanimously through Planning Commission roll call.

NEW/OLD BUSINESS

Zoning Administrator – Ms. Combs introduced Devra Wells to the Planning Commission. Ms. Wells stated that it was nice to meet everyone in person. The Planning Commission welcomed Ms. Wells and stated that they looked forward to working with her.

ADJOURNMENT

With there being no further business for the Planning Commission to discuss, a motion was made unanimously by all Planning Commission members to adjourn at 6:45 PM.

Gary Gross, Chairman
Ashley Combs, Planning Director

*The full meeting recording is available at the Planning & Zoning Department.
April 27, 2021

TO: James Palenick, City Manager
FROM: Rachel Combs, Human Resources Manager

SUBJECT: APPOINTMENT – SENIOR ELECTRONICS TECHNICIAN

We are recommending the conditional appointment of JASON MOSSBARGER to the position of Senior Electronics Technician in the Department of Public Works & Utilities, Division of Electronic Maintenance. Mr. Mossbarger was selected from the eligibility list as a result of Civil Service testing procedures. He will fill the vacancy created by the anticipated retirement of Roy Dalton.

Mr. Mossbarger will be assigned to Salary Range 252, Step E, which provides a salary of $1,982.44 bi-weekly, $51,543.44 annually. The appointment is conditional upon the candidate successfully passing the required background and medical evaluation.

/me

c: Amy Schenck, Clerk of Council
Scott Tadych, Public Works & Utilities Director
Ernest Howard, Electronics Maintenance Supervisor
Human Resources
Finance (Payroll) file

ccmtg05/04/2021

ELECTRONICS MAINTENANCE
Authorized Strength: 2 FT, 2PT
Current Staff Level: 2 FT, 2PT
TO: James Palenick, City Manager
FROM: Megan Ellis, Human Resources Specialist
SUBJECT: PROMOTIONAL APPOINTMENT – EQUIPMENT OPERATOR

We are recommending the promotional appointment of JOHN CLARK to the position of Equipment Operator in the Department of Public Works & Utilities, Division of Street Maintenance. Mr. Clark will fill the vacancy created by the appointment of Ronald Koelblin Jr. to Assistant Public Works Superintendent.

Mr. Clark will be assigned to pay grade PW4, Step D of the AFSCME Contract, $21.51 per hour. The effective date of the promotion is May 5, 2021.

/me

c: Amy Schenck, Clerk of Council
    Scott Tadych, Public Works & Utilities Director
    Brian Adams, Public Works Superintendent
    Charles Anderson, Public Works Superintendent
    Human Resources
    Finance (Payroll)
        file

ccmtg05/04/21

STREET MAINTENANCE
Authorized Strength - 12
Current Staff Level - 11
OATH OF OFFICE

I, Rachel Combs, 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.

Rachel Combs
Signature
HR Manager
Position

State of Ohio
County of Butler, ss:

Sworn to and subscribed before me this 26th day April, 2021.

Julie A. Kielhamer
Notary Public
My Commission Expires 1/18/2023
MIDDLETOWN

OATH OF OFFICE

I, [Name], 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: Corrections officer

State of Ohio
County of Butler, ss:

Sworn to and subscribed before me this 20th day April, 2021.

[Notary Public Signature]

Notary Public

My Commission Expires 11/18/2025
MIDDLETOWN

OATH OF OFFICE

I, Ashley Kotthman, 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

Wastewater Treatment Operator

Position

State of Ohio
County of Butler, ss:

Sworn to and subscribed before me this 28th day of April, 2021.

Notary Public

My Commission Expires August 21, 2021

Rachel Combs
Notary Public

My Commission Expires August 21, 2021
MIDDLETOWN

OATH OF OFFICE

I, Lisa Robyn Rawlins, 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]
Lisa R Rawlins

Position
Housing Code Specialist

State of Ohio
County of Butler, ss:

Sworn to and subscribed before me this 15th day April, 2021.

[Signature]
Julie A. Klemmer
Notary Public

My Commission Expires 1/18/2023
DATE   April 19, 2021

TO:   Jim Palenick, City Manager

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

PURPOSE
Authorize the City Manager to enter into a contract with A&A Safety, Inc. to proceed with the 2021 Pavement Marking Program.

BACKGROUND AND FINDINGS
The City is proposing to proceed with the 2021 Pavement Marking Program which consists of renewing paint markings on streets where existing markings have deteriorated.

Two contractors submitted a bid for the project. A&A Safety submitted the lowest and best bid.

ALTERNATIVES
None.

FINANCIAL IMPACTS
The lowest bid received for this project was $57,272.00 which is 22% below the engineers estimate and 11% below the other bidder.

Staff recommends authorizing the award of a contract to A&A Safety Inc. based on the unit prices included in their bid in an amount not to exceed $75,000. The additional funds will be used to renew paint markings on other streets not originally included in the project.

The project will be funded by the General Capital Fund (220). These funds are included in the 2021 budget.
EMERGENCY/NON EMERGENCY

Consent Agenda

ATTACHMENTS

Bid Tab
# 2021 Pavement Marking Program

## Bid Tabulation

**Legal Notice No. 21-8217**  
**Bids Received: April 14, 2021**

<table>
<thead>
<tr>
<th>Contractor’s Name &amp; Address</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Engineer’s Estimate</strong></td>
<td>$ 73,476.02</td>
</tr>
<tr>
<td><strong>A&amp;A Safety, Inc.</strong></td>
<td>$ 57,272.00</td>
</tr>
<tr>
<td>1126 Ferris Road</td>
<td></td>
</tr>
<tr>
<td>Amelia, OH 45102</td>
<td></td>
</tr>
<tr>
<td><strong>The Aero-Mark Company LLC</strong></td>
<td>$ 64,148.14</td>
</tr>
<tr>
<td>10423 Danner Drive</td>
<td></td>
</tr>
<tr>
<td>Streetsboro, OH 44241</td>
<td></td>
</tr>
</tbody>
</table>

*A&A Safety, Inc.* was the low bid in the amount of $ 57,272.00 which is 22% under the Engineer’s Estimate of $ 73,476.02
PROCLAMATION

WHEREAS, the Month of the Military Caregiver is observed in May each year to honor more than five million caregivers in the United States. Paying tribute to the people who care for more than two million veterans is an important part of supporting troops and military families. But for some, it’s also about recognizing the work they do that qualifies them as caregivers even if they don’t think of themselves that way. They are spouses, parents, children, and relatives of the wounded veterans, but many coworkers, neighbors, and friends also take on responsibilities. They provide care and assistance, promoting faster recovery for their loved ones and thus saving our nation millions of dollars in health care costs; and

WHEREAS, there may be no ticker-tape parades or major league sporting event half-time ceremonies dedicated to military caregivers, but there are plenty of ways to show your support for military caregivers in May and throughout the year. We aim to raise national awareness and appreciation for military and veteran caregivers by encouraging them to identify and join our community at HiddenHeroes.org, elevating caregiver resources, and sharing statements of encouragement and gratitude for caregivers on social media; and

WHEREAS, it is a distinct honor to observe Military Caregivers Month to raise awareness of both wounded warriors and the people who care for them. It reminds us of the sacrifices others have made with and for our fellow Americans.

NOW THEREFORE, I, Mayor Nicole Condrey, on behalf of the City Council of Middletown, Counties of Butler and Warren, State of Ohio, I do hereby recognize and celebrate May 2021, as

Military Caregivers Month

IN WITNESS WHEREOF, I, hereunto set my hand and cause this seal to be affixed this 4th day of May 2021.

Nicole Condrey, Mayor

Attest: Clerk of Council
LEGISLATION
ITEM 1
AN ORDINANCE CREATING THE 2021 GROWTH EXPANSION TRANSFORMATION GRANT PROGRAM FOR SMALL BUSINESSES AND DECLARING AN EMERGENCY.

WHEREAS, the Economic Development Department has developed a new grant program for 2021 called the Growth Expansion Transformation (GET) Grant Program for small businesses; and

WHEREAS, the grants will focus on three areas: (1) rental assistance, (2) building improvements and (3) upper floor residential rehabilitation;

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

Section 1

The 2021 Growth Expansion Transformation (GET) Grant Program for small businesses is hereby created. The GET grants shall be administered in a manner substantially similar to the terms included in the information sheet attached hereto as Exhibit “A”. The Economic Development Department is responsible for reviewing grant applications, awarding funds and administering the program.

Section 2

The City Manager is hereby authorized to enter into grant agreements with small businesses that are awarded GET grants without further action by City Council. A grant agreement must be signed for each grant in a form to be approved by the Law Director.

Section 3

For said purposes, the Finance Director is authorized and directed to expend a sum not to exceed $50,000.00 from the Property Development Fund (Fund # 499). The maximum amount of each grant shall not exceed $6,000.00.

Section 4

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: to make the grant funds available to small businesses during the current construction season, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor
A. Introduction

The GET Grant Program is designed to stimulate the establishment of new Middletown businesses, help existing Middletown businesses expand and create more residential units within the City. Our program awards funding to projects that support small business growth, create jobs, leverage private investment, and will be catalytic for our community.

Under this program, applicants will be able to receive grant funds of $1,000 to $6,000 to reimburse half of their eligible costs in completing a project.

There will be three eligible uses:

- Rent Assistance
- Building Improvements
- Upper Floor Residential Rehab

If awarded, grant recipients will need to show receipts of expenses to be eligible for payment. For example, $2,000 worth of expenses will need to be shown for reimbursement of a $1,000 grant and $12,000 worth of expenses will need to be shown for a reimbursement of a $6,000 grant.

B. Eligibility

Only one legal entity can apply per year. However, both a tenant and building owner are eligible to apply as two separate legal entities. For example, a tenant could apply for rent assistance and the building owner could apply for building improvements. Or a tenant could apply for building improvements and the building owner could apply for building improvements as well, as two separate legal entities. However, businesses where the ownership also owns the real estate at the property, are not eligible to apply more than once in a one-year period.

Applicant's business and/or property owners must meet all of the following requirements in order to be eligible to receive a grant under this program:

a) The business and/or property owner must be properly licensed to operate within the City of Middletown, Ohio, Butler or Warren County where applicable, and State of Ohio, and the
property must meet all City of Middletown zoning requirements, and meet all local and state building, health, and fire code requirements where applicable.

b) The business and/or property owner, applicants and affiliated persons and/or entities for this program must not have made or filed pending adverse claims against the City in the form of settlement demands and/or lawsuits; not shall they be delinquent on their obligations to pay loans, fines, liens, taxes, utilities, or other obligations owed to the City.

**Eligibility - Rent Assistance**

a) Applicant must be a corporation, firm, partnership, limited liability company, sole proprietorship, or similar entity engaging or intending to engage in commercial activity.

   **Excludes: Not-for-profit organizations, sexually-oriented businesses, businesses that primarily sell tobacco or tobacco related products, financial institutions making credits or loans, check cashing institutions, franchises, home businesses, business who do not report employee's wages to the City of Middletown, businesses not allowable by zoning requirements,**

b) A lease must be signed and executed after April 1st, 2021 or within 90 days of an award letter. If applicant is approved and a prospective business does not meet these deadlines, allocated funding will be released and the City will move onto the next qualified applicant.

   - Rents must not be in excess of the fair market rents for the area and quality of the space, as determined by the Economic Development staff.
   - Businesses must establish, keep and contractually agree to regular, set, operating hours that are equal to or greater than forty (40) hours per week.

c) Applicant must employ a minimum of two (2) full-time equivalent employee whose wages are reported to the City of Middletown (and subject to the City's income tax), State of Ohio and federal government.

   - A position occupied by the business owner may count as one of the required job positions.

d) Applicant must be a new commercial enterprise or a substantial expansion of an existing commercial enterprise.

   - Assistance may not be provided to a business that is relocating its operations from one commercial space to another unless there will be a significant expansion of the business' operations.
   - An existing business must expand to occupy more than one hundred fifty percent (150%) of existing space. Verification of this threshold must be provided in the application package.
   - An expanding business applicant must create at least two (2) additional full-time equivalent employees.

**Eligibility - Building Improvements & Upper Floor Residential Rehab**

a) Applicant must either own a commercial property located within the City of Middletown to apply for the program or the tenant must gain written consent of the property owner.

**C. Eligible Costs**
Expenses incurred prior to execution of an agreement with the City are not eligible for reimbursement.

**Eligible Costs - Rent Assistance**

The rent assistance incentive offers financial relief in the form of reimbursement of rent payment of up to half of the business' monthly rent or $500 per month (whichever is less.) Eligibility for assistance is up to twelve months. The business must sign at least a two-year lease and create at least 2 full-time equivalent jobs. Must sign a lease by April 1, 2021 or within 90 days of the award letter.

a) The maximum total benefit per business is $6,000.00. Rent Assistance offers financial assistance in the form of reimbursement of rent payment of up to half of the business's monthly rent or $500.00 per month (whichever is less). Eligibility for assistance is up to twelve months. A business will be eligible starting the second month of operation.

b) After approval, businesses must sign and submit a quarterly reimbursement request (attached as an exhibit to their contract) and attach canceled check(s) for the rent payment to the landlord in order to be reimbursed.

c) Rent must be paid timely in accordance with the terms of the leases.

**Eligible Costs - Building Improvements & Upper Floor Residential Rehab**

All invoices/expenses must be constructed, billed, and submitted for reimbursement within the contract’s term.

Exterior Building Improvements Eligible for Reimbursement:
- Façade Improvements – restoring storefronts, tuck-pointing, cornice repairs, etc…
- Painting
- New Doors
- New Windows
- Signage
- Awnings
- Electrical / Lighting
- Landscaping

Interior Building Improvements Eligible for Reimbursement:
- Build-outs
- Painting
- New Flooring
- Electrical / Lighting
- HVAC
- Plumbing

Professional Design Services Eligible for Reimbursement
- Architectural
- Engineering
- Electric Engineering
- Legal

Roofs and paving/asphalt are an ineligible expense.
D. General Program Requirements

- **Site Visits**: City staff will conduct a site visit and take photographs of the space before payments begin in order to verify that the business is in operation. Staff may also conduct unannounced site visits periodically to ensure compliance with the terms of the agreement.
- **Marketing**: Applicant must allow permission for any photographs to be used for marketing purposes by the City of Middletown.

General Program Requirements - Rent Assistance

- **Open & Operational**: The business owner is responsible for the first month of rent once the business is open and operational. Once an application is approved, rent incentive payments are eligible to be requested during the fourth full month a business is open for business, operational, and meets all of the criteria of the Rent Assistance Incentive.
- **Discontinuation of Payment**: The receipt of past payments is no guarantee of future payments. The City of Middletown retains the right to discontinue rent assistance payments at any time if the business ceases to comply with program requirements.

General Program Requirements - Building Improvements & Upper Floor Residential Rehab

- **Vacant Properties**: Applications involving vacant properties should demonstrate that the improvements will help attract a commercial tenant within the next 12 months and the future user will diversify the business district’s commercial offerings and create jobs in the City OR improvements will create at least one residential unit in the City. The owner must agree to actively market all vacant spaces, including creating a free listing on the City’s website, installing a “for lease” sign in each vacant space, and make reasonable accommodations to show the property to all qualified prospects.
- **Construction**: Applicants will oversee the entire construction process. Applicant must utilize professional contractors, and work cannot be done “in house” using applicant’s own employees. In order to be eligible for reimbursement, applicants shall ensure that construction is completed, all contractors were paid, and submit final expenditures to the City for reimbursement within 4 months after the contract’s execution. A final building inspection is required.

E. The Application Process

Application Process - Rent Assistance, Building Improvements & Upper Floor Residential Rehab

1) **Pre-submittal Meetings**: All applicants MUST schedule a meeting with the Economic Development Department and Development Services Department to review their project before submitting an application. Applicants should bring current photos of the property and if applicable, drawings of the proposed alterations and signage to the meeting.
   a. To schedule a meeting with Economic Development, please call Debbie Garitson, Economic Development Administrative Assistant at (513) 425-7941 or email at business@cityofmiddletown.org.
b. To schedule a meeting with Development Services, please call Holly Schultheis, Development Services Executive Assistant at (513) 425-7950 or email hollys@cityofmiddletown.org.

2) Application: The City will not accept or process incomplete applications due to limited funding. Please send all completed applications and required documentation, as stated below, to:

   ATTN: Alaina Geres, ED Program Manager
   Economic Development Department
   City of Middletown
   1 Donham Plaza
   Middletown, OH 45042
   OR
   email (preferred) business@cityofmiddletown.org

A staff member of the Economic Development department will email you a signed copy of your application as confirmation of receipt of the application. Do not consider your application submitted until you have received the confirmation email from City staff.

The required checklist is below:

All application packets must include the following documentation:

- Completed and signed application
- Attach completed W-9 (for person/entity receiving grant funds)
- Copy of Certificate of Zoning, Temporary Certificate of Zoning, Certificate of Occupancy, Certificate of Appropriateness, and/or Permits if applicable, as determined by Development Services staff

Include the following if applying for Rent Assistance:

- A copy of executed or proposed multi-year commercial lease agreement
- A letter of support from the Small Business Development Center - Middletown
- A copy of all business and occupational licenses, registration with the Ohio Secretary of State

Include the following if applying for Building Improvements & Upper Floor Residential Rehab:

- Attach all contractor quotes, bids, and drawings of proposed improvements

F. Program Agreement

If an application for assistance is approved, you will receive an offer letter via email. You will have 7 days to accept the offer by replying to the email. The City will then enter into an executed agreement with the applicant. This is a requirement in order for the applicant to receive fund disbursements.

The City of Middletown does not discriminate in its programs and activities on the basis of age, color, gender expression/identity, genetic information, marital status, national origin, physical or mental disability, pregnancy, race, religion, sex, sexual orientation, or veteran status, as applicable.
DATE: April 7, 2021

TO: Jim Palenick, City Manager

FROM: Chris Xeil Lyons, Economic Development Director
PREPARED BY: Alaina Geres, Economic Development Program Manager

**PURPOSE**
To authorize the City Manager to enter into agreements to administer a small business entrepreneurial grant program, titled Growth Expansion Transformation (G.E.T.) Grants.

**BACKGROUND AND FINDINGS**
As we move forward from the COVID-19 pandemic, the City wants to be able to nimbly assist the small businesses of Middletown. The City of Middletown’s Economic Development department has set aside $50,000 for city-wide small business assistance for 2021 to accomplish this goal. We are requesting approval for the City Manager to be able to enter into grant agreements for small business development grants under a newly created “Growth, Expansion, Transformation” Grant, otherwise known as a GET Grant Program.

Under this program, applicants will be able to receive grant funds of $1,000 to $6,000 to reimburse half of their eligible costs in completing a project. There will be three eligible uses: Rent Assistance, Building Improvements, and Upper Floor Residential Rehab. Applicants will need to show receipts of expenses to be eligible for payment. Minimum grant award is $1,000 for $2,000 worth of expenses and maximum grant award is $6,000 for $12,000 worth of expenses.

Applicants will initiate this process by meeting with the Economic Development & Development Services staff before submitting the application. After applicants submit the application, that application will be vetted by both departments as well as the appropriate City departments to guarantee understanding and compliance with required procedures for operating the new business such as planning, zoning, building department, health department, etc. If the project is eligible, owners will be issued an award and can be given reimbursement upon providing appropriate documentation of work completed pursuant to the program guidelines.

Each category will have strict allowances and uses as stated below. Please see the attached Program Information Sheet and Application for more information.

**Rent Assistance** – Targeted for new businesses to Middletown, this provides a 50% reimbursement of rent payments up to $500 per month (for $1,000/monthly lease.) Eligibility is for twelve months. New leases only – will also look at newly signed leases that have been signed as of April 1, 2021. Requires tenant to sign a two-year lease.
**Building Improvements** – Targeted for new or existing businesses, we will match building improvement investment made by the building owner or business on a $1 to $1 basis, up to a maximum total benefit per business of $6,000.

**Upper Floor Residential Rehab** – Targeted for mixed-use properties with current vacant space, this provides eligible property owners up to $6,000 per project for the redevelopment of vacant upper floor space into quality affordable rental housing.

**ALTERNATIVES**
1. The City could bring each agreement to council for individual approval as necessary
2. The City could utilize program funding for other economic development programs
3. The City could cease small business grant programs
4. Staff could pursue incentive programs on an as needed basis for businesses instead of a standardized program

Staff is not recommending these options because other options fail to get money out to businesses for assistance or require additional time for legislation. This timing could prevent the businesses from realizing the benefits during this important time of recovery from COVID 19.

**FINANCIAL IMPACTS**
$50,000 – 499.990.52811 – CRA Payments

**EMERGENCY**
Second Reading Emergency for Action on May 4, 2021 to allow businesses to take part in warm weather construction season

**ATTACHMENTS**
Growth Expansion Transformation (GET) Grants Program – Information Sheet
Growth Expansion Transformation (GET) Grants Program – Application
Growth Expansion Transformation (G.E.T.) Grants Program
Application

Eligible use applying for (select one only):

- Rent Assistance
- Building Improvements
- Upper Floor Residential Rehab

All applicants should complete the following section:

Application Date: __________________________________________________
Pre-meeting Date w/ Economic Development Staff: _______________________
Pre-meeting Date w/ Development Services Staff:________________________
Applicant Name :__________________________________________________
Applicant Mailing Address: __________________________________________
Applicant Phone: __________________________________________________
Applicant Email: ___________________________________________________
Project Address: ___________________________________________________
Legal Owner of Property: ____________________________________________

Complete the following section if applying for Building Improvements & Rent Assistance:

Business Name (D/B/A if applicable): ________________________________
New Middletown Business: Yes | No       Existing Middletown Business: Yes | No

** SUBMISSION OF AN APPLICATION IS NOT A GUARANTEE OF FUNDING **
Was/is this business located at another Middletown site: Yes | No Dates: _______
Previous Business Address (if applicable): _______________________________________
Square footage of existing location: _____ Square footage of new location: _____
Type of Business: ___________________  Service/Product: _______________________
Business Occupational License: ____________  Business IRS Tax EIN: ____________
Hours of Operation: _______________________________________________________
Total Private Start-up Investment (Do not include rent): $_____________________
Please describe your business:
_____________________________________________________________________
_____________________________________________________________________
Will the business be adding any additional jobs? Yes | No  # of jobs ___________
Existing Jobs: ____________ Projected New Jobs (List Below):_____________
Existing Annual Payroll: $________________/year
Estimated New Annual Payroll: $__________/year

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<th>New Positions – Short Description</th>
<th>Number of Jobs</th>
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Will your hiring plan include a preference to hiring Middletown residents? Yes | No

**Complete the following section if applying for Rent Assistance:**
Do you have a 2-year or longer executed (signed) lease agreement? Yes | No
Length of New Lease: __________________ Monthly Rental Rate: $_________
When will you open for business? _______________________________________
How long has the property been vacant? ________________________________
Landlord’s Name: ___________________________________________________
Landlord’s Email Address: _____________________________________________
Landlord’s Mailing Address: __________________________________________
Landlord’s Phone Number: ____________________________________________

**SUBMISSION OF AN APPLICATION IS NOT A GUARANTEE OF FUNDING**
Complete the following section if applying for Building Improvements & Upper Floor Residential Rehab:

Description of Project (attach separate page if necessary):
___________________________________________________________________
___________________________________________________________________
___________________________________________________________________

Description of how improvements will benefit the tenant and business district (attach separate page if necessary):
___________________________________________________________________
___________________________________________________________________
___________________________________________________________________

Itemized Costs of Improvements:

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Sources of Funding: __________________________________________________
___________________________________________________________________

Project Construction Start Date: ____________ Est. Completion Date: ___________

Are you utilizing a Middletown contractor?  Yes | No  
If so, list: __________________________

Vacancy: Has the property been previously vacant? Yes  |  No
If so, estimate how long? _____________________

Are you receiving grant assistance from any other governmental agencies? Yes | No
If yes, list any additional grant sources and amounts:
___________________________________________________________________
___________________________________________________________________

** SUBMISSION OF AN APPLICATION IS NOT A GUARANTEE OF FUNDING **
SUPPORTING DOCUMENT CHECKLIST

All application packets must include the following documentation:

- Completed and signed application
- Attach completed W-9 (for person/entity receiving grant funds)
- Copy of Certificate of Zoning, Temporary Certificate of Zoning, Certificate of Occupancy, Certificate of Appropriateness, and/or Permits if applicable, as determined by Development Services staff

Include the following if applying for Rent Assistance:

- A copy of executed or proposed multi-year commercial lease agreement
- A letter of support from the Small Business Development Center - Middletown
- A copy of all business and occupational licenses, registration with the Ohio Secretary of State

Include the following if applying for Building Improvements & Upper Floor Residential Rehab:

- Attach all contractor quotes, bids, and drawings of proposed improvements

** SUBMISSION OF AN APPLICATION IS NOT A GUARANTEE OF FUNDING **
CERTIFICATION AND WAIVER OF PRIVACY

I, the undersigned applicant(s), certify that all information presented in this application, and all of the information furnished in support of the application, is given for the purpose of obtaining a reimbursable grant under the City of Middletown Growth Expansion Transformation Grant Program, and it is true and complete to the best of the applicant(s) knowledge and belief. The applicant(s) further certifies that he/she is aware of the fact that he/she can be penalized by fine and/or imprisonment for making false statements or presenting false information.

I understand that this application is not a guarantee of funding assistance. Should my application be approved, I understand that the City of Middletown may at its sole discretion terminate the program and reimbursements at any time for any cause.

I hereby give my consent to the City of Middletown, its agents and contractors to examine any confidential information given herein. I further grant permission, and authorize any bank, employer or other public or private entity or agency to disclose information deemed necessary to complete this application.

I understand that if this application and the information furnished in support of the application are found to be incomplete, it will not be processed.

Applicant’s Signature:_________________________  Date: _____________
Printed Name: ______________________________   Title: ______________

The City of Middletown does not discriminate in its programs and activities on the basis of age, color, gender expression/identity, genetic information, marital status, national origin, physical or mental disability, pregnancy, race, religion, sex, sexual orientation, or veteran status, as applicable.

For Internal Use:

Date & Time Received: ________________________________________________
Method of Delivery: ___________________________________________________
Received by City Staff: _________________________________________________
Signature of City Staff: ________________________________________________
Date & Time Confirmation Email Sent: ________________________________

** SUBMISSION OF AN APPLICATION IS NOT A GUARANTEE OF FUNDING **
LEGISLATION
ITEM 2
RESOLUTION NO. R2021-19

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, 2021 AND DECLARING AN EMERGENCY. (STREET LEVY 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 Street Levy Fund of the City to accounts of the City for the purposes herein described as follows:

FROM: Unappropriated Street Levy Fund (Fund # 201) $50,000.00
TO: Paving, Accounts of 990 (201.990.54520) $50,000.00
TOTAL STREET LEVY FUND $50,000.00

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 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 make the funds available as soon as road construction begins, and shall be in full force and effect from the date of its adoption.

Nicole Condrey, Mayor

Adopted:___________

Attest:________________

Clerk of City Council
DATE       April 7, 2021
TO:         Jim Palenick, City Manager
FROM:       Scott Tadych, Public Works and Utilities Director
            Prepared by Rob Nicolls, City Engineer

2021-22 STREET LEVY PAVING PROJECT-3rd PARTY LABORATORY TESTING

PURPOSE

To request a supplemental appropriation from the Street Levy Fund to be used for 3rd party laboratory testing on the 2021-2022 Street Levy Paving Project.

BACKGROUND AND FINDINGS

The City set aside $419,084.55 from the Street Levy Fund for construction inspection, materials testing, and project management assistance. This request is for the materials testing portion of this funding and will be used to pay for nuclear gauge density testing, asphalt extraction/gradation testing, etc that is not performed through WSP USA, the firm selected to do the construction inspection.

ALTERNATIVES

Have WSP USA hire the 3rd party laboratory testing. This would result in additional markup and possibly limit the laboratories used.

FINANCIAL IMPACTS

The $419,084.55 set aside in the Street Levy Fund will be reduced by $50,000 to $219,084.55 (after the $150,000 appropriation requested separately for WSP USA).

Staff is requesting $50,000 be appropriated from the Street Levy Fund at this time to fund #201.990.54520 which will be utilized for 3rd party laboratory testing.
A summary of the Street Levy Funding is as follows:

Revenues
- Bond Proceeds $31,300,047.50

Expenses
- 2021-22 Street Levy Paving Project $26,380,962.95
- Additional contract authorization $4,000,000
- Construction inspection, materials testing $419,084.55
  and project management assistance
- Budget deficit 2021 Local Street Improvements $500,000

$31,300,047.50

EMERGENCY/NON EMERGENCY

2nd Reading Emergency. 2nd Reading Emergency Legislation is requested to allow testing once the pavement work begins in early May.

ATTACHMENTS
LEGISLATION
ITEM 3
RESOLUTION NO. R2021-20

A RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY FROM PREMIER HEALTH AND ATRIUM MEDICAL CENTER AND DECLARING AN EMERGENCY.

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 for the purchase of real property from Premier Health and Atrium Medical Center. The purchase will include approximately 2.7 acres of land at the intersection of State Route 122 and Atrium Boulevard in accordance with the non-binding letter of intent, attached hereto as Attachment 1. The purchase price will be $80,000.00 per acre. The total amount will be determined when the final survey is completed. The purchase agreement shall be in a form and substance approved by the City Manager and the Law Director.

Section 2

For said purposes the Finance Director is authorized and directed to expend a sum not to exceed $250,000.00 from the General Fund (Fund # 100), which such funds are hereby appropriated to the accounts of 212 (100.212.54355).

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: to allow the purchase to be completed without delay after the completion of due diligence, 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/2021 Leg/A/Authorize Purchase of Real Property – Premier Health & AMC
April 5, 2021

Mr. James M. Palenick
City Manager of Middletown
Middletown, OH

NON-BINDING LETTER OF INTENT

Dear James:

On behalf of Premier Health and Atrium Medical Center ("Seller"), we are pleased to submit this letter of intent to the City of Middletown ("Buyer") to purchase property on the Atrium Medical Center Campus located in Middletown, Ohio and as further described below.

Conditions of Purchase

Property: Approximately 2 and 7/10 (2.7) acres of land (the “Land”) that is located on the North West corner of St Rt 122 and Atrium Blvd. Middletown, Ohio. The site is depicted in Exhibit A.

Purchase Price: The purchase price for the Land will be $80,000 per acre. The total purchase price will be determined when final survey is completed.

Conditions:

1. Execution of a purchase agreement for the Land (the “Purchase Agreement”) within thirty (30) days of the parties signing this Letter of Intent. Buyer shall then have a ninety (90) day period from the execution of the Purchase Agreement to serve as the Buyer’s Due Diligence Period (the “Due Diligence Period”). Seller shall provide an initial draft of the Purchase Agreement, including any Declarations, within 30 days of the parties signing this Letter of Intent. The Purchase Agreement will call for the creation of permanent restrictions on the Land against uses (and users) that compete with Premier Health entities.

2. During the Due Diligence Period, the Buyer may terminate the Letter of Intent for any or no reason, with written notice to Seller. If the Letter of Intent is terminated, the Buyer will have no other obligation to the Seller and Seller will have no other obligation to the Buyer.

3. During the Due Diligence period the Buyer shall be permitted access to the Land for the purposes of conducting environmental, soils and other tests that may be required for the purposes of determining the Land’s suitability for the Buyer’s proposed development. Seller shall prepare and Seller and Buyer shall
execute a Right of Entry agreement prior to the Buyer beginning any tests.

4. Buyer shall construct a firehouse as depicted on Exhibit A. Buyer shall have the right to approve the design of the building for conformity with the quality of other buildings on the Atrium campus.

5. Buyer shall be responsible for the cost to extend any utilities required to service the Buyer’s improvements from their current location either on the AMC campus or in the public right of way.

6. Seller will be responsible for plat/lot split. Buyer will be responsible for costs of title examination and title policy. Other closing costs will be in accordance with local custom, including 50/50 split of fees of closing agent.

7. No brokers are involved in this transaction.

Upon Seller’s receipt of a fully executed copy of this LOI, Seller will prepare a final purchase agreement reflecting the terms agreed to herein. If or purchase agreement mutually acceptable to the parties is not agreed to within 30 days after the date of this LOI, this LOI may be terminated by either party.

Please indicate your understanding in principle to the terms and conditions of this Non-Binding Letter of Intent and your good faith intention to enter into a definitive Agreement with Seller by executing this letter in the space provided below.

This offer will be honored until May 4, 2021 at 12:00 PM.

Sincerely,

Keith Bricking M.D.

Acknowledged, accepted and agreed:

THE CITY OF MIDDLETOWN, OHIO

By: SAMES M. PALLERICH
Title: CITY MANAGER
Date: ________________
LEGISLATION
ITEM 4
RESOLUTION NO. R2021-21

A RESOLUTION IDENTIFYING FOUR SITES TO BE USED FOR THE RELOCATION OF CITY FIRE STATIONS AND DECLARING AN EMERGENCY.

WHEREAS, the City needs to replace its four current fire stations which are each inadequate and in poor condition; and

WHEREAS, four locations have been determined to be most optimal to minimize response times, limit disruption to neighborhoods, and minimize cost while maximizing value; and

WHEREAS, three of the four sites are currently owned by the City with the fourth to be acquired after due diligence has been completed;

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 move forward with planning for the construction of four new fire stations for the City of Middletown. The sites for the new fire stations are identified below and each is generally shown on Exhibit A, attached hereto:

(1) New Headquarters: 3.6 acres at Yankee Road and Cherry Street (former Garfield School site);

(2) Station #81: 2.85 acres at Henry Avenue and Charles Street (former Jefferson School site);

(3) Station #85: 2 acres at Sophie Street and Stolz Drive, an undeveloped portion of Dowling Park; and

(4) Station #82: 2.7 acres at State Route 122 and Atrium Boulevard to be acquired from Premier Health/Atrium Medical Center.

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: to allow the planning, design and other pre-construction activities to proceed, 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/2021 Leg/Identify 4 sites for fire stations
Exhibit "A"

- Old Garfield School site 3.6 acres
- Yankee Rd. at Cherry St.
- Replaces Fire Hq. on Roosevelt Blvd. 1.38 acres

YANKEE RD AND CHERRY ST- STATION 83

Middletown Fire Station Studies
- Old Jefferson School site 2.85 acres.
- Replaces Station 81 on Clinton St. 2.8 acres.
- Sophie and Stolz Dr. 2 acres of Dowling Park
- Replaces Station 85 at Central Ave. and Breiel Blvd. .86 acres.
- Atrium Blvd. and St. Rt. 122
  2.7 acres
- Replaces Station 82 on Dixie Hwy.
  .88 acres.
A Resolution identifying and designating four (4) separate parcels of real property as future Fire Station sites; Authorizing the City Manager to enter into a Purchase and Sale Agreement with Premium Health and Atrium Medical Center for the acquisition of one (1) of said sites; and, the appropriation of funds to effectuate the acquisition.

PURPOSE

To specifically identify and designate each of the four (4) separate real properties to be utilized by the City of Middletown as sites for the to-be-relocated and newly-constructed Fire Stations. Also, to authorize the City Manager to enter into a Purchase and Sale Agreement with Premium Health and Atrium Medical Center for the acquisition of the eastern-most site, being a 2.7-acre parcel at the northwest corner of Atrium Boulevard and SR 122, consistent with the terms outlined in the Non-binding Letter of Intent (LOI attached), as well as to Authorize the appropriation of funds from the City’s unencumbered General Fund Reserve sufficient to fully cover the transaction-negotiated purchase price of $80,000 per-acre multiplied by the approximate acreage of 2.7 acres (to be precisely determined by survey).

BACKGROUND AND FINDINGS

Consistent with a long-term comprehensive planning process conducted by and on behalf of the Middletown Fire Department, and in furtherance of the program outlined at the 2021 Strategic Planning Session of City Council, the City has been moving forward with the necessary steps required to finance, plan for, design and ultimately construct four (4) new City fire Stations to replace the inadequate and obsolete existing facilities. To that end, the following four locations have been determined to be the most optimal for siting the stations based upon a number of factors, including: minimizing response-times based on both current and expected future development; limiting disruption to neighborhoods; effectuating proper site and building design; and, minimizing cost while maximizing value.

1.) New Headquarters location: (replacing 1.38-acre site on Roosevelt Blvd.) A 3.6-acre site at Yankee Road and Cherry Street, owned by the City of Middletown as acquired from the Middletown School District and former site of Garfield School.
2.) **New Station #81 location:** (replacing .28-acre site on Clinton St.) A 2.85-acre site at Henry Ave. and Charles St., owned by the City of Middletown as acquired from the Middletown School District and former site of the Jefferson School.

3.) **New Station #85 location:** (replacing .86-acre site at Central Ave. and Breiel Blvd.) A 2-acre parcel at Sophie and Stolz Drive, encompassing the undeveloped, Southern portion of Dowling Park, owned by the City of Middletown.

4.) **New Station #82 location:** (replacing .88-acre site on Dixie Hwy.) A 2.7-acre site at S.R. 122 and Atrium Blvd. currently owned by Premier Health/Atrium Medical center and being acquired by the City of Middletown

The Purchase and Sale Agreement for parcel #4 above (the only site not currently owned by the City) will be negotiated and entered into by the City Manager fully consistent with the attached, “Non-binding Letter of Intent” which specifies a purchase price of $80,000/acre @ 2.7 acres ($216,000). We expect to execute the Purchase and Sale Agreement within 30 days following the signing of the Letter of Intent, and will then have up to a 90-day due diligence period prior to closing. Premier Health/Atrium will be provided the right to approve the exterior design of the fire station to the extent that “it conforms to the quality of other buildings on the Atrium campus”.

In order to fund the property purchase, the City would be committing to expend $216,000 in FY 2021 General Fund dollars – coming from the undesignated General Fund Reserve. We will need a supplemental appropriation approving this use and expenditure, which is included within the legislation attached to this action item. Currently (effective 3/31/21), our undesignated General Fund Reserve stands at $9,232,633, or a very healthy, 24.9% of the General Fund Budget. Following appropriation, this number would decline to $9,016,633, or 24.3%. These “surplus” funds are available in large measure due to the significant receipt of CARES Act funds in 2020, and will be made more expendable by the soon-to-be-received $18 +Million in ARPA Funding.

**FINANCIAL IMPACTS**

The cost to the City to purchase the proposed Premier/Atrium lot is $216,000. At this asking price (of only $80,000/acre), Premier is offering us a truly significant discount against the likely true market value, given the commercial land the City owns directly across from this site (so-called “Bender tract”) is under contract at $220,000/acre. This show of clear corporate benevolence is much appreciated and allows us to acquire this much-needed site in a way which limits land acquisition costs in favor of brick-and-mortar construction.

As noted above, the purchase requires an appropriation from the 2021 undesignated General Fund Reserve while still leaving a healthy balance in such Fund post-acquisition.
The full cost of designing, furnishing, and constructing the four (4) new facilities is estimated at $16,650,000 all-in. – calculated as 56,600 combined square feet at a cumulative $294/square-foot cost. These Capital costs would be covered by a 1-mil property tax levy imposed to replace the expiring 1-mil levy that funded repayment of the Central Connections (Senior) mortgage. The levy, which would currently generate approx. $809,000/year would be required for 25 years and be exclusively dedicated to Fire Capital.

**ALTERNATIVES**

The alternative to this request is to choose not to move forward with the land acquisition at this time, and to not take advantage of the deeply-discounted acquisition price. Further, we could not designate the sites as preferred new fire station locations, or look to acquire other, non-City-owned parcels in less optimal locations at significant additional cost to the City. Doing nothing, however, does not alter the pressing and ever-escalating need to replace the wholly obsolete and inadequate fire stations currently in operation.

**RECOMMENDATION**

It is the recommendation of the City Manager, Fire Chief, Fire Command Staff, and Finance Department to authorize and approve the Resolution identifying and designating four (4) separate parcels of real property as future Fire Station sites; Authorizing the City Manager to enter into a Purchase and Sale Agreement with Premium Health and Atrium Medical Center for the acquisition of one (1) of said sites; and, the appropriation of funds to effectuate the acquisition.

**EMERGENCY/NON-EMERGENCY**

This item is forwarded as a two-reading emergency – to take immediate effect upon its approval after the second reading.

**ATTACHMENT(S):**

1.) Non-Binding Letter of Intent between Premier Health/Atrium Medical Center and the City of Middletown for purchase of a 2.7-acre parcel of real property at SR 122 and Atrium Blvd.

2.) Identification, description, and siting considerations for each of Three (3) new prototype fire stations; along with One (1) new Fire station headquarters.
April 5, 2021

Mr. James M. Palenick  
City Manager of Middletown  
Middletown, OH

NON-BINDING LETTER OF INTENT

Dear James:

On behalf of Premier Health and Atrium Medical Center (“Seller”), we are pleased to submit this letter of intent to the City of Middletown ("Buyer") to purchase property on the Atrium Medical Center Campus located in Middletown, Ohio and as further described below.

Conditions of Purchase

Property: Approximately 2 and 7/10 (2.7) acres of land (the “Land”) that is located on the North West corner of St Rt 122 and Atrium Blvd. Middletown, Ohio. The site is depicted in Exhibit A.

Purchase Price: The purchase price for the Land will be $80,000 per acre. The total purchase price will be determined when final survey is completed.

Conditions:

1. Execution of a purchase agreement for the Land (the “Purchase Agreement”) within thirty (30) days of the parties signing this Letter of Intent. Buyer shall then have a ninety (90) day period from the execution of the Purchase Agreement to serve as the Buyer’s Due Diligence Period (the “Due Diligence Period”). Seller shall provide an initial draft of the Purchase Agreement, including any Declarations, within 30 days of the parties signing this Letter of Intent. The Purchase Agreement will call for the creation of permanent restrictions on the Land against uses (and users) that compete with Premier Health entities.

2. During the Due Diligence Period, the Buyer may terminate the Letter of Intent for any or no reason, with written notice to Seller. If the Letter of Intent is terminated, the Buyer will have no other obligation to the Seller and Seller will have no other obligation to the Buyer.

3. During the Due Diligence period the Buyer shall be permitted access to the Land for the purposes of conducting environmental, soils and other tests that may be required for the purposes of determining the Land’s suitability for the Buyer’s proposed development. Seller shall prepare and Seller and Buyer shall
execute a Right of Entry agreement prior to the Buyer beginning any tests.

4. Buyer shall construct a firehouse as depicted on Exhibit A. Buyer shall have the right to approve the design of the building for conformity with the quality of other buildings on the Atrium campus.

5. Buyer shall be responsible for the cost to extend any utilities required to service the Buyer’s improvements from their current location either on the AMC campus or in the public right of way.

6. Seller will be responsible for plat/lot split. Buyer will be responsible for costs of title examination and title policy. Other closing costs will be in accordance with local custom, including 50/50 split of fees of closing agent.

7. No brokers are involved in this transaction.

Upon Seller’s receipt of a fully executed copy of this LOI, Seller will prepare a final purchase agreement reflecting the terms agreed to herein. If or purchase agreement mutually acceptable to the parties is not agreed to within 30 days after the date of this LOI, this LOI may be terminated by either party.

Please indicate your understanding in principle to the terms and conditions of this Non-Binding Letter of Intent and your good faith intention to enter into a definitive Agreement with Seller by executing this letter in the space provided below.

This offer will be honored until May 4, 2021 at 12:00 PM.

Sincerely,

[Signature]
Keith Bricking M.D.

Acknowledged, accepted and agreed:

THE CITY OF MIDDLETOWN, OHIO

By: [Signature]
Title: CITY MANAGER

Date: ____________
Fire Stations

Fire Headquarters
1977 – 44 years

Station 81
1953 – 68 years

Station 82
Renovated 1997 – 24 years

Station 85
1965 – 56 years
- Old Garfield School site
  3.6 acres
- Yankee Rd. at Cherry St.
- Replaces Fire Hq. on Roosevelt Blvd. 1.38 acres
• Sophie and Stolz Dr. 2 acres of Dowling Park
• Replaces Station 85 at Central Ave. and Breiel Blvd. .86 acres.
- Atrium Blvd. and St. Rt. 122
  - 2.7 acres
- Replaces Station 82 on Dixie Hwy.
  - .88 acres.
LEGISLATION
ITEM 5
RESOLUTION NO. R2021-22

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, 2021. (GENERAL FUND AND POLICE GRANT 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 General Fund of the City to accounts of the City for the purposes herein described as follows:

| FROM: Unappropriated General Fund (Fund # 100) | $37,200.00 |
| TO: Major Tools & Equipment, Accounts of 212 (100.212.53620) | $12,000.00 |
| Drugs/Medical Supplies, Accounts of 212 (100.212.53220) | $25,200.00 |
| TOTAL GENERAL FUND | $37,200.00 |

Section 2

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

| FROM: Unappropriated Police Grant Fund (Fund # 251) | $4,026.55 |
| TO: Travel & Training, Accounts of 054 (251.054.52110) | $4,026.55 |
| TOTAL POLICE GRANT FUND | $4,026.55 |

Section 3

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 4

All legislation inconsistent herewith is hereby repealed.
Section 5

This resolution shall take effect and be in force at the earliest time permitted by law.

Nicole Condrey, Mayor

1st reading: ____________
2nd reading: ____________
Adopted: ____________
Effective: ____________

Attest: ____________________
   Clerk of City Council

H:\Law\leg\2021 Leg\r Supp Approp (General – Fire & Police Grant)
DATE: April 7, 2021

TO: Jim Palenick, City Manager

FROM: Jacob Burton, Finance Director

Supplemental Appropriations – General Fund (Fire)

PURPOSE

To request supplemental appropriations for the Middletown Division of Fire, Fire Operations budget in the total amount of $37,200.00 for the costs associated with constructing a confined space trailer and purchasing Narcan.

100.212.53620 (Major Tools & Equipment) - $12,000.00
100.212.53220 (Drugs/Medical Supplies) - $25,200.00

BACKGROUND and FINDINGS

The Division of Fire received a donation in the amount of $7,000 in 2019 and $5,000 in 2020 from Air Products to construct a confined space training trailer.

The Division of Fire has also been awarded a grant for the purchase of Narcan in the amount of $25,200 from Premier Health.

In order for the Division of Fire to spend these funds, a supplemental appropriation is necessary.

FINANCIAL IMPACT

This legislation will reduce the General Fund by $37,200.00.

ALTERNATIVES

The alternative would be not to appropriate the funds which would prevent the Division of Fire from spending these funds in 2021.

EMERGENCY/NON EMERGENCY

Non-Emergency

Cc: Paul Lolli, Fire Chief
    Barb Bradley, Assistant Finance Director
DATE: April 7, 2021

TO: Jim Palenick, City Manager

FROM: Jake Burton, Finance Director

Supplemental Appropriations – Police Grant Fund

PURPOSE

To request a supplemental appropriation for the Middletown Division of Police, Police Grant Fund budget in the amount of $4,026.55 for the travel and training.

251.054.552110 (Travel & Training) - $4,026.55

BACKGROUND and FINDINGS

The Division of Police was awarded $10,000 through the 2019 JAG Grant to be used for training. $10,000.00 was budgeted in 2020 for this purchase and during 2021 budget preparations, it was anticipated that this money would be spent in 2020, however, there was $4,026.55 remaining in the training account, so a supplemental appropriation is now necessary in order to complete training this year with the grant funds.

Council approved a supplemental appropriation of $8,571.00 on Resolution R2021-05 related to this same grant as that was the amount of money remaining for the purchase of equipment.

FINANCIAL IMPACT

This legislation will reduce the Police Grant Fund by $4,026.55.

ALTERNATIVES

The alternative would be not to appropriate the funds which would prevent the Division of Police from spending these funds in 2021.

EMERGENCY/NON EMERGENCY

Non-Emergency

Cc: David Birk, Police Chief
    Barb Bradley, Assistant Finance Director
LEGISLATION
ITEM 6
ORDINANCE NO. O2021-36

AN ORDINANCE TO ENACT CHAPTER 832 (MASSAGE PARLORS) OF THE MIDDLETOWN CODIFIED ORDINANCES.

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

Section 1

Chapter 832 (Massage Parlors) of the Codified Ordinances is hereby enacted as set forth in Exhibit “A”, attached hereto and incorporated by reference.

Section 2

This ordinance shall take effect and be in force from and after the earliest period allowed by law.

Nicole Condrey, Mayor

1st Reading: ____________
2nd Reading: ____________
Adopted: ______________
Effective: ______________

Attest:_________________________
        Clerk of the City Council

H:/Law/leg/2021 leg/O MCO Enact Chapter 832 Massage Parlors
Exhibit “A”

Chapter 832 (Massage Parlors)

832.01 DEFINITIONS.

As used in this chapter:

(a) “Applicant” means a person who applies for a massage practitioner license or a massage establishment license. If the applicant for a massage establishment is other than an individual, each individual who has a twenty percent (20%) or greater interest in the business and the person who will manage the business conducted in the City shall be deemed to be an applicant and upon issuance of a massage establishment permit, a permit holder.

(b) “Massage Establishment” means any fixed or mobile place of business or establishment wherein any of the subjects or methods of treatment listed in subsection (d) hereof are administered, practiced or used, or from which a person is dispatched for the purpose of administering, performing, practicing or using any of the subjects or methods of treatment listed therein.

(c) “Massage Practitioner” means a person who practices or administers any massage or touching techniques listed in subsection (d) hereof for a fee, income or compensation of any kind within the City.

(d) “Massage” or “Touching Techniques” shall mean any of, but not limited to, the following named subjects and methods of treatment: oil rubs; alcohol rubs; salt glows; hot or cold packs; tub, shower, or cabinet baths; colon irrigation; and touching procedures upon the external parts of the body by hand or by any electrical, mechanical or vibratory apparatus including stroking, rubbing, friction, kneading, rolling, vibrating, cupping, petrissage, rubbing, effleurage or tapotement.

(e) “Moral Turpitude” means an act of baseness, vileness, or depravity in the private and social duties which a man owes to their fellow man, or to society in general.

(f) “Massage Establishment Permit” means a permit, issued and required by the City of Middletown, to own or operate a Massage Establishment.

(g) “Massage Practitioner License” means a license, issued and required by the City of Middletown, to administer, perform, or use any of the subject or methods of treatment listed in § 832.01(d).

832.02 ENFORCEMENT AND ISSUANCE OF LICENSE.

It shall be the duty and responsibility of the Police Chief or their designee to administer the provisions of this chapter. Pursuant to this duty, the Police Chief or their designee may issue, renew, deny, suspend or revoke a massage practitioner license and/or a massage establishment permit as set forth in this chapter.
832.03 LICENSING OF MASSAGE PRACTITIONERS AND MASSAGE ESTABLISHMENTS PERMITS REQUIRED; PROHIBITIONS.

(a) It shall be unlawful for any person to practice, administer, to offer, agree to practice any subject or method of treatment listed in Section 832.01(d) in the City, whether for a fee, income or consideration of any kind, without first obtaining and maintaining in effect a valid and current massage practitioner license as required by this chapter.

(b) It shall be unlawful for any person, association, firm, or corporation to own, operate or participate in the operation of a “massage establishment” or to perform such services in the City, nor shall any premises be erected, altered, used, arranged or designed to be used in whole or in part as a “massage establishment” without first obtaining and maintaining in effect a valid and current massage establishment permit as required by this chapter.

(c) It shall be unlawful for any person, association, firm, or corporation to employ any person as a massage practitioner in the City without such person having a valid and current massage practitioner license. Without limitation, a revoked or suspended massage practitioner license shall not be considered a valid and current license.

(d) It shall be unlawful for any person, association, firm, or corporation licensed or granted a permit as provided in this chapter to operate under any name or conduct business in the City under any designation not specified in such license or permit.

(e) It shall be unlawful for any massage establishment to remain open for business or provide services any time between the hours of 10:00 p.m. and 8:00 a.m.

832.04 NEW LICENSE/PERMIT APPLICATION; PROCEDURES AND FEE.

(a) Any person, association, firm, corporation, or other business entity desiring to obtain a massage practitioner license or massage establishment permit shall make application to the Police Chief or their designee for appropriate investigation. A person desiring a license authorizing him/her to perform the activities of a massage practitioner and, in addition, seeking a permit to conduct or operate a massage establishment shall submit two separate applications.

(b) An applicant for a massage practitioner license and/or massage establishment permit shall submit the following to the Police Chief or their designee:

1. A nonrefundable license/permit fee as follows:
   - Massage establishment: $500.00
   - Massage practitioner license: $100.00

2. The full legal name and current residence address of the applicant, including any partner or limited partner of a partnership applicant, the date of birth and social security number of each individual, and the federal identification number of any partnership or corporation;

3. Any other names by which the applicant has been known, including tradenames or “doing business as” names;
(4) The address at which applicant desires to do business;
(5) Two residential addresses immediately prior to the present residential address of applicant, and the dates of residence at each;
(6) Authorization for an investigation into the background of the applicant and any person(s) or entity named in the application;
(7) Written proof that the applicant is the age of twenty-one years or older if applying for a massage establishment permit; or is the age of eighteen years or older if applying for a massage practitioner license;
(8) A color copy of a Government issued identification card
(9) The business license history of the applicant, including whether the applicant, in previously operating in the City, other municipalities, other political subdivisions, the State of Ohio or other states under a licensed business, has had such licenses/permits revoked or suspended; and if so, the reason therefor, the business activity or occupation preceding such suspension or revocation, and the business activity or occupation subsequent to such suspension or revocation;
(10) All felony and misdemeanor convictions, excluding those for traffic offenses, and the grounds for such convictions;
(11) The applicant's complete fingerprints, to be recorded by the Division of Police;
(12) The applicant's education, training and experience in the administration, practice or use of the subjects and methods listed in Section 832.01(d), including diplomas or credentials from schools or institutions of learning. The educational requirements for massage practitioner license applicants shall include certification of satisfactory completion of a minimum of 160 hours of course instruction in anatomy, physiology and massage or touching techniques from a school of massage approved by the State Medical Board of Ohio or an equivalent board from outside this state, or accredited by an accrediting agency recognized by the United States Department of Education or the Council on Post-Secondary Accreditation.
(13) Any other identification and information the Division of Police may require in order to discover or verify the truth of the above requirements to be set forth in the application.

832.05 LICENSE/PERMIT APPLICATION INVESTIGATION.

(a) Any applicant for a license/permit pursuant to these provisions shall personally appear at the Division of Police to submit the application containing the information required by Section 832.04. The Division of Police shall have a reasonable time in which to investigate the application and the background of the applicant. Based on such investigation, the Division of Police shall recommend to the Police Chief or their designee approval or denial of the license/permit.
(b) The Police Chief may deny any application for a license/permit for any of the following reasons:
   (1) Falsification of any of the information required for the application or failure to fully complete the application.
   (2) Failure to cooperate with health or safety inspections as required by applicable City of Middletown codes, or as required by any provision of this Chapter.
   (3) Any person named on the application is under the age of eighteen if applying for massage practitioner license or under the age of twenty-one if applying for a massage establishment permit.
   (4) The applicant has been convicted of or plead guilty to fraud in conducting the business of massage practitioner or massage establishment, or of fraud or deceit in obtaining a license/permit to conduct such business;
   (5) The applicant has been convicted or plead guilty within the last ten years in a court of competent jurisdiction to a violation of Ohio R.C. Chapter 2907, or violation of any municipal ordinance that is substantially equivalent to any offense contained in Ohio R.C. 2907, or any offense involving moral turpitude, whichever is applicable;
   (6) The applicant has been convicted or plead guilty to any offense involving the use of force or violence upon another person;
   (7) The applicant has been convicted or plead guilty to any offense involving theft;
   (8) The applicant has been convicted of or plead guilty to false, fraudulent, misleading or deceptive advertising;
   (9) The applicant is or has engaged in the business of a massage establishment or as a massage practitioner under a false or assumed name, or is impersonating another practitioner of a like or different name;
   (10) The licensee/permit holder has violated any provisions of this chapter.

832.06 MASSAGE ESTABLISHMENT PERMIT; SPECIAL REQUIREMENTS.

(a) No massage establishment permit shall be issued if the applicant has been convicted within the last ten years of any felony, or any misdemeanor offense involving moral turpitude having a reasonable relationship to the functions of a massage establishment permit holder, or if the application was intentionally falsified.

(b) No massage establishment permit shall be issued if the applicant has been convicted or plead guilty, within the last ten years of any offense committed outside the State of Ohio or the City, which if committed in the State of Ohio or the City would constitute a felony, or any misdemeanor offense involving moral turpitude having a reasonable relationship to the functions of a massage establishment permit holder.

(c) An applicant for a massage establishment permit shall permit officials of the City, and any other federal, state, county, or municipal agency in the performance of any function connected with the enforcement of any code, statute or regulation relating to human health, safety or welfare or structural safety, normally and regularly conducted by such
agencies, to inspect the premises of a massage establishment for the purpose of ensuring compliance with the law, at any time it is occupied or open for business. (d) No massage establishment permit shall be issued unless inspection by officials of the City or, where appropriate, a county or state agency, indicates the site of the establishment complies with each of the following minimum requirements:

1. A current certificate of occupancy shall be issued in the name of the massage establishment.
2. A readable sign, in accordance with City codes, shall be posted at the main entrance identifying the establishment as a massage establishment.
3. Minimum lighting shall be provided in accordance with the City of Middletown code, and in addition, at least one artificial light of not less than forty watts shall be provided in each room or enclosure where services are performed on patrons which shall be in operation when such services are performed.
4. Minimum ventilation shall be provided in accordance with the City of Middletown code.
5. Adequate equipment shall be provided for disinfecting and sterilizing instruments used in administering or practicing any of the subjects or methods of treatment listed in Section 832.01(d).
6. Hot and cold running water, tempered by means of a mixing valve faucet, shall be provided at all times.
7. Closed cabinets shall be provided, and used, for the storage of clean linens, towels, or similar items.
8. Posting of Services Available and Fees in a conspicuous place in such a manner that it can easily be seen by persons entering the Massage Establishment.
9. Maintain Written Records. Every Massage Establishment shall keep a written record of the date and hour of each service provided, the name and address of each patron and the service received, and the name of the Massage Therapist, Massage Practitioner, and/or other Employee administering the service. These records may not be used for any other purpose than as records of service provided and may not be provided to other parties by the Massage Establishment unless otherwise required by law. Such records shall be retained on the premises of the Massage Establishment for a period of two years.
10. Standard of Dress for Massage Establishments Employees. All Massage Therapists, Massage Practitioner, and/or other Employee shall remain fully clothed in clean outer garment while on the premises of the Massage Establishment. At minimum, such clothing shall be made of nontransparent material and shall not expose the buttocks, genital area or breasts of any employee at any time.
11. Adequate dressing and toilet facilities shall be provided for patrons. One dressing room, with door capable of being closed and locked, which may be the same as the massage treatment room. One toilet and one wash basin shall
be provided by every massage establishment for every three treatment rooms. A minimum of one shower or tub shall be provided for any establishment offering colon therapy, colonics, or any hydrotherapy services, including whirlpool baths, saunas, steam baths, and herbal wraps. Each dressing room or treatment room shall contain a locker for each patron to be served which shall be capable of being locked.

(12) Any pool or spa shall be inspected and issued a permit in accordance with applicable state and City of Middletown codes.

(13) All walls, ceilings, floors, showers, bathtubs, steam rooms, and all other physical facilities within the establishment must be in good repair and maintained in a clean and sanitary condition, in accordance with City of Middletown codes.

(14) Wet and dry heat rooms, steam or vapor rooms or cabinets, toilets and wash basins shall be thoroughly cleaned each day business is in operation. Shower compartments and bathtubs, where provided, shall be thoroughly cleaned after each use.

(15) Clean and sanitary sheets and towels shall be provided for each patron of the establishment. The head rest of each table shall be provided with a clean and sanitary covering for each patron.

(16) All wash basins within an establishment shall have hot and cold running water, tempered by means of a mixing valve faucet, provide sanitary towels placed in permanent installed dispensers or upon a permanently attached rod dispenser, and provide soap in a soap dispenser that is placed on or near the wash basin. A hand wash basin shall be provided in each treatment room providing colon therapy, colonics, or hydrotherapy services, including whirlpool bath saunas, steam baths and herbal wraps.

832.07 DISPLAY OF LICENSE/PERMIT.

Every person, association, firm or corporation to whom a license/permit has been granted shall display the license/permit in a conspicuous place upon the business premises. If the license/permit has been granted to a person, a recent photograph of the licensee/permit holder shall be attached to the license.

832.08 CHANGE OF LOCATION.

The Permit holder may a change of location of a massage establishment permit by request and approval of the Police Chief or their designee, provided that all ordinances and regulations of the City are followed and a fee of $100.00 is paid to the City.

832.09 SALE, TRANSFER OR EXPANSION OF MASSAGE ESTABLISHMENT.

Upon the sale or transfer of any interest in a massage establishment, the permit therefor shall be null and void. A new application, as set forth in Section 832.04, shall be made by any person,
association, firm or corporation desiring to own or operate the establishment. The provisions of Sections 832.05 and 832.06 shall fully apply to any person, association, firm or corporation applying for a massage establishment permit for premises previously used as such establishment.

832.10 RENEWAL.

(a) Permits issued under this section for massage establishment shall be renewed annually on or before the anniversary of the date of issuance, unless the permit was revoked as provided in this chapter, the massage establishment permit holder shall pay the City a renewal fee of $250.00.

(b) The holder of an expired massage establishment permit may, within thirty days from the date of expiration, have the permit renewed upon payment of the required renewal fee plus a $25.00 late fee.

(c) Licensees issued under this section for massage practitioner shall be renewed annually on or before the anniversary of the date of issuance, unless the permit was revoked as provided in this chapter, every licensed massage practitioner shall pay the City a renewal fee of $50.00.

(d) The holder of an expired massage practitioner license may, within thirty days from the date of expiration, have the license renewed upon payment of the required renewal fee plus a $25.00 late fee.

832.11 REVOCATION, SUSPENSION OR DENIAL OF LICENSE/PERMIT, APPEAL; GROUNDS.

(a) The license of a massage practitioner or a massage establishment permit may be revoked, suspended or denied renewal based upon any one or more of the following grounds:

1. Licensee/Permit Holder failed to submit necessary renewal paperwork
2. Falsification of any of the information required for the application or failure to fully complete the application.
3. Failure to cooperate with health or safety inspections as required by applicable City of Middletown codes, or as required by any provision of this Chapter.
4. Any person named on the application is under the age of eighteen if applying for a massage practitioner license and/or under the age of twenty-one if applying for massage establishment permit.
5. The licensee/permit holder has been found guilty of fraud in conducting the business of massage practitioner or massage establishment, or of fraud or deceit in obtaining a license/permit to conduct such business.
6. The licensee/permit holder has been convicted or plead guilty within the last ten years in a court of competent jurisdiction to a violation of Ohio R.C. Chapter 2907, or violation of any municipal ordinance that is substantially equivalent to any offense contained in Ohio R.C. 2907, or any offense involving moral turpitude, whichever is applicable.
(7) The applicant has been convicted or plead guilty to any offense involving the use of force or violence upon another person.

(8) The applicant has been convicted or plead guilty to any offense involving theft;

(9) The licensee/permit holder is guilty of false, fraudulent, misleading or deceptive advertising.

(10) The licensee/permit holder is engaged in the business of a massage practitioner or massage establishment under a false or assumed name, or is impersonating another practitioner of a like or different name.

(11) The licensee/permit holder has violated any provisions of this chapter.

(b) Notwithstanding the provisions of subsection (a) hereof, the license of a massage practitioner or a massage establishment permit shall be revoked or denied renewal if the licensee/permit holder has been convicted of any offense committed outside the City or the State of Ohio which if committed in the City or the State of Ohio would constitute a felony, or any misdemeanor involving moral turpitude having a reasonable relationship to the functions of a massage practitioner or a massage establishment licensee.

(c) Notwithstanding the provisions of subsection (a) hereof, the permit of a massage establishment may be revoked or denied renewal if within a twelve month period, the permit holder or agent, employee or independent contractor of the massage establishment, while on the premises of such establishment commits any felony offense, or a misdemeanor offense involving moral turpitude having a reasonable relationship to the functions of a massage practitioner or a massage establishment.

(d) If the Police Chief or their designee determines that probable grounds exist for denial, suspension or revocation of a license/permit under this section, the Police Chief or their designee shall notify the applicant or licensee/permit holder (respondent) in writing of the intent to deny, suspend or revoke the license/permit, including the grounds therefor, by personal service or certified mail. The notification shall be directed to the most current business address on file with the City. Within ten working days of receipt of such notice, the respondent may provide to the Police Chief or their designee a written response which shall include a statement of reasons why the license or permit should not be denied, suspended, or revoked. If a response is not received by the Police Chief or their designee in the time stated or, if after review the Police Chief or their designee finds that grounds exist for denial, suspension, or revocation, then such action shall become final and notice of such final action shall be sent to the applicant or licensee/permit holder. Upon timely receipt of a written response from the respondent, if the Police Chief or their designee finds that no grounds exist for denial, suspension, or revocation of a license/permit then the Police Chief or their designee shall withdraw the intent to deny, suspend, or revoke the license/permit and shall so notify the respondent of such action in writing by personal service or certified mail.
832.12 DENIAL OR TERMINATION OF LICENSE/PERMIT; APPEAL PROCESS.

(a) The denial, revocation or nonrenewal of a massage practitioner license or a massage establishment permit shall continue for one year, and the applicant or licensee/permit holder shall not be issued a massage practitioner license or massage establishment permit for one year from the date denial, revocation or nonrenewal becomes effective; provided, however, that if the license/permit was denied or revoked under Section 832.11(c), an applicant shall not be granted another license/permit at any time, and if the license/permit was denied or revoked under Section 832.06(a) or (b), Section 832.07, or Section 832.11(a)(2) or (b), an applicant shall not be granted another license/permit until ten years have elapsed from the date of conviction.

(b) The suspension of a massage practitioner license or a massage establishment permit shall continue for a specified period not to exceed one year.

(c) The fact that a conviction is being appealed or a judgment of guilt is subsequently set aside shall have no effect on the denial, suspension, revocation or non-renewal of a license/permit under this section.

(d) Appeal of denial, revocation or nonrenewal of a massage practitioner license or a massage establishment permit shall be made to the Office of Administrative Hearings within 30 days of issuance of decision by Police Chief or their designee.

1) A person may request a hearing before a hearing examiner to contest the decision of Police Chief or their designee. The written request for hearing shall be filed with the Office of Administrative Hearings. The Office of Administrative Hearings shall set a date for the hearing and notify the person, in writing, of the date, time and location of the hearing. The hearing shall be public and a record of the hearing shall be maintained. The hearing may be informal, but all testimony shall be under oath.

2) All hearings shall be scheduled within 10 calendar days of receipt of a request for a hearing. Hearings will be held within 30 calendar days from the date the request for a hearing is filed. Any hearing date may be modified if such modification is agreed to by the appellant, by the city and by the hearing examiner, or if such modification is necessary in the interest of justice.

3) The hearing examiner shall enter into the record of the proceedings the notice of the decision by the Police Chief or their designee and any other relevant information.

4) The hearing examiner shall issue a written decision and make findings of fact from the record and conclusions of law in support of the decision within 10 calendar days from close of the hearing. The findings and conclusions shall demonstrate that the decision is consistent with applicable laws, ordinances, regulations and the interest of justice.

832.13 APPLICABILITY OF REGULATIONS TO EXISTING BUSINESS.
The provisions of this chapter shall apply to all activities regulated by this chapter of such persons and businesses described herein, whether such activities were commenced before, on or after the effective date of this chapter; provided, however, that any person licensed as a massage practitioner prior to the effective date of this chapter, by any other licensing authority, and having certification of satisfactory completion of course instruction in anatomy, physiology, or massage and touching techniques from a school or institution approved by the State Medical Board of Ohio or an equivalent board from outside this state, or accredited by an accrediting agency recognized by the United States Department of Education or the Counsel on Post-Secondary Accreditation, shall be eligible for a license under this chapter, provided they file an application within ninety (90) days of the effective date of this chapter and is otherwise qualified and complies with all other provisions set forth herein.

832.14 EXEMPTIONS.

(a) The provisions of this chapter shall not apply to:

(1) Persons authorized by the laws of the State of Ohio to practice medicine, osteopathy, chiropractic, podiatry, or naturopathy;
(2) Registered nurses, licensed practical nurses or technicians, when acting under the supervision of a licensed physician or osteopath;
(3) Persons employed or acting as trainees for any bona fide amateur, semiprofessional or professional athlete or athletic team;
(4) Persons authorized by the laws of the State of Ohio as barbers or cosmetologists, provided their activity is limited to the head, face, or neck;
(5) Persons wholly employed in the sale of clothing, cosmetics, jewelry or sporting equipment insofar as these individuals must incidentally touch a customer to properly fit or sell the product, at its standard market price;
(6) Persons wholly engaged in specialized weight reduction techniques where touching of the body is incidental to the procedure.

(b) Any exemption set forth in this section is effective only insofar as and to the extent that the bona fide practice of the business or profession of the person exempted incidentally overlaps into areas regulated by this chapter, and such exemptions are solely for those activities which are performed in the course of the bona fide practice of the business or profession of the person exempted.

832.15 OTHER PROHIBITED ACTS.

It shall be unlawful:

(a) For any person, association, firm, or a corporation to conduct or operate a massage establishment under the same guise whereon there is also conducted the business of a liquor establishment, photography, video, or movie studio, model studio, art studio, telephone answering service, motion picture theater, video store or bookstore;
(b) For any person to practice or administer any subject or method of treatment listed in Section 832.01(d), whether for a fee, gratuity or compensation of any kind:
   (1) In a manner or under circumstances intended to arouse, appeal to, or gratify sexual desires; or
   (2) To any other person whose private parts are not covered by opaque material; or
   (3) Involving direct or indirect touching or contact with the genitals of the individual receiving the treatment.
(c) For any person to place either their hand(s) upon, or touch with any part of their body, or touch with a mechanical device, a sexual or genital part of any person in the course of a massage, or massage a sexual or genital part of any other person. Sexual and genital parts shall include the genitals, pubic area, anus or perineum of any person.
(d) For any person to uncover and expose the sexual or genital parts of a client or themselves before, during, or after any subject or method of treatment listed in Section 832.01(d).

832.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree. Each and every day that any such violation continues shall constitute a separate offense. Revocation or suspension of a license/permit issued under this chapter shall not be a defense against a prosecution for a violation of this chapter.
DATE: April 9, 2021

TO: James Palenick, City Manager

FROM: Ashley Bretland, General Counsel
       David Birk, Chief of Police
       Written by Zachary A. Barnhart, Staff Attorney

PURPOSE

This is a request for City Council to consider proposed legislation regarding licensing of standalone massage parlors and practitioners.

BACKGROUND AND FINDINGS

City staff reviewed our city ordinances and those of other jurisdictions in regards to massage service businesses. The proposed legislation will require standalone massage parlors and massage practitioners to apply for a license from the City in order to operate within the City limits. The Police Chief or his designee will be responsible for administering the provisions of these licenses/permits. Both licenses/permits require an initial non-refundable application fee and an annual renewal fee.

<table>
<thead>
<tr>
<th></th>
<th>Initial Fee</th>
<th>Renewal Fee</th>
<th>Late Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Massage Establishment Permit</td>
<td>$500.00</td>
<td>$250.00</td>
<td>$25.00</td>
</tr>
<tr>
<td>Massage Practitioner License</td>
<td>$100.00</td>
<td>$50.00</td>
<td>$25.00</td>
</tr>
</tbody>
</table>

Upon receipt of the application, the Division of Police will review the application to confirm the information contained within. Once the investigation has been complete, a recommendation will be provided to the Police Chief or their designee to recommend approval or denial of the license/permit.

If licenses/permits are denied at application or revoked, suspended or not renewed, the applicant or license/permit holder will have the option to appeal. If a hearing is needed for further determination, it will be handled through the City’s Office of Administrative Hearings.

Existing standalone massage businesses will have 90 days from the effective date of this ordinance to submit the appropriate application. This legislation is intended to address the illegal activity and unsanitary conditions that have occurred at these types of unregulated businesses. Failure to adopt
the new proposed ordinance will result in the continued expenditure of City resources to combat illegal massage service businesses.

**ALTERNATIVES**

The alternative is to take no action, in which case the moratorium will expire, unless an extension is requested and granted. Upon expiration of the moratorium the City staff would resume accepting and evaluating individual requests to open businesses providing massage therapy or relaxation massage services as they are received.

**FINANCIAL IMPACTS**

Failure to adopt the proposed legislation will result in continued manpower and resources to investigate suspected illegal massage service businesses.

**EMERGENCY/NON EMERGENCY**

Non-emergency legislation is requested.
APPLICATION FOR
MASSAGE ESTABLISHMENT PERMIT

Date Application Received:__________________    Permit No.: ____________________

FEES: $500.00 Initial / $250.00 Renewal

For the purposes of this application, the registrant shall be the owner of the business. Business owners must obtain a permit to operate a Massage Establishment, as such term is defined in Section 832.01 of the City of Middletown Codified Ordinances.

Complete this application in its entirety and submit it to the City of Middletown Division of Police.

Incomplete Applications will NOT be accepted.

Attach an additional sheet of paper as needed to respond to the Application.

NOTE: A COLOR COPY OF THE BUSINESS OWNER/APPLICANT’S GOVERNMENT ISSUED IDENTIFICATION CARD MUST BE SUBMITTED WITH THIS APPLICATION. THE COPY WILL BE MADE BY THE DIVISION OF POLICE.

Check one:  Initial Application _____   Renewal _____

1. Address of Massage Establishment:

<table>
<thead>
<tr>
<th>(Street)</th>
<th>(City)</th>
<th>(State)</th>
<th>(Zip)</th>
</tr>
</thead>
</table>

2. Current owner(s) of above-described real estate: ________________________________

3. Telephone numbers of above-described property owner(s):

   Home: ___________________________   Cell: ___________________________

4. Email address(es) of above-described property owner(s): ___________________________

5. Name/proposed name of Massage Establishment: ________________________________

6. Name of Business Owner/Applicant:

   (Last)   (First)   (Middle)
7. All Nicknames and Aliases of Business Owner/Applicant:

___________________________________________________________________________

8. Home Address of Business Owner/Applicant:

(Street) (City) (State) (Zip)

9. Previous two residential addresses of Business Owner/Applicant:

(i.)

(Street) (City) (State) (Zip)

From: ______________________ To: __________________ (Month/Year)

(ii.)

(Street) (City) (State) (Zip)

From: ______________________ To: __________________ (Month/Year)

10. Provide the business names, complete addresses, and telephone numbers of each business involving massage related services that the Business Owner/Applicant has been associated with, employed by, or been an independent contractor at during the preceding 10-year period, including the dates the Business Owner/Applicant was affiliated with or employed by each business.

___________________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________

11. List and describe any of Business Owner/Applicant’s criminal convictions of record, other than minor misdemeanor traffic violations, in the preceding 10-year period, including the date of each conviction; the charge(s) for which Business Owner/Applicant was convicted; and the location (city, state and county) where each conviction occurred.

___________________________________________________________________________

___________________________________________________________________________

___________________________________________________________________________

Page 2/6
12. Provide a description of any licenses, certificates, permits, or other authorizations/registrations that Business Owner/Applicant currently holds, or has held in the past, to engage in the practice of any massage-related services or business ventures.

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

13. Have you, the Business Owner/Applicant, been employed by a Massage Establishment or other business engaged in any massage-related services that at any time in the preceding 10-year period had its license(s), permits and/or registration suspended or revoked, or was otherwise shut down by any legal authority?

_____ YES  _____ NO

If yes, list the dates and reasons for such suspension, revocation and/or shut down and indicate the name and location (city, county and state) of the jurisdiction or agency that issued or caused the suspension, revocation, or shut down.

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

14. Describe the nature of the massage-related services to be administered at the Massage Establishment (e.g., Swedish massage, deep tissue, shiatsu, hot stone, reflexology, Thai massage, etc.).

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

15. Applicant’s authorization for background check to be completed and fingerprints to be taken:

__________________________________________

Signature  Date

Page 3/6
I hereby certify and affirm that I currently have or will maintain a database and/or roster of all employees and independent contractors working at my Massage Establishment that contains all information required pursuant to City of Middletown Code of Ordinances. I agree and understand that this database and/or roster shall be made available to City of Middletown officials and/or authorized agents upon request by the City. I also understand and acknowledge that I am required to update the database and/or roster to include all relevant and requisite information regarding any new Massage Therapists, Massage Practitioners, Employees, and/or Independent Contractors who work at the Massage Establishment within 30 days of any new hire/association.

I further certify that I am the owner of the Massage Establishment, that I will abide by all provisions of Chapter 832 of the City of Middletown Codified Ordinances and that all information and the attachments submitted with this application are true and correct to the best of my information, knowledge, and belief. I acknowledge additional Massage Establishment Operation Requirements are included on Pages 5 and 6 of this Application.

Applicant’s Signature: __________________________

Applicant’s Title: __________________________

Date of Application: __________________________

FOR USE BY THE DIVISION OF POLICE

This application is: APPROVED _____ DENIED _____

Remarks: __________________________________________

________________________________________________________________

________________________________________________________________

Notice of approval/denial given to Applicant via _____ personal service or _____ certified mail on ______________________, 20___.

By: __________________________ Date: __________________

Print Name: __________________________
MASSAGE ESTABLISHMENT OPERATION REQUIREMENTS

In addition to all other applicable requirements prescribed by the City of Middletown Codified Ordinances, all Massage Establishments shall comply with the following operating requirements:

• *Exterior Signs.* A recognizable and legible sign shall be posted at the main entrance identifying the business as a Massage Establishment. In addition, the sign shall comply with City of Middletown Codified Ordinances.

• *Posting of Registration.* A copy of each Registration and Massage Therapists’ license(s) or license card from the State Medical Board of Ohio shall be posted in a conspicuous place in such a manner that it can easily be seen by Persons patronizing the Massage Establishment.

• *Posting of Services Available and Fees.* A list of all services available, the price thereof, and the length of time each service shall be performed shall be posted or available in a conspicuous place in such a manner that it can easily be seen by Persons entering the Massage Establishment. No other services, other than those posted, shall be provided.

• *Maintain Written Records.* Every Massage Establishment shall keep a written record of the date and hour of each service provided, the name and address of each patron and the service received, and the name of the Massage Therapist administering the service. These records may not be used for any other purpose than as records of service provided and may not be provided to other parties by the Massage Establishment unless otherwise required by law. Such records shall be retained on the premises of the Massage Establishment for a period of two years.

• *Standard of Dress for Massage Establishment Employees.* All Massage Therapists, Massage Practitioners, Employees, and Independent Contractors of the Massage Establishment shall remain fully clothed in clean outer garments while on the premises of the Massage Establishment. At a minimum, such clothing shall be made of nontransparent material and shall not expose the buttocks, genital area or breasts of any employee at any time.

• *Operating Hours.* No Massage Establishment shall be kept open for business, and no Massage Therapist shall administer massages between the hours of 10:00 p.m. and 8:00 a.m.

• *Lighting Required.* Massage Establishments will be lighted at all times during business hours to clearly show the business is in operation. Rooms where Massage Services are provided will be adequately lit when occupied to meet all emergency exiting requirements.

MASSAGE ESTABLISHMENT CONDITIONS OF PREMISES

• *Required Maintenance of Massage Establishment.* All premises and facilities of the Massage Establishment shall be maintained in a clean and sanitary condition at all times. The premises and facilities shall meet the applicable requirements of the City of Middletown Codified Ordinances, including but not limited to, those related to the safety of structures and building systems, property maintenance, zoning, and adequacy of the plumbing, heating, ventilation, and waterproofing of rooms in which showers, water or steam baths are used and maintained.
• **Linens.** All Massage Establishments shall provide clean laundered sheets, towels, and other linen for use by clients. Such linens shall be laundered after each use and stored in a sanitary manner.

• **Adequate dressing and toilet facilities shall be provided for patrons.** One dressing room, with door capable of being closed and locked, which may be the same as the massage treatment room. One toilet and one wash basin shall be provided by every massage establishment for every three treatment rooms. A minimum of one shower or tub shall be provided for any establishment offering colon therapy, colonics, or any hydrotherapy services, including whirlpool baths, saunas, steam baths, and herbal wraps. Each dressing room or treatment room shall contain a locker for each patron to be served, which locker shall be capable of being locked.

**PROHIBITED ACTS**

• **Touching of Sexual and Genital Parts of Client During Massage.** No holder of a permit or any Massage Therapists, Massage Practitioners, Employees or Independent Contractors of a Massage Establishment shall place either his or her hand(s) upon, or touch with any part of his or her body, or touch with a mechanical device, a sexual or genital part of any other Person in the course of a Massage, or Massage a sexual or genital part of any other Person. Sexual and genital parts shall include the genitals, pubic area, anus or perineum of any Person.

• **Uncovering and Exposure of Sexual and Genital Parts of Client Before, During, or After Massage.** No permit holder or any other Massage Therapists, Massage Practitioners, Employees, or Independent Contractors of a Massage Establishment shall uncover and expose the sexual or genital parts of a Client or themselves or any other person while engaged in the practice of Massage, or before or after a Massage.

• **Transfer of Registration.** No Permit(s) issued pursuant to this chapter shall be transferred or assigned in any manner, without written approval of the Police Chief or their designee, from any location to another location or from Person to Person.

**RENEWAL OF REGISTRATION**

All permits issued under Chapter 832 shall expire on the anniversary of the date of issuance. Applications for Renewals of permits must be submitted to the City’s Division of Police no later than 60 days prior to the expiration date.
APPLICATION FOR
MASSAGE PRACTITIONER LICENSE

Date Application Received: ___________________  Permit No.: ___________________

FEES: $100.00 Initial / $50.00 Renewal

For the purposes of this application, the registrant shall be the person seeking the massage practitioner license. Massage Practitioners must obtain a license to provide a massage or method of treatment, as defined in Section 832.01 of the City of Middletown Codified Ordinances.

Complete this application in its entirety and submit it to the City of Middletown Division of Police.

Incomplete Applications will NOT be accepted. Attach an additional sheet of paper as needed.

NOTE: A COLOR COPY OF A GOVERNMENT ISSUED IDENTIFICATION CARD MUST BE SUBMITTED WITH THIS APPLICATION. THE COPY WILL BE MADE BY THE DIVISION OF POLICE.

Check one: Initial Application _____ Renewal _____

1. Applicant full legal name:

   ___________________________  ___________________________  ___________________________
   (Last)                      (First)                        (Middle)

2. Any other names by which the applicant has been know:

   ______________________________________________________________________________
   ______________________________________________________________________________

3. Applicant Home Address:

   ______________________________________________________________________________
   (Street)                                    (City)                          (State)                        (Zip)

4. Date of Birth: ________________________________________________________________

   (Month)                            (Day)                            (Year)

5. Social Security Number: ____________________________

6. Contact Information: ____________________________

   (Phone)                          (Email)

7. Previous two residential addresses and dates of residence at each.

   (i.) ____________________________

   (Street)                                    (City)                          (State)                        (Zip)
8. Applicant education, training, etc.: ____________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

9. Prior licensees held by applicant: __________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

10. Has applicant ever had a prior license suspended or revoked? _____ YES _____ NO

If yes, please explain: ________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

11. List and describe any criminal convictions of record, other than minor misdemeanor traffic violations, in the preceding 10-year period, including the date of each conviction, and the location (city, state and county) where each conviction occurred: ______________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
12. Applicant’s authorization for background check to be completed and fingerprints to be taken:

<table>
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<tr>
<th>Signature</th>
<th>Date</th>
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</table>

Applicant understands that, if granted a Massage Practitioner License, applicant must display such license in a conspicuous place upon the business premises. A recent photograph of the licensee shall be attached to the license. Every licensed massage practitioner shall pay to the City a renewal fee of $50.00 annually on or before the anniversary date of each year and must maintain a valid and current massage practitioner license. The City may deny an application for a license or suspend or revoke an already issued license as set forth in §832 of the City of Middletown Codified Ordinances. The procedure for appealing such denial, suspension or revocation is set forth in §832.11.

I further certify that I will abide by all provisions of Chapter 832 of the City of Middletown Codified Ordinances all information and attachments submitted with this application are true and correct to the best of my information, knowledge, and belief. I acknowledge additional Massage Practitioner Requirements are included on Page 4 of this Application.

Applicant’s Signature: __________________________________________________________

Date of Application: ____________________________

*********************************************************

FOR USE BY THE DIVISION OF POLICE

This application is: APPROVED _____ DENIED _____

Remarks: _______________________________________________________________


Notice of approval/denial given to Applicant via _____ personal service or _____ certified mail on ____________________________, 20__.

By: _______________________________ Date: _______________________________

Print Name: _______________________________
MASSAGE PRACTITIONER LICENSE REQUIREMENTS

In addition to all other applicable requirements prescribed by the City of Middletown Codified Ordinances, all Licensed Massage Practitioners shall comply with the following operating requirements:

- **License required.** No person shall practice, administer, offer, agree to practice any subject listed in §832.01(d) without first obtaining and maintaining a valid and current license.

- **Display of license.** All licenses issued pursuant to §832 along with a current color photograph shall be posted in a conspicuous place in such a manner that it can easily be seen by Persons patronizing the Massage Establishment.

- **Standard of Dress for Massage Establishment Employees.** All Massage Therapists, Massage Practitioners, Employees, and Independent Contractors of the Massage Establishment shall remain fully clothed in clean outer garments while on the premises of the Massage Establishment. At a minimum, such clothing shall be made of nontransparent material and shall not expose the buttocks, genital area or breasts of any employee at any time.

- **Operating Hours.** No Massage Therapist shall administer massages between the hours of 10:00 p.m. and 8:00 a.m.

**PROHIBITED ACTS**

- **Touching for sexual gratification.** No Massage Therapists, Massage Practitioners, Employees or Independent Contractors of a Massage Establishment shall practice or administer any subject listed in Section 832.01(d), whether for free or a fee, gratuity or compensation of any kind in a manner or under circumstances intended to arouse, appeal to, or gratify sexual desires.

- **Touching of Sexual and Genital Parts of Client During Massage.** No Massage Therapists, Massage Practitioners, Employees or Independent Contractors of a Massage Establishment shall place either his or her hand(s) upon, or touch with any part of his or her body, or touch with a mechanical device, a sexual or genital part of any other Person in the course of a Massage, or Massage a sexual or genital part of any other Person. Sexual and genital parts shall include the genitals, pubic area, anus or perineum of any Person.

- **Uncovering and Exposure of Sexual and Genital Parts of Client Before, During, or After Massage.** No Massage Therapists, Massage Practitioners, Employees, or Independent Contractors of a Massage Establishment shall uncover and expose the sexual or genital parts of a client or themselves or any other person while engaged in the practice of Massage, or before or after a Massage.

- **Transfer of Registration.** No licenses issued pursuant to this chapter shall be transferred or assigned in any manner.

**RENEWAL OF REGISTRATION**

All licenses issued under MCO Chapter 832 shall expire on the anniversary of the date of issuance. Applications for Renewals of licenses must be submitted to the City’s Division of Police no later than 60 days prior to the expiration date.
LEGISLATION
ITEM 7
ORDINANCE NO. O2021-37

AN ORDINANCE AUTHORIZING A LAND SWAP AND DEVELOPMENT AGREEMENT WITH DICKIE D. BRANDON, TRUSTEE OF THE O.L.C. REVOCABLE LAND TRUST, DICKIE BRANDON AND PHILLIP BRANDON.

WHEREAS, Dickie D. Brandon, Trustee of the O.L.C. Revocable Land Trust, owns 2119 Roosevelt Boulevard which is not wide enough to build a home on in compliance with the Development Code; and

WHEREAS, the City took ownership of parcel number Q6542054000051, an unnumbered parcel on Bonita Drive, in 2011 through forfeiture as a result of tax foreclosure; and

WHEREAS, Dickie and Phillip Brandon are in the home construction business and interested in pursuing infill construction opportunities within the City; and

WHEREAS, by swapping the Roosevelt Boulevard and Bonita Drive properties, the Brandon’s are committing to building a four bedroom, three bathroom home to be sold by a Middletown realtor to a homeowner within 18 months of the property transfer;

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 a Development Agreement with Dickie D. Brandon, Trustee of the O.L.C. Revocable Land Trust, Dickie Brandon and Phillip Brandon and to swap 2119 Roosevelt Boulevard and parcel number Q6542054000051 located on Bonita Drive. The Development Agreement shall state that the Brandon’s will build a home on the Bonita Drive property within 18 months of the property being transferred. The home must be listed with a Middletown realtor and sold to a homeowner. If the Brandon’s fail to complete the new construction or the terms of the Development Agreement, they will be obligated to pay the City the sum of $2,500.00. The Development Agreement shall be in a form approved by the City Manager and the Law Director.

Section 2

It is hereby determined that the subject matter of this legislation is not of a general and permanent nature, does not provide for a public improvement, and does not assess a tax or payment.
Section 3

This ordinance shall take effect and be in force at the earliest time permitted by law.

Nicole Condrey, Mayor

1st Reading: __________________
2nd Reading: _________________
Adopted: _________________
Effective: _________________

Attest: __________________________
               Clerk of the City Council

H:\Law\Leg\2021 Leg\O Land Swap & Development Agreement with Brandons
DATE April 12, 2021

TO: James Palenick, City Manager

FROM: Susan Cohen, Assistant City Manager

PURPOSE

To request Council authorize a contract to swap certain lands with Dickie and Phillip Brandon under terms of a development agreement for infill construction

BACKGROUND AND FINDINGS

Staff was approached by local Developers Dickie and Phillip Brandon about entering into an agreement to exchange land parcels that would be most beneficial for the other party to possess.

Staff examined the location, and value of each property and is recommending entering into a land swap agreement with the Brandons involving the following properties.

Currently in the City possession that would be transferred to Brandons:

Bonita Drive (Parcel Q6542054000051) (Currently unnumbered address in the 4700 block of Bonita near the intersection with Daniel Court)

Currently in Brandon possession transferred to the City:

2119 Roosevelt Blvd (Parcel Q6542032000108)

The properties in question are similarly valued by the Butler County Auditors Office. The Brandon’s are in the home construction business and are interested in pursuing infill construction opportunities in the City. The lot they own on 2119 Roosevelt is not wide enough to build a new home in compliance with the current development code. The City owned lot on Bonita is wide enough to allow for development of new housing. With this property swap, the Brandons are further committing that within 18 months of transferring the property, they will build a 4 bedroom, 3 bathroom home on the Bonita Property and will put the new home up for sale with a Middletown area realtor to sell to a homeowner. If the Brandon’s fail to complete the new construction or terms of the agreement, they will be obligated to pay the City $2,500, which is equal to 5 times the amount the city would typically sell a vacant lot for under the vacant side lot program.

The property in question that the City possesses on Bonita was obtained in 2011 by Court ordered forfeiture and held by the City since that time. Because of the forfeiture, the City had no
cost to obtain the property but has been spending funds to maintain the property since that time.

**ALTERNATIVES**

Council may choose to not to enter into the agreement. Council could further direct staff to work thru the variance process on the 2119 Roosevelt address so the Brandons could build a home on that lot. If no agreement is authorized, the City would continue to maintain the property until another opportunity developed. Staff also recommends the agreement as a potential template for promoting infill construction opportunities in compliance with the City’s housing plan and housing needs.

**FINANCIAL IMPACTS**

None. The properties are similarly situated in value.

**EMERGENCY/NON EMERGENCY**

Non Emergency.
LEGISLATION
ITEM 8
ORDINANCE NO. O2021-10

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH ONECITY FOR RECOVERY AND DECLARING AN EMERGENCY.

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

Section 1

The City Manager is authorized to enter into a Memorandum of Understanding with OneCity for Recovery to provide assistance to homeless residents. A copy of the proposal for services is attached hereto as Exhibit “A”. The MOU contain terms consistent with the proposal and shall be in a form approved by the City Manager and Law Director.

Section 2

The Finance Director is hereby authorized and directed to pay a sum not to exceed $25,000.00 from the General Fund (Fund # 100), which such sum is hereby appropriated to the accounts of 409 (100.409.52488).

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 pilot program to begin without delay, and shall be in full force and effect from the date of its adoption.

Nicole Condrey, Mayor

Adopted: __________________

Attest: ____________________

Clerk of the City Council
To: David Birk and Susan Cohen

Subject: Hopeline - Middletown Homeless - Pilot Proposal

The following is a proposal from the Hopeline, enabled by OneCity For Recovery, to proceed with a 6-month pilot with Middletown Police.

The pilot is to actively address the homeless challenge in Middletown, based on pressures/impact of Covid, including the temporary closing of Shalom. Middletown Police is looking for ways triage and to directly address these challenges.

Objectives of Pilot

1) Provide a Hopeline point of contact (Victoria) for police or other channels/agencies (i.e. hospital) to utilize as a resource when working with homeless clientele.
2) The Hopeline, using the same model being used in the addiction space, will connect clients experiencing homelessness with appropriate homeless, addiction and mental health services. Examples include connection to case manager from an agency like Butler Behavioral Health and Access Counseling. This model is client-based/led with no billing involved.
3) The Hopeline will utilize their best understanding and ability to navigate and connect all available resources to help clients experiencing homelessness.
4) The Hopeline will follow-up with homeless clientele, i.e. continual care
5) At the end of the six months, the Hopeline will review findings of what is working/not working during the pilot in working with the homeless community. This review will also include recommendations for the Middletown Police to consider.

Scope

1) 20% of incremental capacity for Victoria as a care coordinator.
2) Officers can communicate with Victoria at any time via phone/text. Victoria will follow-up as available, but at the latest next business day. Victoria will flex using her best judgement.
3) Given the impact of Covid, this pilot will include funds to help surge wrap arounds services – purchase of clothes/personal hygiene, Uber/Lyft rides as needed (i.e. Serve City, other Dayton/Cincinnati shelters), removal of barriers like id, birth certificates, and storage unit rental for supplies.
4) Victoria will not be “on the streets” after dark.

Assumptions

- There is a large component of the homeless population that are battling substance abuse.

Plan to learn

- What is working/not working with the current police approach in working with the homeless?
- How much overlap is there between homelessness and addiction in Middletown?
**Pilot success measures/outcomes:**
1. Reduced homeless (measure tbd)
2. Less calls on the homeless (measure tbd)
3. Review findings/learnings at the end of the twelve months of what is working/not working in working with those clients experiencing homeless.

**Budget**

<table>
<thead>
<tr>
<th>Area</th>
<th>Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incremental coverage by peer Hopeline resource for 6 months/milage to increase capacity for Victoria</td>
<td>$10,000</td>
</tr>
<tr>
<td>Wrap around services - transportation/supplies/storage</td>
<td>10,000</td>
</tr>
<tr>
<td>OneCity/Hopeline admin</td>
<td>3,000</td>
</tr>
<tr>
<td>Data Collection</td>
<td>2,000</td>
</tr>
<tr>
<td><strong>Total Budget</strong></td>
<td><strong>$25,000</strong></td>
</tr>
</tbody>
</table>

Funding would go to OneCityForRecovery (501c). OneCity would be responsible for reporting the following to Middletown - measures regarding clients served, connection to services, services provide (e.g. getting ids), and expense reporting. This information will be valuable for sharing the impact of this pilot for potential future funding by Middletown council.
ORDINANCE NO. O2021-38

AN ORDINANCE AMENDING THE PAY AND BENEFITS ORDINANCES, ORDINANCE NO. O2020-69 AND ORDINANCE NO. O2020-70, AS AMENDED, AND DECLARING AN EMERGENCY.

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

Section 1

The following job classification is hereby amended in Section 1(C) of Ordinance No. O2020-69 and Ordinance No. O2020-70, both adopted November 17, 2020, as amended:

<table>
<thead>
<tr>
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<td>City Engineer – New Range</td>
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</table>

These pay ranges amendments are not retroactive to January 1, 2021 and will be effective upon adoption by City Council.

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: to allow the amendments to be effective upon approval so that the position can be advertised at the new pay range, and shall be in full force and effect from the date of its adoption.

Nicole Condrey, Mayor

Adopted:__________

Attest:_________________________

Clerk of City Council
DATE           April 21, 2021
TO:             Jim Palenick, City Manager
FROM:           Scott Tadych, Public Works and Utilities Director

PURPOSE

To amend the 2021 Pay and Benefits ordinance.

BACKGROUND AND FINDINGS

Staff is requesting to reclassify the City Engineer position from Range 171 (Range 285 post-1/1/18 hires) to Range 169 (Range 291 post-1/1/18 hires) to attract and retain a qualified candidate. The City Engineer is responsible for the day-to-day administration and supervision of the Engineering Division. This includes project management for the construction of public works projects including contract administration and inspection as well as the coordination with various federal, state, and regional agencies. Additional duties include traffic engineering, applying for and administration of infrastructure grants, development plan review, right-of-way management, and infrastructure record keeping. The position requires a bachelor’s degree in Civil Engineering from an accredited college or university and a Professional Engineer’s License in the State of Ohio.

The City is in the beginning stages of major roadway infrastructure improvements in excess of $50 million over the next two years including the recent Paving Levy program, annual paving programs, ODOT Urban Paving program, and Central Avenue Improvements. The City Engineer is responsible for the bulk of the day-to-day management of these projects. Annually paving programs and roadway infrastructure projects will continue into the future including development of a comprehensive pavement condition maintenance plan to extend the life of the significant investment made by citizens of Middletown by approving the Paving Levy. The City Engineer position will have primary responsibility for development and implementation.

ALTERNATIVES
Maintain current pay and benefits which may require supplementing position duties with consultants.

**FINANCIAL IMPACTS**

The reclassification would change the salary range from $78,920.40 - $103,959.44 annually to $86,544.64 - $113,962.16 annually. The position if split between the General Fund and enterprise funds.

**EMERGENCY/NON EMERGENCY**

Emergency is requested to advertise for the position as soon as possible.

**ATTACHMENTS**
LEGISLATION
ITEM 10
ORDINANCE NO. O2021-39

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A GRANT AGREEMENT WITH CENTRAL CONNECTIONS AND DECLARING AN EMERGENCY.

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

Section 1

The City Manager is hereby authorized to enter into a CDBG CARES Act grant agreement with Central Connections to be used for the replacement of a walk-in freezer and building roof. The agreement shall be in a form approved by the City Manager and Law Director.

Section 2

For said purposes, the Finance Director is hereby authorized to pay a sum not to exceed $220,000.00 from the Community Development Act 1974 Fund (Fund # 429).

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: to allow the grant funds to be distributed for use without delay, and shall be in full force and effect from the date of its adoption.

Nicole Condrey, Mayor

Adopted:___________

Attest: _________________________

Clerk of City Council
April 22, 2021

TO: City Council
ATTN: Jim Palenick, City Manager
FROM: Ashley Combs, Development Services Director

SUBJECT: Central Connections & Community Building Institute
Cares Act Grant Application/Acceptance

PURPOSE
To authorize the City Manager to enter into a grant agreement with Central
Connections to accept $220,000 in CARES Act Grant funding and the Middletown
Community Building Institute to accept $28,000 in CARES Act Grant funding for the
2021 program year.

BACKGROUND AND FINDINGS
The City previously allocated $50,000 to Middletown City Schools and $150,000 to
SELF, but neither organization has spent the funds. The City requests to reallocate a
total of $248,000 from our remaining balance of $271,165. Any remaining balance
will be considered for other future funding requests.

Central Connections (also known as the Middletown Senior Center) has been
tentatively awarded $220,000 to fund replacement of their walk-in freezer and for the
replacement of their roof.

Central Connections provides numerous physical, emotional, intellectual,
spiritual, vocational, and social needs that enrich the well-being of the community.
Many of the people served by Central Connections are older adults, age 50+, who are
middle to low income members of the community who seek out their facility as a place
for nutrition, socialization, fellowship, and resources for whole-person wellness. During
the COVID-19 pandemic their services have been even more valuable to the
community.

The COVID-19 pandemic significantly impacted the way Central Connections
has been able to meet the need of the community. Demand for their services has
increased and they are the major provider of senior meals in the Middletown area.
Central Connections closed its facility in mid-March 2020 and became a full food
production that prepares, packages, and delivers over 6,000 meals per week to over
1,138 seniors in both Warren and Butler Counties. Most of the meals are frozen prior
to distribution. Their Home Delivered Meal (HDM) Program increased from 400
participants and 53,133 meals delivered between March 1 and September 30, 2019,
to 591 clients and 89,590 meals during the same months in 2020. This represents a
47.8% increase in clients and a 68.6% increase in meals. Due to increased need for
meals, there is limited freezer storage for the prepared meals. It is also important to
have a reliable storage space for all the meals.
Central Connections is also in need of a roof replacement. It is very important that the center be well-maintained with the type of services that are provided to our community. Funding a roof will ensure that the facility is protected so that they continue doing their mission to the best of their ability.

The Community Building Institute will be offering a youth summer program that requests $28,000 to be funded. The Community Building Institute serves the Middletown community to serve children and families with assistance with life enriching services for a bright future. Their goals center around preparing the City’s children adequately to enter kindergarten, students reading on grade level by the third grade, youth set up for success post-graduation through college and career preparedness and for families in poverty to be moved to self-sufficiency.

No Local Match is required to accept or expend the CARES Act funds.

**FINANCIAL IMPACT**

None – no local match is required.

**ALTERNATIVES**

The alternative would be to turn down the grant funding, or grant funds to another entity or project. Staff believes the requests meet the CDGB objectives for funding community development needs and youth activities/centers.

**EMERGENCY/NON-EMERGENCY**

Emergency – It is requested that the funds be distributed as soon as possible to facilitate the CARES Act Grant program goals.

**DEPARTMENTAL CLEARANCES**

Law
Finance
LEGISLATION

ITEM 11
ORDINANCE NO. O2021-40

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A GRANT AGREEMENT WITH COMMUNITY BUILDING INSTITUTE AND DECLARING AN EMERGENCY.

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

Section 1

The City Manager is hereby authorized to enter into a CDBG CARES Act grant agreement with Community Building Institute to fund a youth summer program. The agreement shall be in a form approved by the City Manager and Law Director.

Section 2

For said purposes, the Finance Director is hereby authorized to pay a sum not to exceed $28,000.00 from the Community Development Act 1974 Fund (Fund # 429).

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: to allow the grant funds to be distributed for use without delay, and shall be in full force and effect from the date of its adoption.

___________________________
Nicole Condrey, Mayor

Adopted:____________

Attest:_____________________
Clerk of City Council
TO: City Council
ATTN: Jim Palenick, City Manager
FROM: Ashley Combs, Development Services Director
SUBJECT: Central Connections & Community Building Institute
Cares Act Grant Application/Acceptance

PURPOSE
To authorize the City Manager to enter into a grant agreement with Central Connections to accept $220,000 in CARES Act Grant funding and the Middletown Community Building Institute to accept $28,000 in CARES Act Grant funding for the 2021 program year.

BACKGROUND AND FINDINGS
The City previously allocated $50,000 to Middletown City Schools and $150,000 to SELF, but neither organization has spent the funds. The City requests to reallocate a total of $248,000 from our remaining balance of $271,165. Any remaining balance will be considered for other future funding requests.

Central Connections (also known as the Middletown Senior Center) has been tentatively awarded $220,000 to fund replacement of their walk-in freezer and for the replacement of their roof.

Central Connections provides numerous physical, emotional, intellectual, spiritual, vocational, and social needs that enrich the well-being of the community. Many of the people served by Central Connections are older adults, age 50+, who are middle to low income members of the community who seek out their facility as a place for nutrition, socialization, fellowship, and resources for whole-person wellness. During the COVID-19 pandemic their services have been even more valuable to the community.

The COVID-19 pandemic significantly impacted the way Central Connections has been able to meet the need of the community. Demand for their services has increased and they are the major provider of senior meals in the Middletown area. Central Connections closed its facility in mid-March 2020 and became a full food production that prepares, packages, and delivers over 6,000 meals per week to over 1,138 seniors in both Warren and Butler Counties. Most of the meals are frozen prior to distribution. Their Home Delivered Meal (HDM) Program increased from 400 participants and 53,133 meals delivered between March 1 and September 30, 2019, to 591 clients and 89,590 meals during the same months in 2020. This represents a 47.8% increase in clients and a 68.6% increase in meals. Due to increased need for meals, there is limited freezer storage for the prepared meals. It is also important to have a reliable storage space for all the meals.
Central Connections is also in need of a roof replacement. It is very important that the center be well-maintained with the type of services that are provided to our community. Funding a roof will ensure that the facility is protected so that they continue doing their mission to the best of their ability.

The Community Building Institute will be offering a youth summer program that requests $28,000 to be funded. The Community Building Institute serves the Middletown community to serve children and families with assistance with life enriching services for a bright future. Their goals center around preparing the City’s children adequately to enter kindergarten, students reading on grade level by the third grade, youth set up for success post-graduation through college and career preparedness and for families in poverty to be moved to self-sufficiency.

No Local Match is required to accept or expend the CARES Act funds.

**FINANCIAL IMPACT**
None – no local match is required.

**ALTERNATIVES**
The alternative would be to turn down the grant funding, or grant funds to another entity or project. Staff believes the requests meet the CDGB objectives for funding community development needs and youth activities/centers.

**EMERGENCY/NON-EMERGENCY**
Emergency – It is requested that the funds be distributed as soon as possible to facilitate the CARES Act Grant program goals.

**DEPARTMENTAL CLEARANCES**
Law
Finance
LEGISLATION
ITEM 12
ORDINANCE NO. O2021-41

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE MIDDLETOWN PORT AUTHORITY AND WARREN COUNTY PORT AUTHORITY RELATED TO PORT AUTHORITY PROJECTS WITHIN THEIR LEGALLY-AUTHORIZED JURISDICTIONS AND DECLARING AN EMERGENCY.

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 a Cooperation Agreement with the Middletown Port Authority and Warren County Port Authority agreeing to work in a collaborative manner related to their respective Port Authority projects within their legally-authorized jurisdictions. The agreement shall be in a form substantially similar to Exhibit “A”, attached hereto.

Section 2

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

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: to permit the agreement to be executed without delay, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted: ______________

Attest: _______________________

Clerk of the City Council

H:/Lawleg/2021 Leg/O Cooperative Agreement City, Middletown Port & Warren Co Port Authorities
This Cooperative Agreement (the “Cooperative Agreement”) dated as of [_____] , 2021, is entered into by and between the City of Middletown, Ohio, a political subdivision of the State of Ohio, by and through its City Council (the “City”), the Warren County Port Authority, a body corporate and politic duly organized and validly existing under the laws of the State of Ohio (together with its permitted successors and assigns, the “Warren County Port Authority”), and the Middletown Port Authority, a body corporate and politic duly organized and validly existing under the laws of the State of Ohio (together with its permitted successors and assigns, the “Middletown Port Authority” and, collectively with the City, and the Warren County Port Authority the “Parties” and each a “Party”), under the circumstances described below.

RECITALS:

WHEREAS, the City has determined that it shall enhance, foster, aid, provide and promote commerce and economic development within its geographic area by providing assistance to one or more projects, and that such projects shall create and preserve jobs and employment opportunities within the same (hereinafter referred to as the “Projects”);

WHEREAS, the Warren County Port Authority and the Middletown Authority Port Authority (the “Authorities”) each possess broad powers relating to economic development and the creation and preservation of jobs and employment opportunities, including those granted pursuant to Ohio Revised Code Section 4582.21 et seq.;

WHEREAS, the City has requested that the Authorities assist it with certain Projects within its geographic area;

WHEREAS, those certain Projects are also within the geographic area in which the Authorities are otherwise authorized to exercise their powers (the “Concurrent Jurisdiction”);

WHEREAS, the Parties have determined that the Projects, as and when identified, are intended to be in furtherance of the Warren County Port Authority’s and the Middletown Authority Port Authority’s authorized purposes and the each is willing to assist the City with the Projects located in the Concurrent Jurisdiction; and

WHEREAS, Ohio Revised Code Sections 9.482 and 4582.431 authorize the City to enter into an agreement with the Authorities under which the Parties agree to cooperate in furtherance of such Projects.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenants contained herein, and receipt of other good and valuable consideration, the City and the Authorities hereby agree as follows:

Section 1. The Parties agree to cooperate in furtherance of certain Projects located within the Concurrent Jurisdiction. Upon request, the Authorities each agree that either may
EXHIBIT “A”

provide certain services related to the Projects on such terms agreed upon between the Parties as set forth in Section 2(a) and 2(b) of this Cooperative Agreement.

Section 2. The Parties agree that each of the Authorities may provide the following services relating to the Projects, in accordance with the specified terms of this Cooperative Agreement:

(a) Sales and Use Tax Exempt Projects. The Authorities, and either of them individually or both of them acting collectively, may provide a financing structure for the Projects which results in the exemption of state sales and use taxes with respect to the purchase of all construction materials incorporated in and used for the construction of the Project (the “Tax Exempt Projects”). During any such Tax Exempt Projects, the Parties agree that the Warren County Port Authority shall receive no less than 15% of the savings that result from such tax exemptions, exclusive of professional and legal fees, as they relate to the Tax Exempt Projects. If any of the Authorities determines to proceed individually to assist a Tax Exempt Project, that Authority shall provide notice to the other Authority at least seven (7) days prior to legislative approval of the Tax Exempt Project. Professional and legal fees shall be agreed upon by both Authorities prior to completing any Tax Exempt Project.

(b) Other Port Authority Services. The Authorities may each, with the consent of the other Authority, exercise all other powers relating to economic development and the creation and preservation of jobs and employment opportunities granted to port authorities pursuant to Ohio Revised Code Section 4582.21 et seq. including, but not limited to, the following:

(i) acquiring, constructing, furnishing, equipping, maintaining, repairing, selling, exchanging, leasing to or from, or leasing with an option to purchase, conveying other interests in real or personal property, or any combination thereof, related to, useful for, or in furtherance of any authorized purpose and operating any property in connection with transportation, recreational, governmental operations, or cultural activities;

(ii) issuing bonds or notes for the acquisition, construction, furnishing, or equipping of any port authority facility or other permanent improvement that a port authority is authorized to acquire, construct, furnish, or equip;

(iii) loaning money to any person or governmental entity for the acquisition, construction, furnishing, and equipping of property;
EXHIBIT “A”

(iv) guarantying the obligations of any person or governmental entity; and

(v) selling, leasing, or conveying other interests in real and personal property.

(c) Shared Services. Pursuant to Ohio Revised Code Section 4582.28, the Authorities may employ and fix the qualifications, duties, and compensation of any employees and enter into contracts for any professional services they may require to conduct the business of the Authorities. The Authorities further agree to share such port authority staff, when appropriate, to be used in furtherance of the Projects, and may agree to provide compensation for such services in such amounts as are mutually agreeable to the Authorities.

(d) Cooperation with Other Governments. Each Authority agrees to obtain the prior written consent of the other Authority prior to obtaining financing for the Projects from any other state or local governmental body. Nothing in this Cooperative Agreement is intended to prohibit either the City, the Warren County Port Authority, or the Middletown Port Authority from cooperating with any other person or governmental entity in furtherance of the Projects.

Section 3. Upon consent of the City, the Authorities may each provide the services described in Sections 2(a) and 2(b) of this Cooperative Agreement, under the same terms as set forth in Section 2, in furtherance of projects that are located outside of the Concurrent Jurisdiction but otherwise within the municipal corporate boundaries of the City. Each of the Authorities agree to cooperate in order to negotiate fees associated with such projects that reasonably compensate the other Authority in such instances.

Section 4. This Cooperative Agreement shall in all respects be governed by and construed and enforced in accordance with the laws of the State, without reference to principles of conflicts of laws.

Section 5. This Cooperative Agreement shall be binding upon and inure to the benefit of City, the Warren County Port Authority, and the Middletown Authority Port Authority and their respective successors and permitted assigns. No Party may assign this Cooperative Agreement or any of its rights or obligations hereunder in whole or in part without the prior written consent of each of the other Parties hereto.

Section 6. This Cooperative Agreement may be executed in any number of counterparts as may be convenient or necessary and it shall not be necessary that the signatures of all of the parties hereto be contained on any one counterpart. Additionally, the parties hereto agree that for purposes of facilitating the execution of this Cooperative Agreement, (a) the signature pages taken from the separate individually executed counterparts of this Cooperative Agreement...
Agreement may be combined to form multiple fully executed counterparts and (b) a facsimile transmission shall be deemed to be an original signature for all purposes. All executed counterparts of this Cooperative Agreement shall be deemed to be originals, but all such counterparts taken individually or collectively, as the case may be, shall constitute one and the same agreement.

Section 7. This Cooperative Agreement may be terminated by legislative authority of any of the Parties upon one hundred eighty (180) days’ written notice to the other Parties; provided, that if a financing or other formal transaction commitment has been issued for a Project, and the consummation of the Project in accordance with the financing or other formal transaction commitment requires the participation of either of the Authorities, then this Cooperative Agreement shall not be subject to termination as to such Project until such Project is either complete or has been determined by the Parties hereto to be incapable of completion.
EXHIBIT “A”

IN WITNESS WHEREOF, the Parties hereto have caused this Cooperative Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY COUNCIL OF
MIDDLETOWN, OHIO:

By: ______________________________
Nicole Condrey, Mayor

Approved as to Form:

By: ______________________________

WARREN COUNTY PORT AUTHORITY:

By: ______________________________
Martin Russell, Executive Director

MIDDLETOWN PORT AUTHORITY:

By: ______________________________
Chris Xeil Lyons, Executive Director
EXHIBIT “A”

FISCAL OFFICER’S CERTIFICATE

The undersigned, Fiscal Officer of the City of Middletown, Ohio, hereby certifies that the moneys required to meet the obligations, if any, of the City during the year 2021 under the foregoing Cooperative Agreement have been lawfully appropriated by the City Council of the City for such purpose and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: __________, 2021

_________________________________________
Director of Finance
City of Middletown, Ohio
FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of the Warren County Port Authority, hereby certifies that the moneys required to meet the obligations, if any, of the Authority during the year 2021 under the foregoing Cooperative Agreement have been lawfully appropriated by the Board of the Authority for such purpose and are in the treasury of the Authority or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: __________, 2021

___________________________________________
Fiscal Officer
Warren County Port Authority
EXHIBIT “A”

FISCAL OFFICER'S CERTIFICATE

The undersigned, Fiscal Officer of the Middletown Port Authority, hereby certifies that the moneys required to meet the obligations, if any, of the Authority during the year 2021 under the foregoing Cooperative Agreement have been lawfully appropriated by the Board of the Authority for such purpose and are in the treasury of the Authority or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: ____________, 2021

________________________________________
Fiscal Officer
Middletown Port Authority
April 28, 2021

TO: City Council

FROM: James M. (Jim) Palenick, City Manager
Prepared by: James M. (Jim) Palenick, City Manager

Cooperative Agreement between the City of Middletown,
Warren County Port Authority, and Middletown Port Authority

PURPOSE

To authorize the City Manager to approve and enter into a three-way Cooperative Agreement between the City of Middletown, Warren County Port Authority, and Middletown Port Authority in order to assure both coordination and cooperation on major economic development projects wherein concurrent jurisdiction among the entities may come into play.

BACKGROUND AND FINDINGS

With the recent creation of the Middletown Port Authority, in order to further the economic development interests of the City of Middletown, we set up a circumstance wherein concurrent jurisdiction was introduced among possibly-competing Port Authorities (Warren County Port Authority and Middletown Port Authority). However, because the City has already established a highly-cooperative partnership with the Warren County Port Authority on the planned redevelopment of the Towne Mall Galleria as a re-imagined, mixed-use Towne Center, we don’t wish to, in any way, jeopardize said partnership. With that in mind, and to assure that we develop an agreed-upon structure for cooperatively defining, in advance, how the Middletown and Warren County Port Authorities will work together, we asked attorney Caleb Bell of Bricker and Eckler (who has provided legal services to both Port Authorities) to author a Cooperative Agreement which would allow for and enhance such cooperation moving forward.

The Agreement, as attached to the legislation, will require approval by each of the parties, but following review has been found acceptable by the Executive Directors of each of the Port Authorities and is equally recommended for approval by City staff.

One of the important terms negotiated to satisfy the Warren County Port Authority, in Section 2(a), “Sales and Use Tax-Exempt Projects”, is the provision that either Port Authority, individually or collectively, may provide a financing structure to economic development projects which result in the exemption of state sales and use taxes with respect to the purchase of construction materials, but regardless which Authority acts, the Warren County Authority shall receive no less-than 15% of the savings that result from such tax exemptions. Since counties in
Ohio, unlike cities, are highly dependent on sales tax revenues, this allows the Warren County Authority to report to its county officials that it could still receive an amount of funding from a project roughly equivalent to the county portion of sales taxes being exempted among the full basket of sales tax revenues that primarily go back to the State. At the same time, the Middletown Port Authority, if the entity providing the incentive, might decide to set the net exemption at 70% to the applicant -- allowing 15% for Warren County and 15% to the Middletown Port Authority (or similar, to be individually determined with each project).

The Agreement further provides that, with the City’s consent, either Authority may provide services in the City but outside of the concurrent jurisdiction (Butler County portion of City), but that any fees charged in association with such projects would first be negotiated between the two Authorities to reasonably compensate each.

FINANCIAL IMPACTS

There are no immediate or specific financial impacts to the City or the Middletown Port Authority as a result of entering into this Cooperative Agreement. However, it does create an environment for the future which is expected to open up many more prospects for meaningful economic development successes working in close partnership with the Warren County Port Authority. It also both preserves and enhances our already positive partnership in the redevelopment of the Towne Mall, including the possibility that the City and Warren County will partner on jointly investing (ARPA Funds) to assure the destination, demand-driver component (indoor ice sheets) of the project leads the way.

ALTERNATIVES

The alternative to partnering with the Warren County Port Authority and entering into this Cooperative Agreement is to allow for an environment of both uncertainty and anxiety between the two Port Authorities where unnecessary competition and disputes could occur. It is much better for the City if we grow and nurture our partnership with Warren County, and, in turn, reap the benefits that such a cooperative economic development environment.

RECOMMENDATION:

It is the recommendation of the City Manager, Economic Development staff, and legal counsel to the Port Authority, that we approve and enter into the Cooperative Agreement as developed and attached to the legislation.

EMERGENCY NON-EMERGENCY

Emergency – two readings; so that the two Port Authorities, in turn can also approve and execute and we can have greater certainty to many of the projects we are already cultivating and working on. Action requested on May 18, 2021.

ATTACHMENTS

Cooperative Agreement (attached to the legislation)
LEGISLATION

ITEM 13
ORDINANCE NO. O2021-42

AN ORDINANCE AUTHORIZING A COLLECTIVE BARGAINING AGREEMENT WITH THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL #336 FOR THE YEARS JANUARY 1, 2021 THROUGH DECEMBER 31, 2023 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, 2021 through December 31, 2023, between the City and International Association of Firefighters, Local #336 is hereby approved, and the City Manager is authorized to execute said agreement in a form substantially similar to Attachment “1”, 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 immediately, 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/2021 Leg/O IAFF Contract 2021-2023
Attachment "1"

DRAFT

CONTRACT BETWEEN

THE CITY OF MIDDLETOWN

AND

IAFF, LOCAL #336

JANUARY 1, 2018 – December 31, 2020
JANUARY 1, 2021 – December 31, 2023
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<td>Layoff/Recall</td>
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<td>Sick Leave</td>
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<td>Injury Leave</td>
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<td>Special Leave – Trading of Tours</td>
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<td>Bereavement Leave</td>
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<td>Union Business Leave</td>
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<tr>
<td>21</td>
<td>Promotions to Higher Rank</td>
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**Article 1 – Preamble**

The following Contract by and between the City of Middletown, Ohio hereinafter referred to as the City, and Local 336, International Association of Firefighters hereinafter referred to as the Union, is recorded in written form to meet the requirements as set forth in Section 4117.09(A) in the Ohio Collective Bargaining Law.

**Article 2 – Recognition**

A. **Bargaining Rights.** The City recognizes the Union as the sole and exclusive representative of all employees as hereinafter defined.

B. **Employees Defined.** The term employee or employees as used in this agreement shall refer to the full-time paid employees assigned to the following classifications:

   (1) Firefighter
   (2) Lieutenant
   (3) Captain
   (4) Deputy Chief

Effective April 1, 2016 the rank of Firefighter shall be divided into two classifications, Firefighter PM (Paramedic) and Firefighter EMT (EMT-Basic). All reference to firefighters and officers in the agreement shall include both sexes; wherever the male gender is used it shall be construed to include male and female employees. Any reference to Firefighter PM (FF-PM) or Firefighter EMT (FF-EMT) shall be specific to those classifications. All references to Firefighter are intended to include both FF-PM and FF-EMT.

C. **Subjects for Bargaining.** The Union has sole and exclusive bargaining rights under this agreement with respect to those mandatory subjects of bargaining defined under ORC 4117.

**Article 3 – Consideration**

**Nondiscrimination.** The parties agree that their respective policies will not violate the rights or discriminate against any employee covered by this Contract because of gender, creed, color, age, national origin, political affiliation, union activity or in the application or interpretations of the provisions of the Contract.

**Article 4 – Management Rights**

IAFF Local 336 recognizes the rights of the City and the Chief of Fire Division to operate and manage its affairs in all respects, in accordance with its responsibilities and the powers or authority which the City has not abridged, delegated or modified by this Contract and such powers or authority are retained by the City.
These management rights include, but are not limited to the following:

A. To utilize personnel, methods, procedures, and means in the most appropriate and efficient manner possible.

B. To manage and direct the Employees of the Fire Division.

C. To hire, schedule, promote, transfer, assign, train or retrain Employees in positions within the Fire Division.

D. To suspend, demote, discharge, or take other appropriate disciplinary action against the Employees for just cause.

E. To determine the size and composition of the work force and to lay off employees.

F. To determine the shift schedules, days and starting and quitting times for the Fire Division.

G. To determine the mission of the City and the methods and means, necessary to efficiently fulfill the mission including: the transfer, alteration, curtailment, or discontinuance of any services; the establishment of acceptable standards of job performance; the purchase and utilization of equipment for the performance of services.

H. The City has the right to schedule overtime as required in the manner most advantageous to the City and consistent with the requirements of municipal employment in the public interest.

I. It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described. Nevertheless, it is intended that all such duties shall be performed by the Employee.

J. Contracting and Subcontracting - IAFF Local 336 recognizes the City has statutory rights and obligations in contracting for matters relating to municipal operations. The right of contracting or subcontracting is vested exclusively in the City.

K. The City retains the right to establish reasonable rules, regulations, and rules of conduct. Rules, regulations, and rules of conduct which are specifically cited by provisions of this contract may not be changed without negotiations and agreement of IAFF Local 336.

L. The above rights of Management are not all inclusive but indicate the type of matter or rights which belong to and are inherent to Management. Any
of the rights, powers, or authority the City had prior to the signing of this Contract are retained by the City, except those abridged, delegated, or modified by this Contract.

**Article 5 – Payroll Deductions**

A. **Union Dues.** Upon the written authorization of the employee, the City agrees to deduct once each month from the wages of each employee the sum certified as Union dues, and deliver the sum to the Union Treasurer. Such authorization must be forwarded to the Finance Director within thirty (30) days prior to the effective date. If any employee does not have a check coming to him or the check is not large enough to satisfy the assignment, no collection shall be made from the employee for that month. Payroll deductions will not be implemented or modified without a written authorization. Employees desiring to withdraw their payroll deduction authorization will notify the City and the Union in writing.

B. **House Fund.** Each member shall, in addition to any other deductions, have an amount verified to the Finance Department by the employee organization deducted from his pay on the second bi-weekly pay of the month. This money shall be paid to the House Fund.

C. **Fair Share Fee.** Bargaining unit employees shall either become dues paying members of IAFF local 336 or remit to local 336 through payroll deduction fair share fee equal to the monthly dues of a dues paying member and in accordance with the provisions of O.R.C. 4117.09(c), on a bi-weekly basis. The amount shall be deducted from the wages of all such non-members of IAFF local 336 and shall commence 60 days after initial employment in the bargaining unit.

**DC.** The Union agrees to hold the City harmless, and to reimburse and indemnify the City, for any and all liability, costs, and attorney fees which might arise by reason of any action taken under this article.

**Article 6 – Seniority**

A. The Chief will establish seniority lists both by date of original appointment and by date of promotion. These lists shall be updated each October 1st and posted on station bulletin boards by October 15th. They shall remain for a period of thirty (30) days and may be challenged during that period. Thereafter, they shall remain unchanged until the next October. A copy of each list shall be distributed to the Secretary of the Union on the date of posting.

B. Seniority shall govern the dispensing of all privileges provided by and listed as governed by seniority in this agreement. Any new privilege that arises during the life of this agreement shall be referred to the Labor/Management Committee for determination of the applicability of seniority prior to the granting of the privilege.
C. The Chief will attempt to keep seniority balanced among the platoons and distributed equally in all houses. However, should seniority become unbalanced, the Chief will prepare a transfer list to become effective on January 1st of the following year. This transfer list will be issued prior to the date set for selection of vacation and holidays.

D. When the annual transfer list is being prepared, the most senior officers and most senior firefighters shall contact the Chief and request their preference for assignment.

The Chief will attempt to satisfy the requests by placing the officers and firefighters in those positions that would give the greatest possibility for using this seniority to fill a higher ranking position.

E. As much as mission requirements allow, time in grade in a position, and overall department seniority for all others, will govern the dispensing of station and position assignments for Fire Division Union tour employees. The most senior employee request will be recognized first in making assignments, followed by the next senior employee and so forth to the lease senior employee. Ultimately all station and position assignments shall be at the sole discretion of the Chief of the Division of Fire.

**Article 7 – Layoff / Recall**

A. **Layoff.** The City can layoff personnel for any reason permitted in Chapter 124 of the Ohio Revised Code. In the event the City should decide to layoff Fire Division personnel, the employee(s) with the least seniority, in the classification to be laid off, shall be laid off first in accordance with State of Ohio Civil Service Law. The employer shall maintain a ratio of not less than 60% FF–PM and not more than 40% FF–EMT on the department with respect to firefighters in operations. Employees to be laid off shall have bumping rights as outlined in Chapter 124 of the Ohio Revised Code. Seniority, for the purpose of this section, shall be the total time of current continuous service within the bargaining unit. In the event an employee is laid off, he shall receive payment for earned but unused vacation and/or holiday (to include current calendar year), sick leave conversion, uniform maintenance, and clothing allowance with his termination pay.

B. **Recall.** Employees who are on lay-off shall be placed on a recall list for a period of two (2) years and shall be recalled in reverse order of their layoff 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.

C. **Recall Notification.** No new employee shall be hired until all employees who have been laid off in the previous two (2) years, have been given the opportunity to return to work. Laid off employees will be notified by certified 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.

D. **Layoff/Termination.** An employee who is on lay-off for a period of two (2) years is automatically terminated and loses all seniority.
Article 8 – Personnel Records

A. Each employee of the Fire Division shall, upon request, be permitted access to his personnel records, copies of all injury report forms, and Worker’s Compensation forms pertaining to his own employment.

B. If an employee feels that any material in either his Fire Division personnel file or the Personnel 201 file is untrue and/or derogatory he may answer or respond to such material in writing and such answer or response will be made a part of those files. Should an employee leave the employment of the City and sign a waiver of information for any future employer, the information that is released shall include the employee’s response to any material that he has deemed untrue and/or derogatory.

C. For the sole purposes of discipline, grievance and the arbitration procedure, spoken reprimands shall not be considered after eight months, medical notices requiring doctor’s certificates shall not be considered for such purposes after eight months, written reprimands not concerning monetary loss shall not be considered for such purposes after twelve months, provided that in each of the above the employee has not had a reoccurrence of the problem.

D. Copies of any commendations and/or awards will be a permanent part of the file and the employee shall be given a copy of the same. It shall be the responsibility of the employee who wishes an award or official commendation to be placed in his file to provide a copy to the Chiefs Office and the Human Resources Division file.

Article 9 – Sick Leave

A. Accumulation. Each full-time employee working a 40 hour week shall be credited with 10 hours of sick leave for each full calendar month of service. Each full-time employee working a 51 hour week shall be credited 13.5 hours of sick leave for each calendar month of service. The hours of sick leave earned shall be credited to each employee on the first pay period of each month. There shall not be a limit to the accumulation of sick leave hours.

B. Non-accrual. Employees on leave without pay for any reason for more than two weeks shall not accrue sick leave benefits.

C. Approval of Usage. The Chief of the Fire Division or other authorized official designated by the Fire Chief has authority as provided by the City Manager to approve or deny the use of sick leave. Sick leave shall not be approved for unauthorized uses. An employee may be required to submit a doctor’s certificate whenever the Chief of the Fire Division suspects there has been abuse by the employee in his use of sick leave or to substantiate periods in excess of one (1) tour or three (3) days of forty (40) hour employees. **An employee may be required to submit a doctor’s certification of**
fitness to return to work from sick leave at the sole discretion of the Fire Chief of the Division of Fire.

D. Computation of Usage. Employees shall be charged for sick leave usage on an hour-by-hour basis of not less than a one-half hour increment.

E. Authorized Uses for Sick Leave. Sick leave credit may be used for the following:

(1) Illness, off-duty injury, or exposure to a contagious or communicable disease.

(2) Sickness or disability in the immediate family where the presence of the employee is absolutely necessary. For the purpose of this section, immediate family shall be defined as the employee’s spouse, children, parents, (either natural, step, foster), brother, sister, and/or other relatives living in the employee’s household. Time off shall not exceed three (3) 8 hour days for 40 hour workers, or twenty-four (24) hours for tour workers, for any one illness without the written approval of the Fire Chief. In cases of illness in the employee’s immediate family requiring him to be at home, the employee may be required to submit a doctor’s certificate or other proof which establishes the necessity for the employee to be at home caring for the family member.

(3) Funerals not covered in Article 12 of this agreement. Time off shall not exceed one (1) 8 hour day for 40 hour workers, or one (1) twenty-four hour tour for tour workers. Upon the City’s request, the employee shall provide proof of attendance at such funeral.

(4) Attendance at the birth of the employee’s child or at a ceremony for the adoption of a child by the employee, not to exceed (3) eight (8) hour days for 40 hour employees, or twenty-four hours for tour workers.

F. Employee’s Claim for Sick Leave. The employee shall submit a Claim for Sick Leave Form in order to receive payment under the sick leave provisions. For extended absences payment may be approved at the discretion of the Fire Chief prior to submission of this form. This form must be completed upon return of the employee to work. Failure to complete the form shall result in the employee being determined to be on leave without pay and a deduction in the subsequent payroll period. The Division of Fire should attach Claim for Sick Leave Form to the payroll voucher.

G. Advance Sick Leave. Advanced sick leave may be granted to employees who meet the necessary sick leave credits upon approval by the City Manager and the Employee’s department and/or division head. Eligibility would depend upon the employee’s effort to utilize all other earned credits including, but not limited to, earned vacation leave.

H. Policy for Taking Sick Leave While on Vacation. By submitting a “Claim for Sick Leave During Vacation” Form, an employee who becomes ill when on vacation may apply
for payment of sick leave for the period of illness. Approval shall be granted at the
discretion of the Fire Chief with concurrence of the City Manager.

I. Uniformed members of the Division of Fire are authorized to trade-in fractions of
vacation days for sick leave on an hour for hour basis.

J. Transfer of sick leave days from one member to another will be allowed under rules
established by the Chief of Fire.

Article 10 – 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 which are not in the course
and scope of the employee’s work activity, psychological or psychiatric injuries or
conditions.

B. An employee who suffers an on-the-job injury shall receive up to six seven
consecutive months of injury leave. Effective January 1, 2021, with the approval of
the Chief of the Division, an employee’s injury leave may be extended up to five
additional months.

(1) Injury leave shall be used consecutively from the date of the 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 four (4) years of the on-the-job
injury. However, any such non-consecutive use of injury leave shall be available
only after the employee uses three (3) consecutive days of sick leave before each
such non-consecutive use of injury leave, except where such non-consecutive use
occurs within seven (7) calendar days of the date of injury. In no event shall injury
leave be available more than four (4) 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. An employee who suffers an on-the-job incident or accident resulting in a new injury to a previously injured area of the body will be eligible for the full benefit described in paragraph B 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.

G. A member who has exhausted all six seven months of injury leave and is still unable to return to his/her regular duties shall be permitted to apply for an extension of paid injury leave with the Chief of the Division as described under Subsection B. If the extension is denied or the member has exhausted paid injury leave under this Article, and the member is still unable to return to his/her regular duties, the member shall be permitted to use up to 336 hours of sick leave. If, after this period, the employee is still unable to return to his/her regular duties, the member shall use any accrued but unused banked time off (i.e., holidays, vacation days, personal days or compensatory time) before using any sick time. If the employee returns to his/her regular duties, all the banked time used at the end of the injury leave (except time that was required to be used in a previous year) will be immediately credited back to the employee’s leave bank, provided the employee has an equal or greater
amount of sick leave time at the time of the credit. Any time so credited shall then
be deducted from the member’s sick leave bank.

H. Employees who are injured while at work who are under the influence of alcohol
or drugs, as prohibited by Article 52 of this Agreement, are not eligible for injury leave
under this Article.

I. In an effort to expedite the processing of medical claims for employees who have
suffered a job related injury (as defined in Article 10(A)), the City agrees to waive the 14-
day “protest period” provided by the State Bureau of Workers’ Compensation (BWC) in
connection with BWC’s approval or denial of an MRI test.

J. If an employee incurs a cardiovascular, pulmonary or respiratory disease, following
immediate exposure to heat, smoke, toxic gases, chemical fumes or other toxic
substances or such condition as caused or induced by the cumulative effect of exposure
to heat or the inhalation of smoke, toxic gases, chemical fumes and other toxic
substances, there shall be a presumption that such cardiovascular, pulmonary or
respiratory disease is a job-incurred injury, for purposes of this section. Such presumption
may be refuted by affirmative evidence that the condition is caused or substantially
caued by other factors, not related to employment.

K. For purposes of this Article, a day is equivalent to a tour of duty for a tour employee
and eight (8) hours for non-tour employees.

L. For purposes of injury leave and worker’s compensation only, any off duty member
shall be considered to be acting in the line of duty when he or she happens to come
across any incident within the City of Middletown requiring that he or she render
assistance as a firefighter, EMT or paramedic.

M. If an employee is on injury leave at the time that his/her vacation is scheduled, this
vacation time shall be rescheduled to a later time in that calendar year. If there are no
dates available on the department vacation schedule to reschedule the vacation, the
employee may elect either of the following:

(1) Use the vacation as scheduled, thereby extending the length of the injury
leave period by the number of days used as vacation; or

(2) Carry the vacation, not to exceed five (5) tours or fifteen (15) eight hour
days, over into the following calendar year and be paid out for any remaining
vacation time impacted by the injury leave.

N. Any member who suffers a heart attack, 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
Firefighter shall be presumed to have suffered an on-the-job injury.

O. Extensions of paid injury leave beyond seven months under Subsection B
are not subject to the Grievance and Arbitration provisions under Article 22.
P. The City will follow Ohio law, as amended from time to time, including R.C. 742.38(D), regarding when there is a presumption that cancer was contracted in the course of duty, including any defenses available to the City.

**Article 11 – Special Leave / Trading of Tours**

Each employee shall be granted special leave with pay for any day or days on which he is able to secure another employee who will work in his place without pay, provided:

A. A substitution shall be granted with the approval of the member’s immediate supervisor.

B. Notice of substitution will be made by the employee regularly scheduled for the tour prior to the commencement of the tour for which the substitution is to be effective, except in cases of emergency when such notification can be made by phone. The platoon commander shall be notified by the approving supervisor of all duty trades within the firefighter rank prior to commencement of the tour.

C. A member will trade within his rank and possess equal certification and qualifications unless he has prior approval of the Fire Chief or his designee to trade with a man of lesser or greater rank. Firefighters working a trade for an officer shall not receive acting pay. Acting pay shall be paid whenever an officer or a firefighter is assigned a higher ranking position and that position was not created because of any trade.

D. During his probationary period, a firefighter shall not be permitted to trade tours in excess of four (4) times, for purposes of this section only, a trade of tour is any trade in excess of two (2) hours.

**Article 12 – Bereavement Leave**

A. **Bereavement Leave.** Leave with pay for participation in funeral services, arrangements, or memorial services shall be granted by the Chief of the Division or his designee to an employee when a death in the immediate family occurs. Immediate family shall be defined as the employee’s mother, father, someone standing in loco parentis, wife, spouse, child, brother, sister, guardian, grandparents, mother-in-law, father-in-law, daughter-in-law, son-in-law, grandchildren, sister-in-law, or brother-in-law.

B. **Extent of Benefit.** A single duty tour of leave will be granted for platoon shift employees or three (3) eight (8) hour duty days for forty (40) hour employees for bereavement leave. If death in the immediate family occurs during an employee’s tour of duty and the employee leaves his tour, the remainder of the tour shall not be counted toward the above duty day(s) charged to bereavement leave.
C. Additional bereavement leave may be granted upon request with the approval of the Chief of the Division or his designee. Bereavement leave in excess of that set forth in section (B) shall be charged against accumulated sick leave.

D. Unless otherwise approved in writing by the Chief of the Division, requests for bereavement leave will not be approved for absences not taken within a seven (7) calendar day period of the date of the funeral or memorial services for the decedent.

Article 13 – Union Business Leave

A. Local 336 shall have up to twenty (20) working tours or a total of 480 hours of Union business leave per agreement year, with full pay for Union officers and/or designees to participate in conventions, pension business, educational conferences, and to attend to the normal operating functions of the Union. Such leave will not accumulate for a Union officer or designee performing Union business outside scheduled working hours. This leave is available only to relieve such individual from work for an activity approved by this Article. Said tours may be apportioned throughout the life of this agreement by the Union. There shall be a maximum of two (2) employees on any such leave on any one tour with the exception of time allocated under Section B.

B. Sufficient time off with pay to be deducted on an hour for hour basis from the hours in Section A, above, shall be granted any two (2) elected or designated officers of the Union who are covered under this agreement for the purpose of attending and conducting regular or special meetings of the Union. A twenty-four (24) hour notice shall be given the Chief or Acting Chief of the Division. Where there are two meetings to cover different platoons, a total of no more than two (2) elected or designated employees shall be excused over the two (2) days involved. A maximum of three (3) Union members may be off during any one shift for the purpose of attending conventions, seminars, or special conferences, at the sole discretion of the Chief.

C. There shall be neither a carryover nor an accumulation of unused leave to the next calendar year except that there shall be a carryover of any unused Union time, from odd years to even years, not to exceed one-hundred twenty (120) hours.

D. Employees of the bargaining unit who are elected or appointed to positions or committees with the IAFF, OAPFF, or AFL-CIO, and who are not Local 336 board members, shall be granted forty-eight (48) hours of union leave per year to participate in the functions of those positions.

Article 14 – Authorized Leave

A. Military Leave. Military Leave shall be provided to members in accordance with the Policy and Procedure Manual of the City of Middletown. It is understood that the term “reserve duty” in the Policy and Procedure Manual applies to the State Guard in addition to the military reserve.
B. **Leave of Absence with Pay.**

(1) **Purpose.** Leaves of absence with pay may be granted for any legitimate reason including, but not limited to the following, provided such absence has been approved in advance by the proper authority, as outlined below:

(a) For military pre-induction examinations.

(b) When called to serve on a jury.

(c) When subpoenaed as a witness in a court case.

(d) To attend meetings, conventions, conferences, or short courses of instruction which benefit the City as approved by the Chief of Fire.

(2) **Procedure.** A unit employee desiring to apply for a leave of absence should submit his application to his immediate supervisor, outlining briefly the necessity for such a leave. The supervisor will transmit the request to the Chief of Fire along with his comments. Further disposition will be made as follows:

(a) **Request for Leave of Five Days (Two Tours) or less.** The Chief of Fire will act on such a request, when funds are budgeted.

(b) **Request for More than Five Days (or Two Tours), or Other Purpose.** Requests for leave of more than five days duration, will be forwarded to the City Manager by the Chief of Fire along with his recommendations.

(3) **Conditions.** All such leaves will be given in writing with a copy directed to the Personnel Manager. The length and other conditions of each leave granted will be determined by the facts and circumstances of the case. All fringe benefits continue while a unit employee is on a leave with pay.

C. **Leave of Absence Without Pay.**

(1) **Purpose.** Leave of absence without pay may be granted for any legitimate purpose subject to approval, including but not limited to the following:

(a) To further a unit employee’s education. (Ordinarily such a leave will be granted only if the leave will directly benefit the City as well as the individual, and provided the unit employee agrees to return to City employment for a specified period of time after such leave.)

(b) To attend funerals not covered by paid leave.

(c) To care for a member of the immediate family in case of extended illness or injury in circumstances not covered by sick leave.
(d) Illness not covered by sick leave.

(2) Procedure. A unit employee desiring to apply for a leave of absence without pay should submit an application to his immediate supervisor, outlining the reason for the request. The supervisor will transmit the request to the Chief of Fire along with his comments. Further disposition will be made as follows:

(a) Request for Leave of Five Days (Two Tours) or Less. The Chief of Fire will act on such a request.

(b) Request for More than Five Days (or Two Tours), or Other Purpose. Requests for leave of more than five days duration will be forwarded to the City Manager by the Chief of Fire along with his recommendations.

(3) Conditions. All such leaves will be given in writing with a copy directed to the Personnel Department and other conditions of each leave granted will be determined by the facts and circumstances of the case. All fringe benefits cease while a unit employee is on a leave without pay after such leave exceeds two weeks. Fringe benefits include sick leave, vacation, annual pay increase, insurance, and holidays. The unit employee may continue his health insurance coverage at his own expense.

D. Disability Leave of Absence.

(1) A unit employee incurring any disability not duty connected, after he has exhausted all of his paid leave to which he is entitled, will be entitled to a leave without pay for a period not to exceed six (6) months, subject to the following provisions:

(a) The unit employee shall apply for such leave, in writing, to the Chief of Fire, for his approval.

(b) The unit employee shall submit a physician’s report, including a statement regarding the nature of the disability and whether or not the employee is able to work.

(c) The unit employee shall submit to the Chief of Fire, a physician’s statement of release for work before returning to work.

E. Emergency Leave.

(1) Purpose. Emergency leave may be granted to an employee that needs to be away from work for a personal emergency subject to the approval of the Chief or their designee.
(2) **Emergency.** A personal emergency is intended to include events which could result in damage or injury to the home of the employee, the employee or the employee’s spouse or children. The employee must state the basis of the emergency, and the existence of an emergency shall be in the sole discretion of the Chief or his designee.

(3) **Leave.** If emergency leave is granted, the employee may use vacation leave or banked holiday time to be paid for such leave. Otherwise, the leave will be unpaid. The leave shall be for a minimum of twelve (12) hours, unless the emergency occurs after midnight, in which case the leave shall be the remainder of the shift, not less than four (4) hours.

(4) **Rules and Regulations.** The Chief may adopt rules and regulations regarding emergency leave not inconsistent with this provision of the contract.

F. **Maternity Leave.**

(1) **Notification of Pregnancy.** It is the duty of the member to notify her supervisor as soon as pregnancy has been confirmed.

(2) **Leave of Absence.** Sick leave, to be used as Maternity leave, will be granted to members upon the certification of the attending physician they are no longer capable of adequately performing their job-related duties due to pregnancy.

(3) The member will be required to return to work as soon as her physician determines she is capable of performing job-related duties.

(4) During pregnancy and until such time as the member is released by her physician with respect to the pregnancy, a member who is unable to perform her regularly assigned duties may be assigned by the Chief of the Division to perform duties not requiring great physical exertion, with the approval of the member’s physician or a physician of the employer’s choice.

**Article 15 – Safety and Health**

A. The City and the Union shall cooperate fully to maintain the highest standard of safety and health in the Fire Division in order to eliminate as much as possible accidents, deaths, injuries, and illness in the Fire Division.

B. The company officer shall have discretion to remove apparatus from service if in his opinion the mechanical condition of the apparatus warrants removal pending an inspection by a command officer. The final decision and responsibility as to the serviceability of a piece of equipment will rest with the Chief of the Division.

C. The City will agree that blood tests for carbon monoxide poisoning will be provided upon request for any firefighter treated in a hospital for inhalation of an irrespirable
atmosphere and the firefighter will be given a report of the test upon request. The City will pay any legitimate cost for blood tests and treatment for exposure to contagious disease in the line of duty, that are not covered by medical insurance or Worker’s Compensation as deemed necessary by medical personnel.

D. The Chief of the Fire Division will determine the types, quality and quantity of all equipment issued for use in the Division.

E. Safety Committees.

1. There shall be two (2) members from the Fire Division appointed to the city-wide Safety Committee. One (1) shall be designated by the Fire Chief; the other shall be designated by the President of the Union.

2. The Division of Fire shall maintain a department safety committee made up of five (5) fire employees. Three (3) members shall be appointed by the Chief of the Division of Fire and two (2) members shall be appointment by the Union President. If meetings of the committee are scheduled when an appointed member is not scheduled for working duties, the member shall be compensated for time spent attending meetings.

F. The City will continue to furnish safety apparel and equipment consistent with the National Fire Protection Association recommendations and Ohio Industrial Commission Standards.

G. The City will provide, upon request by any member of the Division of Fire, an inoculation for prevention of Hepatitis, Type B, and annual flu shot.

H. Damaged safety equipment and apparel shall be ordered within ten (10) working days of notification of needed replacement.

I. The City will provide, upon request, within a reasonable time, a test for any employee that through documentation has been exposed to a serious infectious disease, such as AIDS, meningitis, etc. while performing his duties as deemed necessary by medical personnel. The City will pay any legitimate cost for the test not covered by medical insurance or workers’ compensation, as well as reasonable expense.

J. Changes in standard operating procedures, rules and regulations and written policies of the Division of Fire will be disseminated to employees of the Division.

**Article 16 – Hours of Work.**

A. The Chief of the Fire Division shall divide the firefighting force into three (3) platoons, and the Chief shall keep a platoon on duty twenty-four (24) consecutive hours, which shall be known as a tour of duty, after which the platoon serving twenty-four (24) hours shall be allowed to remain off duty for at least forty eight (48) consecutive hours,
except in cases of emergency. Tour employees shall not work in excess of forty-eight and two-tenths (48.2) consecutive hours, except in emergency situations declared by the Chief of the Division of Fire. On or after November 1, 1998, the City may re-open solely this section (and any other section which would have to be changed if this section is changed), if at the time, the City feels a need for some shifts to be less than twenty-four (24) hours. In the event this section is reopened and a mutual agreement is not reached, the dispute resolution procedure would include fact-finding and, if needed, conciliation in accordance with SERB procedures.

B. Tour Employees. Effective January 1, 2002, the workweek for tour employees shall be approximately fifty one (51) hours per week. Said work schedule will be maintained by the utilization of earned days off. An Earned Day Off (E.D.O.) shall be for a period of twenty-four and one-tenth hours. Earned days off shall be scheduled utilizing seniority. The workweek for tour employees shall include Saturday and Sunday working hours in the interest of public health, safety and welfare.

C. Non-Tour Employees. The workweek for non-tour employees will consist of 40 hours.

Article 17 – Reporting for Duty

Each tour employee shall report for duty and be in uniform no later than 0700 hours or such other time as designated by the Chief of the Fire Division.

Article 18 – Reporting Off Duty

An employee must notify dispatch and the officer in charge at headquarters at least sixty (60) minutes prior to the time he/she is scheduled for duty. Exceptions may be made for deviations from this requirement for good cause, at the discretion of the Chief.

Article 19 – Emergency Call-in/Standby

A. Emergency Call-in Pay. If by the determination of the officer in charge there exists an emergency situation requiring the call-in of off-duty employees, there shall be at least five (5) individuals called in, regardless of rank.

These called in employees shall be paid for a minimum of four hours pay to be computed at their respective hourly rate.

The employee to be called in should be the employee most able to respond in the least amount of time.

The time worked as emergency call-in time shall not be included in employee’s total hours on overtime list.
It shall not be a violation of this paragraph if the emergency is terminated before five (5) members are called, or in case the officer in charge determines that he/she needs a person with some specific expertise.

B. **Standby.** Members placed on stand-by status outside their regular work shift as approved by the Fire Chief shall receive compensation equal to two hours pay for each day on stand-by to be computed at their respective forty hour rate.

**Article 20 – Temporary Assignment to Higher Rank**

A. Any employee who is officially assigned to act in a higher position on a temporary basis and who satisfactorily performs the complete duties of the higher level position for a continuous period of twelve (12) hours or more shall be raised one step in pay for time working in such acting position. If an employee is scheduled to act in a higher position on a temporary basis for a period of twelve (12) hours or more and satisfactorily performs the complete duties of that higher level position for a period of less than twelve (12) hours, the employee shall be raised one step in pay for the time worked in such acting position, which shall be a minimum of twelve (12) hours. Rules and regulations for assignments shall be prescribed by the Fire Chief or his designee. It is the intent of the parties that this clause will not be abused by intentionally alternating lower classification employees to avoid the higher rate of pay.

B. The FF-EMT shall not be paid step-up pay to the classification of FF-P under this Article 20. Members employed in the classification of FF-EMT shall receive pay under Article 44(A)(2) if the FF-EMT is a certified Paramedic and is assigned to the medic unit for the shift.

**Article 21 – Promotions to Higher Rank**

A. The promotion of employees in the Fire Division shall be governed by the Civil Service principles of merit and fitness.

An eligible list, ranking candidates for purposes of promotion, shall be established from a cumulative score, to be determined as provided in this section.

All promotional examinations shall consist of a written test and an assessment center. The written test and the assessment center shall be weighted for purposes of scoring as follows:

1. For promotions from firefighter to lieutenant, the written test shall constitute sixty percent (60%) of the base score and the assessment center shall constitute forty (40%) of the base score.
For promotions from lieutenant to captain, each portion of the promotional examination shall constitute fifty percent (50%) of the base score.

For promotions from captain to deputy chief, the written test shall constitute forty percent (40%) of the base score and the assessment center shall constitute sixty percent (60%) of the base score.

For promotions within the rank of firefighter, there will be no assessment center or practical examination. A member must receive a score of 70% on the written examination. In order to test for the position of squadperson, the employee must possess a minimum of one (1) year of service with the City’s Fire Division, and must possess state certification for paramedics. In order to test for the position of apparatus operator, the employee must possess Division of Fire certification as a pumper and aerial operator.

To be eligible to compete in a promotional test for lieutenant an employee must have a minimum of five (5) years service with the Division of Fire of the City, and have obtained Step F in the pay scale.

A member taking a promotional examination for firefighter to lieutenant, lieutenant to captain, and from captain to deputy chief must receive a score of seventy percent (70%) on the written portion of the exam and 70% on the assessment center. All examinations shall be construed by outside testing consultants, with the exception of squad person and apparatus operator positions.

In addition to the base score achieved on the promotional examination, members shall be awarded credits for seniority. Seniority credit, up to a total of ten (10) points shall be awarded in the following manner; six/tenths (.6) of one point for each year of service in the Division of Fire for the first through ten years and one (1) point for each of the next four years.

The ranking on the eligibility list shall be in the order of highest cumulative score (base score plus credits) first to the lowest passing cumulative score. The appointing authority shall make the appointment from the top name on the list.

The Chief will establish a list of source material for each promoted position not to exceed three (3) books to be used for promotional testing. These three (3) reference books do not include and are in addition to the following: (1) Middletown Division of Fire Standard Operating Procedures, (2) Middletown Fire Department Rules and Regulations, and (3) the collective bargaining agreement. The books to be used on the promotional test shall be listed in the announcement. Not more than one (1) book may be changed within three (3) months prior to any promotional testing. If two (2) or more books are changed there must be six-(6) three (3) months prior to promotional testing. It shall be understood that new revisions of books will not be recognized as changes to the source list. The Chief will keep one (1) set of the three (3) books in his office and make them available for loan to members.
B. Once promoted, the member will be on probation in their promoted position for a period six months. This six month period may be extended an additional six months if necessary and at the sole discretion of the Chief of the Division of Fire.

Article 22 – Grievance Procedure

A. (1) A grievance is defined as a specific violation of a term of this Contract, or disciplinary action taken against an employee. Each written grievance must state the Article of the contract where the violation has occurred and the remedy requested to settle the grievance.

(2) Any step in the grievance procedure outlined below may be skipped on any grievance by mutual consent. In the absence of such mutual consent at any step where a response is not forthcoming within the specified time limits, the grievance will be presumed to have been denied. In such a case, the grievant must present his grievance to the next step in the grievance procedure in order to obtain further consideration. A copy of all grievances and responses will be forwarded to the Human Resources Division and the President of the IAFF.

Step 1. The employee or group of employees shall present their grievance in writing to his or their immediate supervisor for his disposition. This must be done within thirty (30) calendar days following the date of occurrence or when the employee or the Union should have had knowledge of the occurrence of the facts upon which the grievance is based. The grievant may, if he or they so desire, be accompanied by a member of the Grievance Committee at this step.

The immediate supervisor shall reply in writing to the aggrieved within five (5) calendar days (excluding Saturday, Sunday, and City recognized holidays). If the aggrieved employee or employees do not refer the grievance to the second step of the procedure within five (5) calendar days (excluding Saturday, Sunday, and City recognized holidays) after receipt of the decision rendered in this step, it shall be considered to be satisfactorily resolved.

Step 2. The grievance, together with all correspondence, shall be submitted to the Chief or their designee. The Chief shall investigate and hold a grievance meeting within five (5) calendar days (excluding Saturday, Sunday, and City recognized holidays) after receipt of the grievance. The Chief shall give his answer to the Union and the aggrieved in writing within five (5) calendar days (excluding Saturday, Sunday, and City recognized holidays) after termination of such grievance meeting. Both the Union and/or its representatives and Management shall have the right to call such witnesses as are necessary to the investigation and explanation of the grievance. The aggrieved may be represented by a member of the Grievance Committee.
Step 3. The grievance shall be presented to the City Manager or his
designee no later than ten (10) calendar days (excluding Saturday,
Sunday, and City recognized holidays) after the receipt of an
unacceptable decision rendered at Step 2, or within five (5) calendar days
after the ten (10) calendar day period in which the response is due. If the
grievance is not so presented, it will not be further considered. A meeting
shall be scheduled within ten (10) calendar days (excluding Saturday,
Sunday, and City recognized holidays) after the filing of the grievance at
Step 3. The decision of the City Manager or his designee shall be given
within five (5) calendar days (excluding Saturday, Sunday, and City
recognized holidays) of said meeting. If the aggrieved employee does not
notify the City Manager or his designee through the President of the IAFF
of his dissatisfaction with the decision rendered, the grievance shall be
considered resolved. If the City Manager or his designee fails to answer in
writing within the five (5) calendar day time period the grievance will be
presumed to have been denied.

Step 4. Failure to resolve any grievance processed through Step 3 will
result in the grievance being referred to an Arbitrator, provided written notice
for the same is made by the IAFF President within ten (10) calendar days
(excluding Saturday, Sunday, and City recognized holidays) after the
receipt of the decision of the City Manager or his designee, or after the ten
(10) calendar day period in which the decision is due. In the event that the
IAFF President or his designee should fail to serve such written notice on
the agency from which the Arbitrator is to be provided and the City Manager
or his designee, the grievance shall be considered settled. The arbitrator
shall be chosen from a listing provided by the American Arbitration
Association. The listing may be requested by the IAFF and/or the City.

B. (1) The parties understand and agree that in making this Contract they have
received for its term all bargaining issues which were or which could have been
made the subject of discussion. The arbitral forum here established is intended to
resolve disputes between the parties only over the interpretation or application of
the matters which are specifically covered in this Contract and which are not
excluded from arbitration.

(2) The arbitrator shall have no power to add to or subtract from or modify any
of the terms of this Contract or addendum to this Contract nor to rule on any matter
except while this Contract is in full force and effect between the parties. In the
event a case is appealed to an arbitrator and he finds that he has no power to rule
on such case the grievance will be denied.

(3) The award of the arbitrator shall be based exclusively on evidence
presented at the arbitration hearing.

(4) If the arbitration upholds the grievance as set forth by the Union and grants
the remedy sought by the Union, the City shall bear the expenses of the arbitrator.
If the arbitrator denies the grievance, the Union shall bear the expense of the arbitrator. In all other circumstances, the expense of the arbitrator shall be shared equally by the parties. Each party shall make arrangements for and pay the expenses of witnesses who are called by the arbitrator.

(5) The Arbitrator’s decision shall be final and binding on the IAFF, on all Bargaining Unit Employees, and on the City.

C. IAFF representation at steps one and two of the grievance procedure shall be limited to the designated representative and the aggrieved Employee. The IAFF President and/or Legal Counsel may accompany the grievant and the designated representative at Steps 3 and 4. By mutual agreement additional persons may be designated to attend.

D. Decisions made at any level below that of the Chief shall not be interpreted as setting a precedent, and the Chief reserves the right to take official action without prejudice, based on his own findings in each grievance.

E. The City is authorized to pay grievance settlements.

F. By mutual written agreement of the parties, time limits as set forth in the grievance procedure may be extended.

G. Class grievances may be initiated by IAFF Local 336 at Step 3 of the grievance procedure, subject to the time limits of Step 1.

H. The grievance form will be subject to approval by both the IAFF and the City.

Article 23 – Labor/Management Committee

In the interest of sound relations between the Local 336 and the City, a joint committee of no more than six (6) members, half of whom shall be from Management and half of whom shall be from Local 336, will convene as needed for the purpose of discussing subjects of mutual concern. Meetings may be requested not more than once every thirty (30) days, except upon agreement by both parties. Once requested by either party, the meeting must be held within thirty (30) calendar days. There shall be no obligation upon the City or Local 336 to renegotiate working conditions, pay or any other policy or practice which may be the subject of such discussions.

Article 24 – Discipline

A. Any employee may be disciplined for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, neglect of duty, conviction of criminal charges, misfeasance, malfeasance, nonfeasance, discourteous treatment of the public, failure to pay just debts, violation of the rules of the Civil Service Commission, violation
of the Administrative Regulations of the City, violation of the Division of Fire Rules, Regulations, general or special orders, and any other failure of good behavior, or an accumulation of minor infractions.

B. Possible disciplinary actions are as follows: spoken reprimand, written reprimand, suspension with or without pay, reduction of pay, demotion to lower classification, dismissal. An employee who is placed on an administrative leave with pay pending an investigation and final determination of the findings is not discipline.

C. (1) No employee shall be demoted, or dismissed without the Chief first meeting with the employee. In special cases, the employee may be suspended pending a meeting, but such meeting must be held promptly. On suspension, the suspended employee may request a hearing to be held by the close of the next succeeding workday. The Union President, designated Union Officer, or Steward shall have the right to attend such meeting subject to the disciplined employee’s desires. Any such meeting shall, at the request of the employee, be continued to permit his Steward, Union President or designated Union Officer’s attendance.

(2) A suspension without pay requires that:

   (1) Written notice be given to the employee of the charges against him and the evidence upon which they are based within ten (10) working days of management’s knowledge of the alleged incident.

   (2) A pre-suspension hearing before the Fire Chief a neutral and detached administrator, who was not involved in any of the events giving rise to the suspension, shall be held within ten (10) working days of the notice provided in paragraph one of this subsection. This administrator shall be appointed by the City Manager or his designated representative. The employee shall be afforded, at the hearing, a fair opportunity to be heard in opposition to the charges against him including the right to question witnesses.

   (3) The employee has a right to have with him two (2) representatives of his choosing.

   (4) The employee and the Union President shall be informed of the Fire Chief’s decision and the reasons for it in writing within ten (10) working days of the hearing.

   (5) The employee may waive the pre-suspension hearing. If the employee grieves the suspension without pay, such grievance will proceed directly to Step 3 of the grievance procedure in Article 22 of this agreement.

D. In cases of dismissal, the employee may request all monies due him within two working days after his supervisor and department head certify in writing that all City property has been properly returned and just debts paid to the City.
E. Members who receive spoken or written reprimands may file grievances on spoken or written reprimands up to, but not including, arbitration.

**Article 25 – Longevity**

A. All employees shall be entitled to longevity pay in accordance with the following scheduled percentages of their annual City payroll earnings:

- 10th anniversary through 14th anniversary inclusive – 1%
- 15th anniversary through 19th anniversary inclusive – 2%
- 20th anniversary until retirement – 3%

Upon reaching said anniversaries, each employee shall receive the total percentage in full for that year.

B. Longevity checks shall be prepared for distribution on the first biweekly pay in December.

C. Employees who resign, are laid-off, or retire from employment will be entitled to any earned longevity pay when the final pay check is issued. Any employee discharged from City employment shall forfeit all rights to longevity pay.

**Article 26 – Clothing**

A. The City shall provide each new recruit a complete allotment of uniforms as outlined in Departmental Rules and Regulations at the expense of the City.

B. Each tour employee shall receive a uniform purchasing credit of $450.00 per annum. Each day employee shall receive a uniform purchasing credit of $500.00 per annum. Unspent credits may be carried over and added to the next year’s credit to a maximum of $1,000.00 $1,500.00. At the sole discretion of the Chief of the Division of Fire, the uniform purchasing credit may be advanced up to two (2) years to cover uniform replacement. Unspent credits are payable upon termination to a maximum of $1,000.00; to be included with the employee’s final check.

C. Each employee may request emergency replacement of damaged wearing apparel in accordance with Administrative Regulation A.R. 1-37. These items shall be ordered within ten (10) working days of notification of needed replacement. Any personal apparel or equipment that is damaged while the member is performing their duties as an employee shall be considered for replacement in accordance with Chapter 101 of the City’s Policy and Procedure Manual.

D. All members will receive a separate check for $375.00 $500.00 the first pay period of December for uniform maintenance reimbursement.
E. The City and the employee shall share equally the cost of initial uniform changes mandated by the Fire Department; provided, however, that prior to any uniform change, a trial period of no less than ninety (90) days will be utilized in order to determine the durability and safety of the proposed new item(s).

Article 27 – Insurance

A. 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 Human Resources Division.

(1) 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.

(2) The Union agrees to participate in the City Health Care Committee and to adhere to the recommendations of the Committee regarding all aspects of the health care plan, subject to the limitations set forth herein. 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.

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

B. Employee Contributions. Employees shall have the option to participate in a basic health insurance plan as recommended by the Health Insurance Committee, subject to the following monthly employee contributions (to be deducted in equal installments not less than one time per month), co-pays, deductibles and co-insurance or those recommended by the Committee, whichever is less.

Employee Contribution
(Monthly)

[maintain current contract language]
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<th>Employee &amp; Spouse</th>
<th>Employee &amp; Children</th>
<th>Family</th>
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<tr>
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*After deductible

### Coinsurance*
- Single: 90%
- Family: 70%

### Out of Pocket**
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### Prescription Drug
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**Includes deductible
<table>
<thead>
<tr>
<th></th>
<th>2019 Network</th>
<th>2019 Non-Network</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Deductible</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single</td>
<td>$1,500</td>
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</tr>
<tr>
<td>Family</td>
<td>$3,000</td>
<td>$6,000</td>
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<tr>
<td><strong>Coinsurance</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>After deductible</td>
<td>80%</td>
<td>60%</td>
</tr>
</tbody>
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<tbody>
<tr>
<td><strong>Deductible</strong></td>
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<td></td>
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<tr>
<td>Single</td>
<td>$2,000</td>
<td>$4,000</td>
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<td>$4,000</td>
</tr>
<tr>
<td>Family</td>
<td>$4,000</td>
<td>$8,000</td>
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<tr>
<td><strong>Coinsurance</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>After deductible</td>
<td>80%</td>
<td>60%</td>
<td>80%</td>
<td>60%</td>
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</tbody>
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<table>
<thead>
<tr>
<th></th>
<th>2019 Network</th>
<th>2019 Non-Network</th>
</tr>
</thead>
<tbody>
<tr>
<td>Out of Pocket**</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single</td>
<td>$4,500</td>
<td>$9,000</td>
</tr>
<tr>
<td>Family</td>
<td>$9,000</td>
<td>$18,000</td>
</tr>
<tr>
<td>Office Visit (PCP/Specialist)</td>
<td>$35/$60</td>
<td>60%*</td>
</tr>
<tr>
<td>Office Visit</td>
<td>100%</td>
<td>60%*</td>
</tr>
<tr>
<td>Urgent Care Copay</td>
<td>$80</td>
<td>$80*</td>
</tr>
<tr>
<td>ER Copay</td>
<td>$200</td>
<td>$200</td>
</tr>
<tr>
<td>Inpatient Deductible</td>
<td>$500</td>
<td>$500</td>
</tr>
<tr>
<td>Outpatient Services</td>
<td>80%*</td>
<td>60%*</td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th></th>
<th></th>
<th></th>
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<th></th>
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</thead>
<tbody>
<tr>
<td><strong>Prescription Drug</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tier 1</td>
<td>$25</td>
<td>$50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tier 2</td>
<td>$60</td>
<td>$120</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tier 3</td>
<td>$125</td>
<td>$250</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tier 4 (Specialty)</td>
<td>$300 copay</td>
<td>$300 copay</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Includes deductible**
*After deductible

<table>
<thead>
<tr>
<th>Out of Pocket**</th>
<th>Network</th>
<th>Non-Network</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single</td>
<td>$5,000</td>
<td>$10,000</td>
</tr>
<tr>
<td>Family</td>
<td>$10,000</td>
<td>$20,000</td>
</tr>
<tr>
<td>Office Visit (PCP/Specialist)</td>
<td>$35/$60</td>
<td>60%*</td>
</tr>
<tr>
<td>Office Visit</td>
<td>100%</td>
<td>60%*</td>
</tr>
<tr>
<td>Urgent Care Copay</td>
<td>$90</td>
<td>60%*</td>
</tr>
<tr>
<td>ER Copay</td>
<td>$250</td>
<td></td>
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<tr>
<td>Inpatient Deductible</td>
<td>$750</td>
<td></td>
</tr>
<tr>
<td>Outpatient Services</td>
<td>80%*</td>
<td>60%*</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Prescription Drug</th>
<th>Retail (31 days)</th>
<th>Mail Order (90 days)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tier 1</td>
<td>$25</td>
<td>$50</td>
</tr>
<tr>
<td>Tier 2</td>
<td>$70</td>
<td>$140</td>
</tr>
<tr>
<td>Tier 3</td>
<td>$150</td>
<td>$300</td>
</tr>
<tr>
<td>Tier 4 (Specialty)</td>
<td></td>
<td>$400 copay</td>
</tr>
</tbody>
</table>

**Includes deductible

Limits placed on employee contributions, co-pays and out-of-pocket maximums in this Agreement do not prevent the City from offering employees alternate health care plans which might have higher or lower contribution levels, co-pays and out-of-pocket maximums.

B. Group life insurance coverage paid by the City shall be provided in an amount equal to that provided under the annual salary ordinance. The 2018 amount is:

For Firefighters and Officers: $50,000.00

Double indemnity premiums shall be paid by the City on all coverage.

C. Any member retiring on or after January 1, 1972, shall receive $5,000.00 life insurance coverage paid for by the City. Double indemnity will not be provided on such coverage.
D. The City will indemnify members and provide a defense to members as the result of his/her employment, in accordance with the provisions of Ohio Revised Code Chapter 2744 and Section 250.03 of the Middletown Codified Ordinances.

**Article 28 – Vacation**

A. **Schedule of Earned Vacation.** All tour employees who have served at least one year in the Fire Division shall thereafter be entitled to leaves of absence by way of vacation periods with full pay, in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Years</th>
<th>Days</th>
<th>Years</th>
<th>Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>14</td>
<td>16</td>
<td>32</td>
</tr>
<tr>
<td>5</td>
<td>16</td>
<td>20</td>
<td>33</td>
</tr>
<tr>
<td>8</td>
<td>23</td>
<td>25</td>
<td>34</td>
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<tr>
<td>10</td>
<td>24</td>
<td>30</td>
<td>35</td>
</tr>
<tr>
<td>15</td>
<td>25</td>
<td></td>
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</tr>
</tbody>
</table>

B. Those employees not working the three platoon system who have served at least one year shall be entitled to leaves of absence, by way of vacation periods with full pay, in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Years</th>
<th>Days</th>
<th>Years</th>
<th>Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>10</td>
<td>5</td>
<td>12</td>
</tr>
<tr>
<td>8</td>
<td>17</td>
<td>10</td>
<td>18</td>
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<td>15</td>
<td>19</td>
<td>16</td>
<td>24</td>
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<tr>
<td>20</td>
<td>25</td>
<td>25</td>
<td>26</td>
</tr>
<tr>
<td>30</td>
<td>27</td>
<td>30</td>
<td>28</td>
</tr>
</tbody>
</table>

C. Upon a 40 hour per week employee achieving 800 accumulative sick leave hours or a 51 hour per week employee achieving 1060 accumulative sick leave hours, that employee will be entitled to exchange 32 hours sick leave for 32 hours vacation. Employees with more than 280 accumulative sick leave hours but less than 800 accumulative sick leave hours for a 40 hour per week employee or employees with more than 371 accumulative sick leave hours but less than 1060 accumulative sick leave hours for a 51 hour per week tour employee will be able to exchange sick leave hours for vacation hours at the ratio of 3:1 (96 hours sick leave maximum for 32 hours vacation).

D. Total annual vacation time shall include:

- earned vacation days
- compensatory time-off in lieu of holidays
- sick leave converted to vacation
- partial tours held in escrow from previous year(s)
The scheduling of vacation shall be made by seniority in each platoon, subject to guidelines and limitations established by the Division of Fire, in the month of December.

Article 29 – Holidays

A. The following holidays are celebrated by all employees:

- New Year’s Day
- Martin Luther King Day
- President’s Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Day after Thanksgiving Day
- Christmas Eve Day
- Christmas Day
- Employee’s Birthday
- Personal Day

B. If any of these holidays falls on Sunday, the following Monday is considered the holiday. If any falls on a Saturday, the preceding Friday is considered the holiday, for all forty hour workers.

C. Holiday regulations for full-time employees:

(1) A full-time employee working a 40 hour schedule shall be excused from work that day.

(2) A full-time employee who is regularly scheduled to work on a holiday, or whose normal off-day falls on a holiday, shall be given another day off in lieu of the holiday.

(3) If an employee is off without pay because of unauthorized absence either the workday before or the workday after a holiday, he forfeits that holiday.

(4) If a holiday falls during an employee’s vacation period, it shall not be charged to vacation time, except where departmental or division policy is to grant additional time in a lump period in lieu of granting regular holidays off.

D. Effective January 1, 2004, in lieu of time off on the above-listed holidays, tour employees will receive 132 hours of compensatory holiday time off annually. Compensatory holiday time off in lieu of holidays shall be added to members’ total accumulated vacation days (See Vacation Article).

E. Holiday Pay. Employees who are regularly scheduled to work, and do work, on New Year’s Day, Thanksgiving Day, or Christmas Day, shall be entitled to the following additional compensation:
One-half of the regular shift pay for those members working between 7 a.m. the morning of the holiday and 7 a.m. the following day, in addition to compensatory time off and the regular holiday pay.

F. Members of the Division of Fire shall have the option, up to six (6) times per year in accordance with the first payrolls in February, April, June, August, October and December, of exchanging up to 132 hours per year of holiday time earned, but not taken, for pay at the member’s current hourly rate.

G. Each member shall be able to accumulate unlimited holidays.

H. A member may request to use compensatory holiday time (personal day) to take time off work (in lieu of accumulating these hours) in the following manner; a) a day worker may take up to eight (8) hours in four (4) hour increments, or b) a tour worker may take up to twenty-four (24) hours in twelve (12) hour increments, and such twelve (12) hour increment shall either commence at the beginning of a shift or terminate at the end of a shift. The member may not request that this day be taken on any of the premium pay holidays listed in section E of this Article. This time shall be granted on a first come first served basis. The member must give the Chief of the Division of Fire 24 hours notice of this request and the Chief or his designee may refuse such request if the request is made less than 24 hours in advance or if 3 other members have already received approval on a particular day.

I. Any 40-hour employee reassigned to tour work shall have his or her banked compensatory holiday hours multiplied by 1.275, and any tour worker reassigned to a 40-hour position shall have his or her banked compensatory holiday hours multiplied by .7843.

**Article 30 – Training and Education**

A. The City shall provide tuition and necessary materials for training courses as required by the Department and which deal directly with firefighting and/or emergency medical skills and techniques. Any schooling, conferences, or seminars being offered to members by the MFD Training Department shall be emailed to all applicable employees of the Division of Fire.

B. The City of Middletown will pay for the cost of tuition for courses in accordance with Section 2.64 of the Policy and Procedure Manual.

C. Members shall be able to participate in Tuition Reimbursement and Assistance as available yearly in the City’s Pay and Benefits Ordinance.

**Article 31 – Bulletin Boards**
The City will maintain, at no cost to Local 336 IAFF, one (1) bulletin board size 3’ by 3’ at each station for Local business. The bulletin boards shall be displayed in a prominent place in each fire station. The bulletin boards shall not be used by individual firefighters to post items which are obviously derogatory to Management. No partisan political information will be posted at any time by either the Union or an individual firefighter. Endorsements by Local 336 IAFF communicated to members are not partisan political activity. Anything deemed obviously derogatory by Management, except official Union communication, shall be removed pending dealing with the matter via the labor/management process.

**Article 32 – Legal Appearance**

A. Each firefighter required to appear in court resulting from their duties or to give affidavits, make statements to Police or other investigators, observe line-ups or engage in any other type of legal appearance pertaining to their employment with the City, on other than their regularly scheduled tour of duty shall be compensated at the minimum of three (3) hours at the 40 hour rate at time and one-half.

B. Each firefighter required to appear in criminal cases which arise out of the performance of their official duties, who have acted properly and in accordance with applicable laws, regulations and/or work rules, shall, at their option, have access to advice from an attorney from the Law Department of the City at no cost to the member. In the event the Law Director rules that a conflict of interest exists, the administration agrees to review claims of firefighters for compensation for reasonable legal fees and if it is determined to be a proper and worthy claim, the administration will forward the claim to the City Commission with a recommendation to compensate the firefighter as a moral obligation.

C. Each firefighter who is required to appear in court while on duty shall be retained on paid status.

**Article 33 – Voting Procedure**

Any employee who is called to work on Election Day outside of his/her scheduled work week and is unable to vote because of being called in shall be granted reasonable time off, with pay, upon request, to vote.

**Article 34 – Legal Representation**

A. In the event a civil action is brought against an employee arising out of the proper performance of his official duties, the Law Director, upon request, will review the facts of the incident giving rise to such action, and if it is determined that the defendant acted properly and in accordance with applicable law, regulations and procedures, the Law
Director's office will defend the member in such action subject to the availability of his staff.

B. In the event defense of a legal action by the Law Director’s office is not available, the administration agrees to review claims in behalf of employee for compensation for legal fees for legal action resulting from the legitimate performance of his duty. If, upon review, it is deemed to be a proper and worthy claim, the administration will forward the claim to the City Commission with a recommendation to compensate the member as a moral obligation.

**Article 35 – Local 336 Activities**

A. **Negotiating Committee.** Local 336 shall advise the City of the name of its negotiators, not to exceed four (4). A maximum of three (3) such representatives shall be paid regular salary for time spent in negotiating sessions set by management during regular working hours; no payment will be made for negotiating time outside the said representatives' normal workday.

B. The names of the duly chosen bargaining representatives of the unit shall be submitted to the Fire Chief sufficiently in advance of scheduled bargaining meetings, so as to permit scheduling for continuity of operations within the department.

C. 

1. Members shall have the right to engage in union activity at work, at the sole discretion of the officer in charge, so long as the activity does not interfere with the member’s duties as an employee.

2. Union members shall have the right to vote on officers, tentative contract agreements, fact-finders reports and any other general union business while on duty.

3. Union members shall have the right to attend executive board and committee meetings while on duty.

**Article 36 – Union Office**

The Employer will make available the former Chiefs office #1 Station (located at 307 N. Clinton Street, Middletown, Ohio) for Local #336 meetings and business, provided such use is at no cost to the Employer. Provided, one week after the effective date of this collective bargaining agreement the Union will vacate the present Union office and be entitled to occupy the former Assistant Chief's office, under the same conditions and for the same purposes set forth in this article. The Employer will also provide, at its option, at said location, either an internal PBX line or Ohio Bell phone line. Billing for long distance calls shall be submitted to Local #336 for payment.
The Employer will provide an office for Local #336 meetings and business at one of the fire stations, provided that such use is at no cost to the Employer. The Employer will provide a telephone line in said office and any long-distance calls generated from such will be paid by Local #336.

Article 37 – Agreement Printing

The City shall provide Local 336 with copies of the Contract in numbers no less than 125% of the total Division of Fire workforce at the time of signing. The City will also provide a copy of the contract on a computer disk.

Article 38 – Miscellaneous Benefits

A. The City shall supply the following items for station use:

   (1) Linens – to include but not limited to towels, wash cloths, dish towels, dish rags, sheets, pillow cases, pillows, blankets, etc.

   (2) Furniture – to include, but not limited to sofas, chairs, tables, recliners, beds, mattresses, televisions, etc.

   (3) Appliances – to include, but not limited to (including maintenance and service costs) range, microwave oven, refrigerator, dishwasher, clothes dryer, small hand appliances (mixers, blenders, etc.).

   (4) Cooking and Eating Utensils – to include, but not limited to pots, pans, plates, glasses, silverware, serving utensils, bowls, etc.

   (5) Cleaning Supplies – to include but not limited to soap, bleach, detergent, mops, brooms, etc.

Items listed above to be repaired or replaced on an as-needed basis. Any unresolved item to be repaired or replaced shall be referred to the Labor/Management Committee for final resolution.

B. Upon retirement, the employee will have the option to purchase their helmet, Company Identity Shield and fire boots at a cost of $1.00.

C. The City shall pay the cost incurred by any employee who is required by his superior to attend a meeting or function pertaining to his official duties as such employee during other than his regular working hours. Such cost shall not include transportation to or from such meeting or function if held within the City, but shall include any meal deemed necessary by his superior in view of the hour during which the meeting or function is held. No such meeting or function shall be called or held without the prior written approval of the City Manager.
D. The City shall also pay the reasonable costs of employee awards honoring faithful service and the costs of such awards are hereby deemed to be compensation.

**Article 39 – Miscellaneous Provisions**

A. **General Orders.** A copy of all General orders and special notices issued by the Chief of the Fire Division shall be distributed to the Secretary of the Union at his Fire Department assignment.

B. **Insurance Policies.** The City shall provide the Union with an up-to-date copy of all insurance policies covering bargaining unit employees.

C. **Orders by Text.** Employees may not be disciplined for orders sent to them solely via electronic text message to their personal phone.

**Article 40 – Strikes and Lockouts**

A. Each of the parties hereto acknowledges the rights and responsibilities of the other party and agrees to discharge its responsibilities under this agreement. The Union, its officers and representatives, and all employees are bound to observe the provisions of this agreement. The City, its officers and representatives, are bound to observe the provisions of this agreement.

B. In addition to the responsibilities that may be provided elsewhere in this agreement, the following shall be observed:

   1. There shall be no strikes, work stoppages, or interruption or impeding of work. No officer or representative of the Union shall authorize, instigate, aid, or condone any such activities. No employees shall participate in any such activities.

   2. There shall be no lockouts.

**Article 41 – Emergency Waiver**

A. In the event an emergency is proclaimed by the City Manager as set forth by the Codified Ordinances, the Chief of the Division may, after the declaration of an emergency, make such work assignments within the recognizable scope of Fire Division skills, as he deems necessary, without regard to employee classifications, overtime limitations, or seniority.

B. Upon termination of the emergency, grievances that occurred during the emergency will be processed in accordance with provisions outlined in the Grievance Procedure in Article 22. This will include the declaration of the emergency itself.
Article 42 – Savings Clause

If any provision of this agreement, or the application of such provision should be declared invalid by any court of competent jurisdiction or by reason of any existing or subsequently enacted State or Federal legislation, the parties shall meet within thirty (30) days of a request by either party to determine the extent, if any, to which changes must be made. Only those articles that are in violation of the new laws will be discussed. The remaining parts or portions of this agreement shall remain in full force and effect.

Article 43 – Benefits to be Paid Upon Termination

A. Accrued Vacation Upon Resignation or Death. An employee who voluntarily resigns with reasonable notice; or dies, shall be paid for vacation credit earned in the previous year, but not yet taken, and for vacation credit earned in the present year.

B. Accrued Vacation Upon Retirement. An employee who voluntarily retires with reasonable notice shall be paid for vacation credit earned in the previous year, but not yet taken, and for vacation credit earned in the present year. In addition, if the employee notifies, in writing, the Chief of the Division of Fire of his intent to retire during the forthcoming year and the date of his retirement, on or before December 31 of the calendar year preceding the date of his retirement, the employee shall be paid for vacation credit earned in the previous year (second full year prior to the year of retirement), but not yet taken. The employee shall notify, in writing, the Chief of the Division of Fire of their intent to retire and date of anticipated retirement no less than six months prior to the date of anticipated retirement.

If the employee fails to retire on the date provided to the Chief of the Division of Fire, all vacation credit from the second full year prior to the year of retirement shall be forfeited, unless:

1. The Chief of the Division of Fire approves a change in the employee’s date of retirement, and the retirement shall occur in the same calendar year as originally provided to the Chief of the Division of Fire; or

2. An unanticipated catastrophic event occurs which requires the employee to postpone his retirement.

If the employee wishes to change his retirement date because of an unanticipated catastrophic event, the employee must submit a written request to the city Manager to carry over the earned vacation from the second full year prior to the year of retirement to the year in which the request is made. This request must be made on or before the date of retirement provided to the Chief of the Division of Fire. If the City Manager approves the carryover of the earned vacation credit, the vacation must be taken in the calendar year of the decision of the City Manager, and is subject to approval of the Chief of the Division of Fire.
Division of Fire as to when the vacation days may be taken. If the city Manager denies the carryover of the earned vacation credit, the employee may seek review by a mutual third party (agreed to by the City) at the cost of the employee.

The employee may withdraw his notice of retirement at any time prior to December 31 of the year preceding his retirement. However, if the notice is withdrawn, the employee must take the earned vacation credit for the second full year prior to the year of retirement in the present calendar year.

C. **Sick Leave Conversion Upon Termination.** Upon the death or retirement of an employee, all unused sick leave credit will be converted to termination pay as follows:

1. If an employee has accumulated unused sick leave in an amount of one thousand (1,000) hours or less, it will be converted on the basis of thirty-two (32) hours sick leave for eight (8) hours pay.

2. If the employee has accumulated unused sick leave between one thousand and one (1,001) hours and one thousand, five hundred (1,500) hours, all hours will be converted on the basis of twenty-four (24) hours sick leave for eight (8) hours pay.

3. All unused sick leave hours accumulated in excess of one thousand, five hundred (1,500) hours, but less than two thousand, five hundred (2,500) hours shall be converted on the basis of sixteen (16) hours of sick leave for eight (8) hours of pay.

4. All unused sick leave hours accumulated in excess of two thousand, five hundred (2,500) hours shall be converted on the basis of eight (8) hours of sick leave for eight (8) hours of pay, to a maximum of five hundred (500) hours of pay.

An employee who voluntarily resigns, (with reasonable notice), will be paid for all unused sick leave hours accumulated as follows: if the total unused sick leave hours accumulated total one thousand (1,000) or less, they shall be converted on the basis of thirty-two (32) hours of sick leave for eight (8) hours of pay; or if the total unused sick leave hours accumulated exceeds one thousand (1,000) they shall be converted on the basis of twenty-four (24) hours of sick leave for eight (8) hours of pay, to a maximum of five hundred (500) hours of pay.

An employee may not convert sick leave credit to terminal pay if it has been converted to vacation credit in accordance with Article 28 of this agreement.

D. **Longevity.** An employee who voluntarily retires with reasonable notice or dies prior to the date of payment of longevity, will receive that longevity earned to the date of retirement or death as a percentage of his base salary earned to that date. It will not be paid on other benefits or on terminal leave pay.
E. **Holidays.** An employee who resigns or retires with reasonable notice, or dies, will be paid for holidays which have been earned but not taken, unless special provisions have been made by ordinance.

F. **Equity Factor Defined.** The “equity factor” is determined by dividing the number of hours in the employee’s workweek by 40.

G. (1) **Payment of Benefits.**

   (a) The conversion to vacation credit and the conversion to termination pay will be computed in whichever sequence achieves the greatest benefit to the employee.

   (b) Vacation and holiday credit will be reduced to total hours times the applicable hourly rate. All other benefits listed above will be reduced to total hours multiplied by the “equity factor”, times the hourly rate.

   (c) Payment of benefits herein contained shall be in a lump sum and will be included in the employee’s final paycheck.

(2) **Provisions for Employees Who are Dismissed.** In the event a permanently appointed employee, who has been employed more than one year, is dismissed, he 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 department head. The department head’s decision should be in writing to the Human Resources Division. Total vacation credit must be calculated to the nearest full day.

(3) **Computation of Benefits.** The employee’s department head will be responsible for the computation of termination benefits. The Human Resources Division shall review the calculations. Any discrepancies shall be satisfied between the employee’s department head, the Human Resources Division and the City’s fiscal officer.

**Article 44 – Promotions Within the Firefighter Rank**

A. Any member promoted to the position of squadperson shall receive additional compensation, as set forth herein.

<table>
<thead>
<tr>
<th>Years of Service on Squad</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2 years</td>
<td>4%</td>
</tr>
<tr>
<td>3-6 years</td>
<td>5%</td>
</tr>
<tr>
<td>7 or more years</td>
<td>6%</td>
</tr>
</tbody>
</table>

All percentages are of the applicable top step pay for a firefighter (F4).
(1) Members currently promoted to the position of squadperson will receive additional compensation under this Article at the amount shown as of January 1, 2011. No further increases in the amount of this additional compensation will be provided. No members shall be promoted to the position of squadperson after January 1, 2015.

(2) (a) With regard to a combination company, any employees who are officially assigned by the Fire Chief or his designee as the third (3rd) person on the medic crew who are not a promoted squadperson and who performs the duties of that position for twenty-four (24) hours shall receive Squad compensation of $28.50. All members assigned to a combination company for twenty-four (24) hours and who performs those duties shall be paid squad compensation according to their certification with the exception of the driver. Paramedics shall receive squad compensation of $28.50 and EMT-Basics shall receive squad compensation of $14.25.

(b) If an employee is so assigned for a period of twelve (12) hours or more, but performs that assignment for a period of less than twelve (12) hours, the employee does not receive this Squad compensation.

(c) With regard to a combination company, if an employee performs the assigned third (3rd) person on the medic crew position for at least twelve (12) hours they receive half (1/2) pay. If members are assigned to this role for at least twelve (12) hours and perform those duties, they shall receive half (1/2) pay.

(d) With regard to a combination company, notwithstanding any other provision of this collective bargaining agreement, in no circumstances will more than $28.50 be paid under this Article for each medic vehicle in service on each day.

(e) Should a fourth (4th) person be placed on a combination company, only one (1) two (2) persons shall be paid the $28.50 squad compensation. Seniority will determine the two members who receive the pay.

(f) Any medic unit in service with two (2) FF-PM employees, each of the employees shall receive the $28.50 Squad compensation.

(g) Any medic unit in service with one (1) FF-PM and one (1) FF-EMT employee, the FF-PM, if not a promoted squadperson, shall receive the $28.50 squad compensation. The FF-EMT shall receive $14.25 additional squad compensation. If the FF-EMT has a paramedic certification, they shall receive the $28.50 squad compensation as provided in Article 20(B) of this agreement.
B. Any member promoted to the position of apparatus operator shall receive additional compensation set forth herein. To be eligible for promotion to Apparatus Operator, the employee must have obtained Step D in the pay scale.

<table>
<thead>
<tr>
<th>Years of Service as Apparatus Operator</th>
<th>Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-6</td>
<td>1%</td>
</tr>
<tr>
<td>7 or more</td>
<td>1.5%</td>
</tr>
</tbody>
</table>

All percentages are of the applicable top step pay for a firefighter (F4).

C. All additional compensation under this section shall be paid annually in the first pay of December.

**Article 45 – Wages**

A. **Wage Rates.**

(1) Effective January 1, 2018, all wages shall be increased by 2.0%.

(2) Effective January 1, 2019, all wages shall be increased by 2.0%.

(3) Effective January 1, 2020, all wages shall be increased by 2.0%.

(1) Effective the first pay period after January 1, 2021, all wages shall be increased by 1.0%. Additionally, upon the execution of this Agreement, the employer shall pay all bargaining unit employees a one-time lump-sum payment equal to 3.0% of wages.

(2) Effective the first pay period after January 1, 2022, all wages shall be increased by 2.0%. Additionally, effective the first pay period in January 2022, the employer shall pay all bargaining unit employees a one-time lump-sum payment equal to 2.0% of wages.

(3) Effective the first pay period after January 1, 2023, all wages shall be increased by 3.0%. Additionally, effective the first pay period in January 2022, the employer shall pay all bargaining unit employees a one-time lump-sum payment equal to 1.0% of wages.

(4) Members hired prior to September 21, 2018, shall follow Wage Scale A1, attached hereto. [To be added to final contract]

(5) Members hired on or after September 21, 2018, shall follow Wage Scale A2, attached hereto. [To be added to final contract]
(6) In addition to the above, members shall participate in the “Performance-Based Compensation” set forth in the Pay & Benefits Ordinance, as adopted by the City Council of Middletown.

(7) The City shall pay each member $500.00 per year as signing bonus for this contract. These payments shall be due at the time of the first pay period in January each year. Payment of monies otherwise due January 1, 2018 shall be paid as soon as practicable following the signing of this agreement by all parties.

B. **Salary Adjustment.** The salary of each employee shall be reviewed annually or otherwise as herein provided by the Fire Chief for the purpose of determining which employee shall be entitled to a step increase. All of his 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 Fire Chief, the City Manager may advance an employee at the time of such review until the maximum step has been reached.

No employee in F-1 hired after January 1, 1993 shall be:

1. increased to Step B until the employee has passed a written test, to be prepared by the Chief of the Division of Fire, regarding familiarity with the City of Middletown, specifically streets and landmarks;

2. increased to Step CD until the employee has completed training and received Division of Fire certification for operation of pumper trucks;

3. increased to Step DF until the employee has completed training and received Division of Fire certification for operation of an aerial apparatus;

4. All employees hired after July 1, 2016 must maintain their state certifications as a paramedic throughout their tenure as an employee. Any employee hired after July 1, 2016 who fails to maintain such certifications shall be reduced in pay to Step B.

C. 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 46 – Special Assignments**

The positions of inspectors and fire marshals shall be assigned only to firefighters or fire officers during the period of this contract. However, nothing in this agreement is intended to prevent the City from using other City employees for inspections as permitted by law.
Article 47 – Paramedic Certification Pay Preferential Supplemental Pay

A. All members who maintain their paramedic certification throughout the entire calendar year shall receive additional compensation in that year in the amount of $1,600.00.

B. Fire/EMS Instructor Certification.

   (1) All members who maintain their certification as State Certified Fire or EMS Instructor throughout the entire calendar year shall receive additional compensation in that year in the amount of $300.00.

C. Technical Rescue Certification.

   (1) Members who hold Technician Certifications in any of the following technical rescue disciplines (Hazardous Material Technician, Swift Water Technician, Ice Rescue Technician, Confined Space Rescue Technician, Accelerant Detection Canine) and maintain their certification throughout the entire calendar year shall receive additional compensation in that year in the amount of $200.00 per certification up to $400.00 max.

   (2) The City agrees to provide refresher training that meets standards for continuing education requirements set forth by the training division for each of the technical rescue disciplines. To be eligible for preferential pay, members must meet annual requirements for continuing education. To be eligible for Hazardous Materials Technician preferential pay, the member must meet annual requirements for continuing education and possess a current hazardous material physical qualifying them for entry team duties.

Bd. All additional compensation under this section shall be paid annually in the first pay of December.

Article 48 – Overtime

A. Overtime pay for duties normally assigned to the tour employees will be paid one and one-half times the tour employees’ hourly rate (51 hours). Overtime pay for duties normally assigned to the day employees will be paid at one and one-half times the day employees’ hourly rate (40 hours). The Fire Chief shall determine whether the duties being performed are normally assigned to the tour employee or the day employee.

B. Overtime, for the purpose of this agreement, is defined as being any time worked outside the employee’s normally scheduled hours of work.

C. Employee assignments to overtime will be in accordance with procedures established between Local 336 and the Chief of the Division.
D. Overtime other than emergency call-in or stand-by shall be by quarter-hour increments.

E. Except as provided in paragraph A, above, effective April 15, 1986, any employee working in excess of two hundred four (204) hours in any twenty-eight (28) seven (27) day work period, as defined by the Fair Labor Standards Act, as amended, shall, subject to paragraph F, below, as determined by the Employer, either 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. Time off to use earned compensatory time will be granted within sixty (60) 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) hours of unused compensatory time and any employee who has accrued unused compensatory time to the four hundred eighty (480) hour 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.

F. The Employer’s determination to designate the compensation of overtime by the use of compensatory time as set forth above shall be subject to either:

(1) The existence of a financial emergency, as determined and declared by the City Manager; or

(2) The Division of Fire exceeding the payment of $250,000.00 per calendar year in overtime pay.

Article 49 – Hazardous Material

A. Any claim or suit brought against any employee as a result of a Hazardous Material Incident, which arises from or because of any action or inaction by such employee in the scope of his employment as an employee of the City, shall be defended by the Director of Law until the final termination of the proceedings therein, unless the City is an adverse party to the employee in such proceedings.

B. The City shall save any of its employees harmless from personal liability on any judgment resulting from any claim or suit brought against any such employee because of any action or inaction by such employee in the scope of his employment with the City, unless the City is an adverse party to the employee in such proceedings.

C. The provisions of this section shall not apply to any claim or suit brought against an employee of the City arising from or because of any action or inaction of such employee that would constitute a crime under the laws of the United States, the State or the City, or that is malicious or wanton in nature.
D. The Division of Fire shall keep, during the time of employment, a file on each member involved in any on-the-job Hazardous Material Incident, to include but not limited to the following: location, date and time of the incident, materials involved, if known, exposure length, any injury received during the incident, and health risks, if known, when exposed to said materials.

**Article 50 – Total Agreement, Headings and Genders**

A. The provisions of this Contract constitute the entire written Contract between the City and Local 336. Neither party shall be bound by prior written or verbal agreements.

B. It is understood and agreed that the use of headings before Articles is for convenience only and that no heading shall be used in the interpretation of any such Article nor affect any interpretation of any such Article.

C. Whenever the context so requires, the use of words herein in the singular shall be construed to include the plural, and words in the plural, the singular, and words whether in the masculine, feminine or neuter genders shall be construed to include all of said genders. By the use of either the masculine or feminine genders it is understood that said use is for convenience purposes only and is not to be interpreted to be discriminatory by reason of sex.

**Article 51 – Embodiment**

The two parties to this Contract jointly and separately agree that this Contract embodies all applicable provisions relating to employees covered.

The City and IAFF Local 336 each certify without reservation that an adequate opportunity has been afforded its bargaining representatives to propose and vigorously advocate all negotiable subject matter during the course of collective negotiations preparatory to the signing of this Contract. Arrangements, provisions, and procedures previously agreed to by the parties, either formally or informally, shall henceforth be void as of January 1, 1988, unless included herein.

**Article 52 – Drug / Alcohol Testing**

I. **PURPOSE OF DRUG/ALCOHOL TESTING PROGRAM**

A. The Fire 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/alcohol dependence or illegal drug use.
B. A reasonable drug/alcohol testing program must establish a balance between the rights of the employee and the compelling governmental interest in maintaining a Fire agency free of illegal drugs. Liability could be found against the Department and the employee if we fail to address ourselves with diligence to ensure that employees can perform their duties without endangering themselves or the public.

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

II. DEFINITIONS

A. Drug Test. A urinalysis test administered under approved conditions and procedures to detect drugs by a laboratory certified in accordance with Department of Health and Human Services rules and regulations.

B. Alcohol Test. A blood sample or urine sample taken at either a hospital or accredited testing laboratory, or a breath test administered by an operator licensed by the Ohio Department of Health on a machine approved by the Ohio Department of Health.

C. Reasonable Suspicion. An apparent state of facts and/or circumstances found to exist upon inquiry by the Fire Chief or his designee, which would warrant a reasonable, prudent person to believe the employee was under the influence of drugs/narcotics and/or alcohol.

D. Positive Test Results. A test performed: (i) on a blood specimen provided by the employee measuring an alcohol concentration by weight in such specimen of .01% or more; (ii) a breath specimen provided by the employee measuring a concentration of one hundredth gram or more by weight of alcohol per two hundred ten liters of the employee’s breath; (iii) a urine specimen provided by the employee measuring a concentration of fourteen thousandths of one gram or more by weight of alcohol per one hundred milliliters of the employees’ urine; (iv) a urine specimen provided by the employee detecting any amount of a drug (any controlled substance listed on Schedule I-V of 21 C.F.R. 1308).

III. GENERAL RULES

A. Department employees shall not take any narcotic or other dangerous drug unless prescribed by a person licensed to practice medicine. Any statutorily defined illegal use of drugs by an employee, whether on or off duty, is prohibited. Department employees are prohibited from consuming or possessing alcohol at
any time during or just prior to the beginning of a work period, or anywhere on City property, including buildings, property, or vehicles.

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 expectation of privacy.

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

C. Failure of any Fire employee to comply with the intent or provisions of this Article of the contract are grounds for disciplinary action, including dismissal, or other action determined appropriate by the Chief of Fire. Refusal by a Fire employee to take a required test, i.e.: a test that is ordered based upon reasonable suspicion as defined in paragraph II (C) above, or under circumstances described in paragraphs IV (A) and (B), below, or follow this article of the collective bargaining agreement, will result in immediate relief from Fire duties pending disposition of any administrative personnel action. A refusal occurs if the employee fails to agree to submit to a required drug test within two (2) hours of receiving the order, or to a required alcohol test within one (1) hour of receiving the order.

IV. POLICY-DRUG TESTING/URINALYSIS AND ALCOHOL TESTING

A. Employees of the department shall be required to submit to a test for alcohol, drug or narcotic use as outlined below:

1. The Chief of Fire or his designee (Asst. Chief, Deputy Chief or those acting in the position) may order a drug/alcohol test when he or she has reasonable suspicion that an employee is using, or is under the influence of drugs, narcotics, or alcohol.

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

3. Whenever practical, prior approval should be obtained from the Chief of Fire before his designee orders the test.

4. The Fire Chief or his designee orders a drug or alcohol test when he has reasonable suspicion of an employee’s usage or possession, or that an employee is under the influence of drugs and/or alcohol, and shall prepare a report containing the facts and circumstances including any pertinent dates and times. 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. Any positive test result, will be submitted as a part of a written complaint by the Fire Chief or his designee ordering the test.
B. In the event that an employee is required to submit to a drug or alcohol 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 Fire department employee of his/her choice be present for the transportation and test, provided said individual is on duty and reasonably available.

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

5. Subject to the rules of the testing authority the employee may have an observer for the test.

6. All urine or blood samples will be properly labeled, sealed, and turned over to the site personnel by the employee. The specimen will be divided properly by the designated test center or laboratory designated by the test center.

7. All parties involved will be transported back to the Fire department.

8. 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.

D. A positive test result on a drug test, 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 or employee 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. If the employer requests this third test, it shall bear the cost of the test. If the employee requests the test, the cost shall be borne by the employee if the third test is positive; and by the employer if the third test is negative. A negative third test shall bar any action authorized under Article 52(IV)(D). The employer is authorized to deduct any costs due from the employee under this subsection through payroll deduction in two (2)
payments without written permission of the employee. A positive test result on an alcohol test may serve as a basis for discipline, up to and including dismissal.

E. Employees who have been found to be using illegal drugs or narcotics, or abusing prescription drugs or violating the alcohol provisions of this policy, 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.

F. The City will indemnify and save the Union harmless from any action alleging the constitutionality of the administration of this drug testing provision.

Article 53 – Fitness for Duty

Employees shall have their choice of either may participate in one of the following during any calendar year of this Agreement:

(1) The cost or balance thereof of any individual adult fitness membership upon the employee obtaining the 50% level on four out of five categories of the YMCA’s Physical Fitness Evaluation Profile, to a maximum reimbursement of no more than a single adult YMCA annual fee.; or

(2) The opportunity to participate in the City’s Health and Wellness program and be eligible for the cash incentives as rewarded to other non-union employees.

Employees hired in the F-1 classification after January 1, 2007 must participate in the City’s Health and Wellness Program, when a Health and Wellness program is made available to members at no additional cost to the member, described in (2) above in each year to be eligible to receive a step increase as provided in Article 45, paragraph B.

Article 54 – Family and Medical Leave

Family and medical leaves shall be granted in accordance with the Family and Medical Leave Act of 1993 as amended, and the Policy and Procedure Manual of the City of Middletown.

Article 55 – Termination

This agreement shall become effective on January 1, 2018 and terminate on December 31, 2020.

SIGNATURES

IAFF LOCAL 336  CITY OF MIDDLETOWN
DATE: April 26, 2021

TO: James M. (Jim) Palenick, City Manager

FROM: Susan Cohen, Assistant City Manager and Bargaining Committee

**Tentative, New Three-Year Collective Bargaining Agreement with Local #336 I.A.F.F. (Fire Department Employees)**

**PURPOSE**
To summarize the details of those changes, amendments and additions negotiated and contained within the tentative new three-year collective bargaining agreement with the International Association of Firefighters, Local #336.

**BACKGROUND AND FINDINGS**

The current contract for fire employees has been under negotiation since late 2020. The parties were scheduled for, and conducted, a fact-finding hearing on April 19, 2021. Fact-finding is the Ohio Revised Code requirement for non-binding arbitration to resolve labor contract disputes and renewal negotiations. Prior to commencing the final hearing, the parties engaged in mediation. As a final result of both negotiations and mediation the parties reached the following agreements:

1. Article 10 – Injury Leave – amended to modify the amount of injury leave an employee can utilize; as well as to provide the Fire Chief the sole discretion to extend injury leave. Also amended the article to discuss what happens when employees exhaust injury leave time and utilize their banked sick leave.
2. Article 21 – Promotion to Higher Rank – amended to clarify the amount of time allowed to provide changes in study books for promotional tests; also added additional terms to clarify that promoted officers will be subjected to a six-month probationary period in their new positions.
3. Article 26 – Clothing – amended to allow for a yearly increase to the employee clothing and maintenance allowances: from $375/year to $500/year for uniform maintenance; and, to allow unspent yearly uniform purchasing credits to carry-forward to a maximum $1,500 from the current $1,000.
4. Article 27 – Health Insurance – maintained the current contract language – keeping the existing “caps” on employee contributions and deductibles, without further upward escalation.
5. Article 44 – Promotion within rank – amended to clarify which members receive additional squad pay of $28.50 per-shift for Paramedics, and $14.25-per-shift for EMTs.
6. Article 45 – Wages – amended to increase the across-the-board base wages and lump sum payments, as follows:
a. 2021: employees receive 1% increase in base pay and 3% lump sum payment
b. 2022: employees receive 2% increase in base pay and 2% lump sum payment
c. 2023: employees receive 3% increase in base pay and 1% lump sum payment

7. Article 47 – Paramedic Certification (now known as Preferential Supplemental Pay) – amended to create consolidated schedule for supplemental pay tied to employees that receive and maintain specialized certifications to assist in the operational needs of the department.


The bargaining committees worked tirelessly to reach mutual consensus on these changes along with additional items to address operational concerns. We believe that these negotiated terms represent the best possible agreement for both parties and, as such, are strongly recommending City Council approval to this package in its entirety.

ALTERNATIVES

City Council has the right to reject this negotiated agreement in total, as does the full membership of Local #336. If that were to occur from either side, we would then work with Local #336 to request that a formal order from the fact-finder be entered which, again, either party could choose to except or reject. However, if the two sides were still unable to reach a final resolution, the matter would become subject to binding conciliation and a third-party conciliator would determine (and impose) the terms of the final contract.

FINANCIAL IMPACTS

There are increases to the clothing and uniform maintenance costs as well as certification pays, which can and will be managed within the current, approved operating budget. The across-the-board, base pay increase for fiscal-year 2021 (1%) was also already included in this year’s operational budget. The lump sum payments (3% for 2021, 2% for 2022, and 1% for 2023) will be both budgeted for and provided utilizing funds available within current undesignated General Fund reserves and/or through appropriations as allowed by federal Rescue Plan Act (stimulus) dollars. The total, three-year cost of the agreed-upon wage increases amount to approximately $1,200,000. However, of that total, only approximately $750,000 counts against recurring, base wage increases. Had we, for instance negotiated an agreement for three, yearly base wage increases of 2.5%, we would have had a slightly lower, all-in cost of approximately $1,125,000, but the entire amount would be counting against recurring base wage expenditures.

EMERGENCY/NON EMERGENCY

Emergency: in order to guarantee we are compliant with terms required by the fact-finding regulations and so that we are able to quickly implement a contract that was negotiated as taking effect January 1, 2021.
LEGISLATION
ITEM 14
RESOLUTION NO. R2021-23

A RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY FROM CERTA MIDDLETOWN, LLC AND DECLARING AN EMERGENCY.

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 for the purchase of real property identified on the map attached hereto and labeled Attachment “1” from CERTA Middletown, LLC. The purchase includes the following 26 parcels:

- Q6521004000002
- Q6521004000007
- Q65210040000042
- Q6521004000008
- Q6521004000004
- Q6521003000079
- Q6521004000010
- Q6521004000009
- Q6521003000078
- Q6521004000030
- Q6521003000044
- Q6521003000081
- Q6521004000031
- Q6521003000045
- Q6521003000082
- Q6521004000004
- Q6521003000074
- Q6521003000084
- Q6521004000005
- Q6521003000075
- Q6521003000083
- Q6521004000006
- Q6521003000076

The Purchase Agreement shall be in a form substantially similar to Attachment “2” “B”, attached hereto, and shall be approved by the Law Director.

Section 2

For said purposes, the Finance Director is authorized and directed to expend a sum not to exceed $225,000.00 from the General Fund (Fund # 100), which such sum is hereby appropriated to the accounts of 409 (100.409.54356).

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: to allow the purchase to be completed without delay as contemplated in the agreement, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted:_____________________

Attest: _______________________

Clerk of City Council
AGREEMENT FOR PURCHASE OF REAL ESTATE

CERTA MIDDLETOWN, LLC an Ohio Limited Liability Company ("Seller"), and
CITY OF MIDDLETOWN CITY, an Ohio Municipal Corporation ("Purchaser"), hereby agree
as follows:

1. **Property.**

   1.1 Seller owns certain real estate located in Middletown, Ohio, commonly known as
   the former AK Steel Research and Technical Services Building and certain adjacent
   land as shown on the drawing attached as Exhibit A-1 (the “Real Property”) and
   being part of the tax parcels listed on attached Exhibit A-2. The Real Property shall
   include all wells, tunnels, fixtures, buildings and other improvements located
   thereon and all rights and easements appurtenant thereto, include any existing
   transformer stations and power lines.

   1.2 Seller also owns certain personal property, equipment, furniture and fixtures
   located on the Real Property as of the date of this Agreement (collectively, the
   “Personal Property”). As used in this Agreement, the term “Property” includes the
   Real Property and the Personal Property.

   1.3 Purchaser agrees to purchase the Property from Seller and Seller agrees to sell the
   Property to Purchaser for the consideration and on the terms and conditions set forth
   herein.

2. **Purchase Price.**

   2.1 The purchase price (the “Purchase Price”) for the Property shall be the greater of:
   (i) the appraised fair market value; or (ii) Two Hundred Twenty Five Thousand
   Dollars ($225,000.00), whichever is greater. In addition, Seller and Purchaser agree
   to the easements, restrictions and other obligations contemplated by this Agreement
   as consideration for the Property. At the closing of the transaction contemplated by
   this agreement (the “Closing”), Purchaser shall pay the total sum of $225,000.00
   (“Cash Payment”) and the remaining amount of the Purchase Price shall be treated
   as donation from Seller to Purchaser, which Seller agrees to donate and Purchaser
   agrees to accept. The Purchaser intends to use the Property for the public purpose
   of economic development and for the overall good of the City and the community.
   Additionally, the Purchaser hereby unconditionally represents that the Property and
   the money it will spend to purchase the Property to achieve the objective of
   promoting the public health, safety, morals, general welfare, security, prosperity,
   and contentment of all the inhabitants and/or the primary objective of the
   expenditure is to further a public purpose, even if an incidental private end is
   advanced. If the Purchaser proceeds to Closing, it hereby represents that shall
   memorialize its decision to expend the necessary funds to purchase the Property by
   a duly enacted ordinance or resolution.
2.2 With three days of executing this Agreement, the Purchaser shall pay the title company or escrow agent (“Title Company”) selected by the Purchaser the total sum of Ten Thousand Dollars ($10,000.00) (“Deposit”).

2.3 It shall be the Seller’s sole cost and expense to obtain an appraisal of the Property. Purchaser and Seller acknowledge that Seller intends for the transfer of the Property to Purchaser to constitute in part a “bargain-sale” transaction for federal income tax purposes. As such, it is Seller’s intent to treat the portion of the fair market value of the Property as established by a “qualified appraisal” (as defined in Section 170 of the Code and the Treasury Department regulations promulgated thereunder) which exceeds the Cash Payment as a charitable contribution to Purchaser made for exclusively public purposes for federal income tax purposes; provided, however, that Seller shall be wholly responsible for the expense of obtaining any and all documentation necessary to support the amount of the charitable contribution made with respect to the transaction contemplated hereby. Purchaser shall, at Closing, execute such documents as may be reasonably requested by Seller to substantiate its charitable contribution, including (without limitation) an “Acknowledgment” and Internal Revenue Service Form 8283; provided, however, Purchaser makes no representation, warranty, or claim as to the fair market value of the Property being donated if any. Notwithstanding the foregoing or anything else to the contrary in this Agreement, Seller has had an opportunity to consult with counsel and other advisors, and is relying solely on the results of its own investigation (and not on any representation made by Purchaser) as to whether or not any amount exceeding the Cash Payment can be considered a donation to Purchaser for tax purposes. In no event will Purchaser be required to compensate Seller any amount in excess of the Cash Payment called for hereunder.

2.4 The Cash Payment will be paid by wire transfer of immediately available funds at Closing (as defined in Section 6.1), subject to the adjustments and prorations specified in this Agreement.

3. Inspection Period.

3.1 Purchaser’s obligations hereunder are subject to Purchaser being satisfied by the thirty (30th) day after the “Effective Date”, as defined on the signature page of this Agreement (“Inspection Period”) that the Property, including title, building condition, environmental and economic feasibility, is suitable in all respects in Purchaser’s sole discretion. Nothing in this provision shall be construed as imposing any limitations upon the bases by which Purchaser may decide not to purchase the Property during the Inspection Period.

3.2 Purchaser acknowledges that the Property is being conveyed without warranty (except as otherwise expressly provided in this Agreement) and subject to all easements, restrictions and other conditions. During the Inspection Period, Purchaser, at its cost, may obtain a title commitment or other title evidence it may desire with respect to the Property. If such title commitment or other title evidence indicates that the Property is encumbered by a lease, mortgage or other monetary
lien (other than the lien for non-delinquent real estate taxes and assessments), Purchaser shall so notify Seller and Seller shall work diligently to remove such lease, mortgage or lien of record. Seller shall be entitled to a reasonable adjournment of the Closing for a period not to exceed sixty (60) days in order to pursue the removal of such lease, mortgage or other monetary lien. Notwithstanding the foregoing, Seller shall not be required to bring any action or proceeding to secure such release. If such lease, mortgage or lien cannot be so released by the Closing, Purchaser may elect to close on the Property notwithstanding such item (without any credit or allowance on account thereof or any claim against Seller) or may terminate this Agreement in which event, the Deposit (if applicable) will be returned to Purchaser and the parties shall be relieved of any further obligation hereunder except those obligations which expressly survive termination.

3.3 During the Inspection Period and subject to Section 3.4, Purchaser and its agents shall have the right to enter upon the Property at all reasonable times for the purposes of inspecting the Property and making, preparing and obtaining any tests, surveys or studies it may desire to determine, in its sole judgment, the feasibility of Purchaser's intended use of the Property, including, without limitation, any survey, environmental, building condition, zoning and building code compliance, and other engineering tests and studies. Notwithstanding the foregoing, the extent of environmental review and inspection of the Property shall be limited to a Phase I Environmental Site Assessment unless Seller gives its prior written consent to more extensive studies and inspections in Seller's sole discretion.

3.4 Any on-site inspections of the Property by Purchaser or its agents shall occur at reasonable times agreed upon by Seller and Purchaser after reasonable prior written notice from Purchaser to Seller (which shall, in all cases, be at least 24 hours in advance) and shall be conducted so as not to interfere with the use and operation of the Property and rights of Seller and its tenants, subtenants, licensees or other users and occupants of the Property. Seller shall have the right to accompany Purchaser or its agents during any such tests and inspections. If Purchaser desires to do any invasive testing at the Property, then Purchaser shall do so only after reasonable prior written notice to Seller (which shall, notwithstanding anything to the contrary contained above, be at least three (3) business days in advance) and obtaining Seller's prior written consent thereto, which consent may be withheld in Seller's sole and absolute discretion, and which consent, if given, may be subject to any terms and conditions imposed by Seller in its sole and absolute discretion, including, without limitation, the prompt restoration of the Property to substantially the same condition as existed prior to any such inspections or tests, at Purchaser's sole cost and expense. Prior to conducting any physical inspection or testing at the Property, other than a mere visual examination, by Purchaser or its agents, employees, contractors or representatives, Purchaser shall deliver insurance certificates to Seller evidencing that Purchaser and its contractors and agents carry and maintain such general liability insurance policies with such companies and in such scope and amounts as are acceptable to Seller in its sole and absolute discretion, and in all cases, naming Seller as an additional insured party and loss
payee thereunder. At Seller's request, Purchaser shall promptly furnish to Seller copies of any reports received by Purchaser relating to its inspections of the Property.

3.5 At any time prior to 5:00 PM Eastern Time on the last day of the Inspection Period, Purchaser may, upon written notice to Seller (a “Termination Notice”), elect to terminate this Agreement if, in its sole discretion, Purchaser determines that any aspect of the Property is not satisfactory to Purchaser. Upon such termination, Seller will return the Deposit (if applicable) to Purchaser and neither party shall have any further obligations hereunder except those obligations which expressly survive termination. If Purchaser fails to give a Termination Notice before the expiration of the Inspection Period, the Purchaser shall be deemed to have waived such right of termination, and the Deposit will be deemed non-refundable to Purchaser, except as otherwise expressly provided in this Agreement.

3.6 To the extent permitted by law, Purchaser agrees to protect, indemnify, defend and hold Seller, its partners, members, and affiliates and each of their respective officers, directors, shareholders, employees, agents, successors and assigns (collectively the "Indemnified Parties") harmless from and against any claim for liabilities, losses, expenses (including reasonable attorneys’ fees), damages or injuries actually incurred by any of the Indemnified Parties arising out of, resulting from, relating to or connected with: (a) any inspections or testing of the Property by Purchaser or its agents, representatives, contractors or employees and (b) any breach or violation of the provisions of this Section 3 on the part of Purchaser. The foregoing indemnity shall survive Closing and the termination of this Agreement.

4. Certain Warranties and Covenants; Condition of Property

4.1 Seller represents and warrants to Purchaser that Seller is a limited liability company, duly organized and validly existing under the laws of the State of Ohio. The party executing this Agreement on behalf of Seller has the power and authority to enter into this Agreement, and Seller has the full power and authority to sell and convey the Property and carry out the transaction contemplated by this Agreement. Seller further represents and warrants that Seller owns good, marketable and indivisible fee simple interest to the Property, subject to easements and restrictions of record, legal highways and non-delinquent taxes and assessments; there are no liens or claims which may ripen into liens against any of the Property except those that are to be released at or before the Closing; there are no outstanding options to purchase, contracts of sale, or leases that exist with respect to the Property, except for this Agreement; and Seller has not granted and shall not grant any other party any right or option to purchase, lease, or use all or any part of the Property.

4.2 Purchaser represents and warrants to Seller that the execution and delivery of this Agreement by Purchaser and the consummation of the transactions contemplated hereby are intended for the public purpose of economic development for the overall good of the City and the community to promote the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants and/or
the primary objective of the expenditure is to further a public purpose, even if an incidental private end is advanced and Purchaser will memorialize the same in either an ordinance or a resolution that been duly authorized and approved.

4.3 Any fees or commissions owed to a broker shall be the sole responsibility of the party who engaged such broker and each party agrees, to the extent permitted by law, to indemnify and hold harmless the other from and against any cost, loss, claim or action (including attorneys' fees) incurred as a result of such breach of the foregoing covenant.

4.4 It is expressly understood and agreed that Purchaser is acquiring the Property on an “as is”, “where is” and “with all faults” basis, and that, except as otherwise expressly provided in this Agreement, Seller has not made and does not make any representations or warranties, expressed or implied, with respect to the quality, physical condition, value, status of title to, status of legal compliance of, or any other matter or thing affecting or related to any of the Property or this Agreement (including, without limitation, warranties of habitability, warranties of merchantability, fitness for a particular purpose and/or zoning or building code compliance). Except as expressly set forth in this Agreement, Purchaser is relying solely upon its own investigations of the Property with respect to the foregoing matters and the condition, value, character, and dimensions of property, improvements, component systems and fixtures, if any. Further, Purchaser acknowledges that, except as otherwise expressly provided in this Agreement, Seller makes no representations or warranties regarding the accuracy, reliability, completeness, content or sufficiency of any of the third-party reports or information delivered to Purchaser by Seller. Purchaser acknowledges that Seller has not made any representations or warranties upon which Purchaser has been induced to rely except as specifically stated herein.

4.5 From and after the Effective Date, so long as this Agreement remains in effect, Seller shall not lease, convey, encumber or grant an easement or restriction on the Property or any part thereof without the prior written consent of Purchaser.

4.6 Purchaser understands that this Property is benefitted by: (i) a maintenance and parking agreement to requiring Purchaser to maintain the grounds of certain adjacent real property of Seller (the “Seller Retained Property”) and granting Purchaser an easement for parking on the “Seller Retained Property” (the “Maintenance and Parking Agreement”); and (ii) an easement that burdens the Property for electrical service lines (the “Electric Easement”).

4.7 Good and marketable fee simple title to the Real Property shall be conveyed to Purchaser at Closing by limited warranty deed and the prior conveyance to Seller contained certain restrictions regarding use, excavations and use of groundwater which have been disclosed to Purchaser.
5. **Closing.**

5.1 Conveyance of title to the Property to Purchaser and payment of the Purchase Price shall take place on the earlier of (a) the fifteen (15th) day after the expiration (or waiver) of the Inspection Period, or (b) such earlier date as the parties may agree, provided this Agreement has not been otherwise terminated as permitted under this Agreement (the “Closing”). Closing shall be completed in escrow through a title company designated by Purchaser utilizing such title company’s standard escrow terms and procedures.

5.2 Seller shall convey title to the Real Property to Purchaser at the Closing by execution and delivery of the deed.

5.3 Exclusive possession of the Property, except occupancies pursuant to recorded easements, shall be delivered to Purchaser at the time of the Closing, subject to the easements described in Section 5.

5.4 At Closing, Seller shall also execute and deliver to Purchaser:

(a) A bill of sale conveying title to the Personal Property; the bill of sale will contain Seller’s quit claim of the Personal Property and a warranty that the same is conveyed free and clear of any liens, claims or encumbrances, but otherwise disclaiming all other warranties (including warranties of merchantability or fitness for a particular purpose);

(b) a Foreign Investment in Real Property Tax Act (“FIRPTA”) certification in conformance with the requirements of FIRPTA;

(c) a title affidavit as to those items or facts within Seller's control in form typically required by Purchaser's title insurance company; however Seller shall not be required to make any representations or warranties broader than those set forth in this Agreement;

(d) an “Acknowledgment” and Internal Revenue Service Form 8283; provided, however, Purchaser makes no representation, warranty, or claim as to the fair market value of the Property being donated if any; and

(e) such other documents or instruments as may be required by other provisions of this Agreement or reasonably required to effectuate the Closing.

5.5 Seller shall be responsible for the payment of all delinquent installments, if any, of real estate taxes and assessments that exist as of the Closing date. All non-delinquent real estate taxes and assessments will be prorated between Purchaser and Seller at Closing based on the most recent available tax duplicate or invoice, and such proration will be final. Seller shall pay all conveyance fees or transfer taxes in connection with the conveyance of the Property, the cost of recording the deed, and any closing or escrow fees charged by the closing agent. Purchaser shall pay the cost of obtaining a title examination, title commitment, title policy and other
title related costs, as well as any and all costs related to its due diligence investigations. Each party shall pay its own legal fees.

5.6 Purchaser shall be responsible for obtaining all utility services to the Property, and for placing such services into Purchaser’s name as of the date of Closing.

6. Termination: Default.

6.1 Upon the default by either party to perform any of its obligations under this Agreement, the non-defaulting party may declare a default by written notice and exercise its rights as provided for in this Agreement or as may be available at law or in equity. No default of either party shall result in a termination or limitation of any rights of such party hereunder unless and until the other party shall have notified the defaulting party in writing of such default, and the defaulting party shall have failed to cure said default within ten (10) days after the receipt of such notice.

6.2 Upon default, which is not cured within any applicable notice period, the non-defaulting party may terminate this Agreement and exercise any and all rights and seek any and all remedies to which it may be entitled at law or equity, including termination of this Agreement. In the event of such a termination by Seller, Seller may retain the Deposit (if applicable) and apply the same against Seller’s damages. The exercise by a party of any right or remedy shall not preclude or restrict the exercise of any other right or remedy.

7. General.

7.1 Risk of loss or damage to the Property shall be borne by Seller through the date of Closing. Seller shall give prompt notice to Purchaser of any substantial damage or destruction to (a “Casualty”), or any actual or threatened condemnation or taking of (a “Taking”), all or any portion of the Property. In the event of a Casualty or Taking, Purchaser may, within ten (10) business days following notice thereof from Seller, elect to: (a) proceed with this Agreement in which event Purchaser shall take the Property subject to such Casualty or Taking and Seller shall be entitled to all insurance proceeds and compensation payable as a result of such Casualty or Taking; or (b) terminate this Agreement in which event the parties shall be released from further liability hereunder.

7.2 This Agreement, the exhibits hereto and the agreement referenced in shall constitute the entire agreement between Purchaser and Seller with respect to the Property and supersedes any other prior communications, representations or statements with respect to the transaction contemplated herein. This Agreement may not be modified, altered or amended in any manner except by an agreement in writing executed by the parties. If a court finds any provision of this Agreement to be invalid, the remainder of the Agreement shall be valid, enforceable and effective. This Agreement shall be interpreted and governed by the laws of the State of Ohio.
7.3 The covenants, representations and warranties contained in this Agreement shall survive the Closing and conveyance of the Property for a period of six months and shall not merge in any Closing, the Deed or other conveyance.

7.4 This Agreement shall inure to the benefit of and bind the parties' respective successors and assigns. Notwithstanding the foregoing, this Agreement may not be assigned without the prior written consent of the other party.

7.5 All notices to Seller and Purchaser under the Agreement shall be in writing and shall be deemed properly given when and if personally delivered, delivered by overnight private courier service, or mailed by United States mail, registered or certified, postage prepaid, addressed as follows (or at such substitute address as the parties may specify in writing from time to time):

To Purchaser:  
City of Middletown  
One Donham Plaza  
Middletown, Ohio 45042-1932  
Attn: Susan Cohen

To Seller:  
Capital Middletown, LLC  
925 Freeman Avenue  
Cincinnati, OH 45203  
Attn: Jacob Bamberger  
With Copy to:  
Paul T. Saba  
Stagnaro, Saba & Patterson, Co LPA  
2623 Erie Avenue  
Cincinnati, Ohio 45208

All notices will be deemed effective upon the date of receipt or the intended recipient’s refusal to accept delivery.

7.6 Time is of the essence of this Agreement.

7.7 Any date specified in this Agreement which is a Saturday, Sunday or legal holiday shall be extended to the first regular business day after such date, which is not a Saturday, Sunday or legal holiday.

7.8 SELLER AND PURCHASER BELIEVE AND AGREE THAT IN THIS COMMERCIAL MATTER, IT SHALL BE IN THEIR BESTS INTERESTS TO WAIVE THE RIGHT TO A JURY TRIAL, AND, ACCORDINGLY, HEREBY WAIVE SUCH RIGHT TO A JURY TRIAL, AND FURTHER AGREE THAT THE BEST FORUM FOR HEARING ANY CLAIM, DISPUTE, OR LAWSUIT, IF ANY ARISING IN CONNECTION WITH THIS AGREEMENT OR THE RELATIONSHIP BETWEEN SELLER AND PURCHASER, IN EITHER CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, OR WHETHER
SOUNDING IN CONTRACT OR TORT OR OTHERWISE, SHALL BE A COURT OF COMPETENT JURISDICTION SITTING WITHOUT A JURY.

7.9 This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Facsimile or electronic signatures to this Agreement or any amendments to this Agreement shall be valid and enforceable as original signatures.

[Signature page follows]
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of the last signature of Seller and Purchaser below (the “Effective Date”).

SELLER:

CERTA MIDDELTOWN, LLC

By: ____________________________
Print Name: _______________________ 
Its: ______________________________ 
Date: ____________________________

PURCHASER:

CITY OF MIDDELTOWN

By: ____________________________
Print Name: _______________________ 
Its: ______________________________ 
Date: ____________________________
TO BE ADDED TO FINAL AGREEMENT, NOT WITH LEGISLATION

EXHIBIT A-1
Survey of Property

EXHIBIT A-2
Listing of Tax Parcels

EXHIBIT B
Limited Warranty Deed

EXHIBIT C
Maintenance and Parking Agreement

EXHIBIT D
Electric Easement
DATE: April 26, 2021
TO: James M. (Jim) Palenick, City Manager
FROM: Chris Xeil Lyons, Economic Development Director
       Susan Cohen, Assistant City Manager

PURPOSE

To request the authority to enter into a purchase agreement for the 26 parcels of real property, currently owned by CERTA Middletown, LLC, and located near 705 Curtis Street, as well as to authorize the appropriation of $225,000 to fund the transaction.

BACKGROUND AND FINDINGS

The City has been working to identify, acquire, and develop appropriate lands for new economic development opportunities. It recently was brought to the attention of City staff that strategically-important land parcels (around 705 Curtis), consistent with City plans for Route 4 redevelopment, came on the market. As such, City staff initiated conversations with the seller, CERTA Middletown LLC, to purchase their approximately 18 acres of property in the area of 705 Curtis. The property owners have tentatively agreed to sell the property to the City for $225,000. The property boundaries are noted within the red outline on the map attached to the legislation.

These particular parcels of land are critical to the future development along the southern entrance corridor to the City on Route 4. The property is in the Oakland Redevelopment area and is close to the site of the Middletown Paperboard factory that is currently owned by the City. When packaged together, these properties (along with the potential for the former AK Steel HQ and research lands) represent an exciting opportunity to bring a significant redevelopment project to the area and further the economic development opportunities for the community and its citizens.

ALTERNATIVES

City Council can choose not to purchase the property and instead work with the eventual purchaser; however, in doing so we would lose all control over the coordination, timing and quality of the development on this specific property, and on the possible greater aggregated opportunity for a large-scale, master-planned development.
FINANCIAL IMPACTS

The $225,000 purchase price will need to be appropriated from the current, unencumbered General Fund reserve balance of approximately $8,539,042 to the Property Acquisition account (100.409.54356). Part or all of this purchase could yet be reimbursed from City, County, or State ARPA funding legally designated to deal with the negative economic impacts of the COVID-19 pandemic.

EMERGENCY/NON-EMERGENCY

Emergency: This is necessary in order to finalize the sale in time to meet the negotiated deadlines.
LEGISLATION
ITEM 15
ORDINANCE NO. O2021-43

AN ORDINANCE AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR FEDERAL ASSISTANCE, AN ACTION PLAN AND A PROJECTED USE OF FUNDS, UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED FOR PROGRAM YEAR 2021 AND DECLARING AN EMERGENCY.

WHEREAS, Title I of the Housing and Community Development Act of 1974, as amended, provides for a program of community development block grants; and

WHEREAS, the City of Middletown is an entitlement city as defined under said Act, and is entitled to financial assistance; and

WHEREAS, the City of Middletown, pursuant to the Housing and Community Development Act of 1974, as amended, has held a public hearing which was open to the public; and

WHEREAS, said public hearing was for the purpose of considering and obtaining the views of the citizens of Middletown on community development and housing needs; and

WHEREAS, the Consolidated Plan and Proposed Use of Funds are in compliance with previously enacted Urban Renewal Plans of the City; and

WHEREAS, said Application for Federal Assistance requires certain certifications to be submitted along with and part of said Application;

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

Section 1

The City Manager is hereby authorized and directed to submit an application, including all understandings and certifications contained therein, to the fullest extent of funding allowed and determined by the Department of Housing and Urban Development, under Title I of the Housing and Community Development Act of 1974, as amended, to act as the authorized representative of the City of Middletown, and to provide such additional information as may be required.

Section 2

The City Manager, Law Director and such other appropriate and responsible officials are hereby authorized and directed to execute on behalf of the City of Middletown such certifications as are necessary for the submission of said application for the 2021 funding year.
Section 3

The City Manager is authorized to enter into the appropriate grant agreement(s) with the United States Department of Housing and Urban Development and agreement with sub-recipients of the grant funds, as necessary. All such agreements shall be in a form and substance acceptable to the Law Director.

Section 4

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: to allow the annual action to be submitted by the upcoming deadline, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted: ____________________

Attest: ____________________

Clerk of the City Council
April 22, 2021

TO: City Council
ATTN: Jim Palenick, City Manager
FROM: Ashley Combs, Development Services Director

SUBJECT: 2021-2022 CDBG Annual Action Plan

PURPOSE
To submit to City Council for legislative action the Program Year 2021-2022 Annual Action Plan; to authorize the City Manager to sign and submit the PY 2021-2022 Annual Action Plan, setting the program activities and budget for the Community Development Block Grant (CDBG) with the U.S. Department of Housing and Urban Development (HUD).

BACKGROUND AND FINDINGS
The City of Middletown has received funding through the CDBG Program since 1975. On a scheduled basis, the City prepares a Consolidated Plan which lists long term goals and objectives for CDBG funding within the City. Additionally, the City prepares a yearly Action Plan which documents where each year’s funding is budgeted by activity. The submission of a yearly Action Plan must be approved by City Council and signed by the City Manager prior to submission to HUD. The purpose of this legislation is to submit to HUD the program year 2021 (May 1, 2021- April 30, 2022) Annual Action Plan.

Our current CDBG Consolidated Plan goals are to provide down payment assistance (convert renters to homeowners), incentivize work/live households, repairs/rehab for existing homeowners, create competitive housing stock, workforce development, fair housing activities, assistance with youth activities/centers, social services for mental health and substance treatment, removal of blight, street resurfacing/beautification, and focusing our efforts in Low Moderate Income (LMI) resident neighborhoods. The 2021 Annual Action Plan continues this process, documenting the specific activities to be undertaken over the next year.

A draft copy of the 2021 Annual Action Plan has been available for public viewing in the Department of Administrative Services. The draft is also available on the City’s website with a link to provide emailed comments. There is a 30-day comment period which commenced on April 26, 2021 and ends on May 26, 2021, for comments regarding the 2021 Annual Action Plan. Subsequent to the 30-day public comment period and passage by Council, the Program Year 2019 Annual Action Plan (including public comments) will be submitted to the Columbus, Ohio HUD field office.

ALTERNATIVES
Do not adopt the Program Year 2021 Annual Action Plan. Failure to submit the plans
as soon as possible could result in a loss of funds for the 2021 program year.

**FINANCIAL IMPACTS**
The budgets for Program Year 2021 (May 1, 2021-April 30, 2022) HUD programs are incorporated into the current year budget.

**EMERGENCY/NON EMERGENCY**
2 reading emergency so that we may meet the HUD Submission deadlines. No action requested until May 18, 2021.

**ATTACHMENTS**
PY 2021 Draft Annual Plan
Executive Summary

AP-05 Executive Summary - 91.200(c), 91.220(b)

1. Introduction

The Consolidated Plan for the City of Middletown has been prepared in response to a consolidated process developed by the U.S. Department of Housing and Urban Development (HUD) for the Community Development Block Grants (CDBG) program.

This Consolidated Plan outlines housing, community and economic development needs, priorities, strategies, and projects that will be undertaken by the City of Middletown with the funds that the City receives from the U.S. Department of Housing and Urban Development (HUD). As an entitlement community, the City receives an annual share of federal Community Development Block Grant (CDBG), and through the Butler County HOME Consortium, Home Investment Partnership (HOME) funds. In order to receive its CDBG entitlement, the City must submit this Consolidated Plan and First Year Annual Action Plan to HUD. The funds are intended to provide lower and moderate-income households with viable communities, including decent housing, a suitable living environment, and expanded economic opportunities. Eligible activities include community facilities and improvements, housing rehabilitation and preservation, development activities, public services, economic development, planning, and program administration.

The Consolidated Plan serves primarily as a planning document to guide the City’s community revitalization and development efforts particularly for low and moderate income households in the community. The document is developed in accordance with established HUD guidelines for public input and participation. A secondary use of the document is as an application for federal funds under HUD’s formula grant programs and the accompany strategy for how the City will impact the community using HUD funds and leveraged funds to accomplish the five-year objectives. The plan includes performance metrics as a basis for assessing performance over the life of the plan.

2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

The City’s priority needs can be delineated into the 2 categories: (1) supports for low-income families and (2) community revitalization activities. The City will undertake the following 9 activities to address identified priority needs in the 5-yr consolidated plan.
1) Distressed and dilapidated housing: The City will rehab owner-occupied housing to address distressed and dilapidated housing. This activity will keep people in decent, safe, and affordable housing, especially low-income and elderly homeowners who are at high-risk for being displaced.

2) Poor street conditions: Public infrastructure, especially the condition of roads in LMI target neighborhoods, are a significant need and high priority.

3) Lack of amenities and attractive neighborhood appeal. The City has identified the neighborhood of Oakland as its priority LMI area for this ConPlan. Funds will be targeted to help address lack of amenities such as green space and create strong visual appeal through neighborhood beautification.

4) Lack of qualified work force. The City’s strategy is to address issues of generational poverty and strengthen the economic core of the community. This strategy connects public/private resources with partner efforts to improve the local economy. Through the 5-yr ConPlan the City will work specifically on efforts of workforce development to prepare those without employment, those who are underemployed or those not currently in the labor force to be prepared to fill the jobs available in the community.

5) Lack of youth activities. The City will continue activities to provide a safe haven for youth in the City. Through its partnership with CBI, the City will be able to continue its work to meet the activity needs of LMI youth.

6) Insufficient social services including mental health and substance use disorder treatment. The City will continue to leverage established partnerships and actively support efforts to strengthen social services in the community.

7) Addressing needs of homeless households. The City’s homelessness strategy was developed in cooperation with BCHHC. The City has an appointed member on the Board and serves to cooperate with the balance of the county to support persons experiencing homelessness. The strategic priorities of BCHHC include advocating for individuals and families experiencing or facing homelessness; ensuring there is an adequate system of care for those experiencing homelessness; and supporting projects that enhance and improve the continuum of care for those experiencing homelessness in the community. The Coalition serves as the primary vehicle for public and private entities serving the homeless to work cooperatively to prevent homelessness, serve persons through a shelter system who are experiencing homelessness and responsibly rehouse persons into permanent, stable housing as quickly as possible.

8) Ensuring there is appropriate housing for LMI households: The City has significant numbers of affordable housing rental units in the community. The City will continue to draw on its affordable housing partners such as BMHA, BCHHC and NHS to ensure LMI renter households have decent, safe and sanitary housing options. In addition, the City will continue to offer down payment assistance for LMI homeowners and work through key partners to provide LMI homeowner repairs and rehabilitation.
9) Fair housing activities: Fair housing continues to be a priority for the City, specifically education and responses to fair housing complaints. The activities will be addressed through the partnership with HOME.

3. **Evaluation of past performance**

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

The City has strong outcomes as a result of its past performance. Blight has been tackled and significantly decreased over the past five years. Strong enforcement of local code has significantly decreased the number of repeat violations and nuisance properties. Activities around public services, especially those involving youth have been effective. Fair housing awareness and education are ably met through the HOME partnership and complaints are investigated and appropriately addressed. Low income homeowners have received help to correct code violations and many have received help to rehab their homes. New homeowners have become part of the fabric of the community as a result of down payment assistance. The City has increased its involvement with local initiatives that contribute to the health and well-being of LMI households including Butler County Land Bank and the Butler County Housing and Homeless Coalition. The performance metrics and extent of the City’s accomplishments are detailed in the City’s CAPER.

4. **Summary of Citizen Participation Process and consultation process**

Summary from citizen participation section of plan.

Well-publicized public hearings were held on two occasions to present and review the Annual Action Plan – March 30, 2021 and April 20, 2021 at City Hall, One Donham Plaza, Middletown, Ohio. These sessions were part of a strategic effort to maximize participation by the public to the greatest extent possible. Public hearings were advertised in the local newspaper, through letters sent to local community organizations, and on the city’s website.

The City invited community organizations to be included the Annual Action Plan by providing opportunities for organizations to submit projects to be included in the plan. Eight organizations submitted projects for consideration.

5. **Summary of public comments**

This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.

The City followed its HUD-approved plan for citizen participation. During the development of the full Consolidated Plan in 2020, the City sought and received significant input from local community
organizations and stakeholders. Comments were collected from individual conversations, focus groups and public meetings and compiled through respective reports.

For the Annual Action Plan, comments were sought for inclusion both from public hearings and the 30-day comment period which ran from April 26 – May 26, 2021.

No comments were received during the 30-day public review period.

6. Summary of comments or views not accepted and the reasons for not accepting them

No additional comments were received during the 30-day public review period

7. Summary

The Annual Action Plan supports the goals and outcomes outlined in Consolidated Plan, the guide for the City's community development efforts over the five-year period 2020 - 2024.
AP-10 Consultation - 91.100, 91.200(b), 91.215(l)

1. Introduction

The City of Middletown is committed to addressing the community’s priority needs in the most efficient and effective way possible. To that end the City partners with a variety of public and private agencies and organizations that enhance the work of the City in the areas of social service, homeless activities and programs, economic development, housing and healthcare.

Provide a concise summary of the jurisdiction’s activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l)).

The City actively pursues opportunity to coordinate with initiatives, organizations and providers that impact the City of Middletown and its residents. The City participates in the Butler County Housing and Homeless Coalition which is comprised of both housing providers and agencies involved in provision of service for households experiencing homelessness. A staff from City Manager’s Office serves as an ex-officio member of the Board and attends monthly meetings of the board and monthly meetings of the general membership. Members of the coalition include cross-system representatives from housing, social services, behavioral health, and community action, including publicly-funded organizations that include Mental Health and Recovery Services Board, Butler Metropolitan Housing Authority, Butler County Community Development, YWCA, Serve City, and Hope House.

In addition, the City works with public health officials, social service agencies, business districts, educational institutions, including Middletown Public School and Miami University, to be keep apprised of needs and coordinate efforts to meet needs in the community.

For the development of the Consolidated Plan, the City worked through focus groups sessions, community conversations, and public hearings to engage with providers, identify needs and establish priorities. To develop subsequent Annual Action Plans, the City seeks input from its community partners and through the citizen participation activities.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

The Balance of State Continuum of Care (BOSCOC) is comprised of the 80 rural counties in Ohio, covering all non-entitlement communities in the state. Butler County is the largest of the counties included in BOS and has the BOSCOC’s two largest congregate shelters, Serve City which houses 52 people and Hope House which houses 40. Butler County Community Development is the grantee of HUD CoC funding for permanent supportive housing which houses 70 chronically homeless individuals and
families. The Ohio Development Services Agency and the Coalition on Homelessness and Housing in Ohio (COHHIO) serve as the lead agencies for the BOSCCOC. To better facilitate local coordination and planning efforts, BOSCCOC established regional Continua of Care (CoC). These local CoCs address community-level planning, identify service gaps, and plan and prioritize new and renewed homeless assistance projects. Butler County is a member of Region 14 under BOSCCOC, which is comprised of Clermont, Warren and Butler Counties. Butler County also has a private 501c3 nonprofit, Butler County Housing and Homeless Coalition, which oversees initiatives and programs around homeless services within the county. The City is actively involved with this Coalition and its members.

All HUD-funded providers report into the State of Ohio’s Homeless Management Information System. The community uses this system to inform its efforts to understand the extent of homeless, identify needs and review impact of various homeless programs and services.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction’s area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

COHHIO has established priorities for the Balance of State and the performance standards by which all HUD-funded programs are measured. Every year, HUD provides resources to communities around the country through its Continuum of Care Homeless Assistance Programs. ODSA and COHHIO coordinate the process and prepare the application for funding for the BOSCCOC. To this end, a regional board as well as BCHHC engage with individual nonprofit partners to outline a strategy for local services and programs.

BOSCCOC Advisory Board

The Advisory Board is the primary planning body for the BOSCCOC. Its members are responsible for making recommendations on policy decisions and the work of the Steering Committee. One person from Butler County serves on this Board. In addition, the Advisory Board reviews and approves the process for evaluation of projects and completion of the Continuum of Care application for HUD funding. Members include housing and homeless service providers, funders, and advocates from around the state. Final approval for all Advisory Committee decisions comes from the Office Chief, Office of Housing and Community Partnerships, ODSA and the Director for Community Development, ODSA.

BOSCCOC Steering Committee

The Steering Committee is responsible for leading and engaging in most of the work related to maintenance of the Continuum of Care and the completion and submission of the annual application for federal funding through HUD’s Continuum of Care Homeless Assistance Programs. Committee members also develop the application process plan, review and score HUD applications submitted by BOSCCOC.
members, and engage in long-term CoC strategic planning. Members of the committee include staff of ODSA, COHHIO, and the Ohio Department of Mental Health (ODMH).

**BOSCOC Outcomes and Performance Committee**

The Outcomes and Performance Committee is responsible for developing and implementing plans for the monitoring of BOSCOC homeless programs, with an emphasis on outcomes. Committee members engage in the development of improvement plans with programs, and provide guidance to the Steering and Advisory Committees regarding renewal programs/outcomes for the CoC application process.

**BOSCOC HMIS Core Group**

The HMIS Core Group coordinates statewide HMIS training and data collection for all BOSCOC homeless providers receiving state/federal funding for emergency shelter, transitional housing, and permanent supportive housing (PSH), as well as organizations opting to participate in the BOSCOC HMIS.

2. **Agencies, groups, organizations and others who participated in the process and consultations**
<table>
<thead>
<tr>
<th></th>
<th>Agency/Group/Organization</th>
<th>Butler Metropolitan Housing Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Agency/Group/Organization Type</td>
<td>PHA</td>
</tr>
</tbody>
</table>
|   | What section of the Plan was addressed by Consultation? | Housing Need Assessment  
Public Housing Needs  
Homelessness Strategy  
Anti-poverty Strategy |
|   | Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination? | Participated in focus group for housing needs, fair housing issues, and needed public services. Completed Stakeholder survey and participated in one on one interview. Discussed coordination between mental health, homeless and economic development. |
| 2 | Agency/Group/Organization                        | Butler County Housing and Homeless Coalition |
|   | Agency/Group/Organization Type                  | Housing  
Services - Housing  
Services-homeless  
Regional organization  
Planning organization  
Civic Leaders |
|   | What section of the Plan was addressed by Consultation? | Housing Need Assessment  
Homeless Needs - Chronically homeless  
Homeless Needs - Families with children  
Homelessness Needs - Veterans  
Homelessness Needs - Unaccompanied youth  
Homelessness Strategy  
Anti-poverty Strategy |
<table>
<thead>
<tr>
<th>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</th>
<th>The City works closely with BCHHC. Participated in focus group for anti-poverty strategy, homelessness needs and services and needed public services. Completed Stakeholder survey and participated in one on one interview. Discussed coordination between social service providers and community stakeholders.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>3</strong></td>
<td><strong>SELF (SUPPORTS TO ENCOURAGE LOW-INCOME FAMILIES)</strong></td>
</tr>
<tr>
<td><strong>Agency/Group/Organization</strong></td>
<td><strong>Agency/Group/Organization Type</strong></td>
</tr>
<tr>
<td><strong>Agency/Group/Organization Type</strong></td>
<td>Services - Housing</td>
</tr>
<tr>
<td></td>
<td>Services - Elderly Persons</td>
</tr>
<tr>
<td></td>
<td>Services - Persons with Disabilities</td>
</tr>
<tr>
<td></td>
<td>Services - Employment</td>
</tr>
<tr>
<td><strong>What section of the Plan was addressed by Consultation?</strong></td>
<td>Anti-poverty Strategy</td>
</tr>
<tr>
<td><strong>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</strong></td>
<td>Participated in focus group for anti-poverty strategy and needed public services. Completed Stakeholder survey and participated in one on one interview. Discussed coordination between social service providers and community stakeholders.</td>
</tr>
<tr>
<td><strong>4</strong></td>
<td><strong>HOUSING OPPORTUNITIES MADE EQUAL</strong></td>
</tr>
<tr>
<td><strong>Agency/Group/Organization</strong></td>
<td><strong>Agency/Group/Organization Type</strong></td>
</tr>
<tr>
<td><strong>Agency/Group/Organization Type</strong></td>
<td>Service - Fair Housing</td>
</tr>
<tr>
<td><strong>What section of the Plan was addressed by Consultation?</strong></td>
<td>Housing Need Assessment</td>
</tr>
<tr>
<td></td>
<td>Anti-poverty Strategy</td>
</tr>
<tr>
<td><strong>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</strong></td>
<td>Participated in discussion around issues of fair housing through one on one interview. Discussed coordination between social service providers and community stakeholders.</td>
</tr>
</tbody>
</table>

**Annual Action Plan**

**2021**

OMB Control No: 2506-0117 (exp. 09/30/2021)
<table>
<thead>
<tr>
<th></th>
<th>Agency/Group/Organization</th>
<th>PEOPLE WORKING COOPERATIVELY</th>
</tr>
</thead>
</table>
| 5 | **Agency/Group/Organization Type** | Housing  
Services - Housing  
Services-Persons with Disabilities |
|   | **What section of the Plan was addressed by Consultation?** | Housing Need Assessment  
Anti-poverty Strategy |
|   | **Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?** | Participated in focus group for housing, anti-poverty strategy and needed public services. Completed Stakeholder survey and participated in one on one interview. Discussed coordination between housing assistance providers and community stakeholders. |
| 6 | **Agency/Group/Organization** | NHS |
|   | **Agency/Group/Organization Type** | Housing  
Services - Housing  
Services-Persons with Disabilities |
|   | **What section of the Plan was addressed by Consultation?** | Housing Need Assessment |
|   | **Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?** | Participated in focus group for housing, anti-poverty strategy and needed public services. Completed Stakeholder survey and participated in one on one interview. Discussed coordination between housing providers and community stakeholders. |
| 7 | **Agency/Group/Organization** | Community Building Institute |
|   | **Agency/Group/Organization Type** | Services-Children  
Services-Employment |
|   | **What section of the Plan was addressed by Consultation?** | Anti-poverty Strategy |
Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?

Participated in focus group for youth services, workforce development and anti-poverty strategy and needed public services. Completed Stakeholder survey and participated in one on one interview. Discussed coordination between housing providers and community stakeholders.

Identify any Agency Types not consulted and provide rationale for not consulting

To the best of its ability, the City has been in contact with all known agencies and organizations involved in activities that are relevant to CDBG and HOME activities and programs.

Other local/regional/state/federal planning efforts considered when preparing the Plan

<table>
<thead>
<tr>
<th>Name of Plan</th>
<th>Lead Organization</th>
<th>How do the goals of your Strategic Plan overlap with the goals of each plan?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Continuum of Care</td>
<td>BCHHC</td>
<td>BCHHC CoC Plan for Butler County was used to inform housing and homeless priorities of ConPlan.</td>
</tr>
</tbody>
</table>

Table 2 - Other local / regional / federal planning efforts
AP-12 Participation - 91.401, 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation
   Summarize citizen participation process and how it impacted goal-setting

The City considers the involvement of its low- and moderate-income residents to be essential to the development and implementation of its Five-Year Consolidated Plan and Annual Action Plans.

Well publicized public hearings were held on two occasions – March 30, 2021 and April 20, 2021 at City Hall, One Donham Plaza, Middletown, Ohio. These sessions were part of a strategic effort to maximize participation by the public to the greatest extent possible. Public hearings were advertised in the local newspaper, through letters sent to local community organization and on the city’s website.

The City invited community organizations to be included the Annual Action Plan by providing opportunities for organizations to submit projects to be included in the plan. Eight organizations submitted projects for consideration.

The City ensures that public hearings are held at times and locations convenient to potential and actual beneficiaries and with accommodations for persons with disabilities. The city makes accommodations for those individuals in need of special assistance.
## Citizen Participation Outreach

<table>
<thead>
<tr>
<th>Sort Order</th>
<th>Mode of Outreach</th>
<th>Target of Outreach</th>
<th>Summary of response/attendance</th>
<th>Summary of comments received</th>
<th>Summary of comments not accepted and reasons</th>
<th>URL (if applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Public Meeting</td>
<td>Non-targeted/broad community</td>
<td>No citizen attendance at March 30 or April 20, 2021 hearings but hearings were streamlined to public with recording available on website following session.</td>
<td>No written comments received.</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Newspaper Ad</td>
<td>Non-targeted/broad community</td>
<td>No written comments received.</td>
<td>n/a</td>
<td>n/a</td>
<td></td>
</tr>
</tbody>
</table>

*Table 3 – Citizen Participation Outreach*
Expected Resources

AP-15 Expected Resources - 91.420(b), 91.220(c)(1,2)

Introduction

The figures shown in the table below reflect HUD’s current allocations. The figure for “Expected Amount Available Remainder of ConPlan” anticipates level funding over the five-year plan (at PY2020 amount).

Anticipated Resources

<table>
<thead>
<tr>
<th>Program</th>
<th>Source of Funds</th>
<th>Uses of Funds</th>
<th>Expected Amount Available Year 2</th>
<th>Expected Amount Available Remainder of ConPlan $</th>
<th>Narrative Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDBG</td>
<td>public - federal</td>
<td>Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services</td>
<td>Annual Allocation: 758,985 Program Income: 0 Prior Year Resources: 0 Total: 758,985</td>
<td>2,932,684</td>
<td>These funds will be directed toward specific eligible activities designed to meet the outcomes outlined in the consolidated plan.</td>
</tr>
</tbody>
</table>

Table 4 - Expected Resources – Priority Table
Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

The City is working closely with development partners of the Oakland neighborhood to leverage private/public funds. In addition, matching requirements are satisfied through other eligible local resources and in-kind services.

If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

In cooperation with Butler County, the City is part of the Butler County Land Bank. Middletown will continue to utilize the land bank to acquire vacant lots and properties to use for resale, demolition, or rehabilitation as appropriate.

The City of Middletown also owns the Robert Sonny Hill Jr Community Center which houses activities of CBI. CBI has been awarded funds in this Annual Action Plan for youth programming and workforce development activities.
## Annual Goals and Objectives

AP-20 Annual Goals and Objectives - 91.420, 91.220(c)(3)&(e)

### Goals Summary Information

<table>
<thead>
<tr>
<th>Sort Order</th>
<th>Goal Name</th>
<th>Start Year</th>
<th>End Year</th>
<th>Category</th>
<th>Geographic Area</th>
<th>Needs Addressed</th>
<th>Funding</th>
<th>Goal Outcome Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Housing revitalization</td>
<td>2020</td>
<td>2024</td>
<td>Affordable Housing</td>
<td>Citywide</td>
<td>Address distressed and dilapidated housing</td>
<td>CDBG: $70,000</td>
<td>Public Facility or Infrastructure Activities for Low/Moderate Income Housing Benefit: 80 Households Assisted</td>
</tr>
<tr>
<td>2</td>
<td>Public Services</td>
<td>2020</td>
<td>2024</td>
<td>Non-Housing Community Development</td>
<td>Citywide</td>
<td>Lack of qualified work force Lack of youth activities</td>
<td>CDBG: $80,000</td>
<td>Public service activities other than Low/Moderate Income Housing Benefit: 150 Persons Assisted</td>
</tr>
<tr>
<td>3</td>
<td>Fair Housing</td>
<td>2020</td>
<td>2024</td>
<td>Fair Housing</td>
<td>Citywide</td>
<td>Fair housing activities</td>
<td>CDBG: $22,500</td>
<td>Public service activities other than Low/Moderate Income Housing Benefit: 100 Persons Assisted</td>
</tr>
<tr>
<td>4</td>
<td>Neighborhood Revitalization</td>
<td>2020</td>
<td>2024</td>
<td>Non-Housing Community Development</td>
<td>Middletown</td>
<td>Lack of amenities/neighborhood appeal in LMI areas</td>
<td>CDBG: $217,344</td>
<td>Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 1313 Persons Assisted</td>
</tr>
<tr>
<td>Sort Order</td>
<td>Goal Name</td>
<td>Start Year</td>
<td>End Year</td>
<td>Category</td>
<td>Geographic Area</td>
<td>Needs Addressed</td>
<td>Funding</td>
<td>Goal Outcome Indicator</td>
</tr>
<tr>
<td>------------</td>
<td>-------------------</td>
<td>------------</td>
<td>----------</td>
<td>-----------------------------------</td>
<td>-----------------</td>
<td>---------------------------------------------------</td>
<td>--------------------</td>
<td>-------------------------------------------------------------</td>
</tr>
<tr>
<td>5</td>
<td>Infrastructure</td>
<td>2020</td>
<td>2024</td>
<td>Non-Housing Community Development</td>
<td>Middletown</td>
<td>Improve the condition of streets in LMI areas</td>
<td>CDBG: $217,344</td>
<td>Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 1313 Persons Assisted</td>
</tr>
</tbody>
</table>

**Table 5 – Goals Summary**

**Goal Descriptions**

<table>
<thead>
<tr>
<th></th>
<th>Goal Name</th>
<th>Goal Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Goal Name</td>
<td>Housing revitalization</td>
</tr>
<tr>
<td></td>
<td>Goal Description</td>
<td>Funds will be provided to SELF and People Working Cooperatively to assist in home repair for LMI homeowners.</td>
</tr>
<tr>
<td>2</td>
<td>Goal Name</td>
<td>Public Services</td>
</tr>
<tr>
<td></td>
<td>Goal Description</td>
<td>Workforce development activities for LMI households. Youth activities for LMI youth.</td>
</tr>
<tr>
<td>3</td>
<td>Goal Name</td>
<td>Fair Housing</td>
</tr>
<tr>
<td></td>
<td>Goal Description</td>
<td>Fair housing and legal services provided</td>
</tr>
<tr>
<td>4</td>
<td>Goal Name</td>
<td>Neighborhood Revitalization</td>
</tr>
<tr>
<td></td>
<td>Goal Description</td>
<td>Beautification in LMI neighborhoods</td>
</tr>
<tr>
<td>5</td>
<td>Goal Name</td>
<td>Infrastructure</td>
</tr>
<tr>
<td></td>
<td>Goal Description</td>
<td>Infrastructure improvements in LMI neighborhoods</td>
</tr>
</tbody>
</table>
AP-35 Projects - 91.420, 91.220(d)

Introduction

The development of the Annual Action Plan involved consultation with those agencies involved in delivering services consistent with the City's priorities and staff of the various City departments delivering activities planned in the AAP. All projects selected to receive funding meet objectives and goals set by the City to address priority needs.

<table>
<thead>
<tr>
<th>#</th>
<th>Project Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Neighborhood Revitalization-LMI neighborhood</td>
</tr>
<tr>
<td>2</td>
<td>Neighborhood Infrastructure-LMI neighborhood</td>
</tr>
<tr>
<td>3</td>
<td>Legal Aid of Greater Cincinnati</td>
</tr>
<tr>
<td>4</td>
<td>Fair Housing: H.O.M.E.</td>
</tr>
<tr>
<td>5</td>
<td>Community Building Institute-Community Center Program</td>
</tr>
<tr>
<td>6</td>
<td>Emergency Repair Program (PWC)</td>
</tr>
<tr>
<td>7</td>
<td>S.E.L.F.</td>
</tr>
<tr>
<td>8</td>
<td>Planning/ Program Management</td>
</tr>
</tbody>
</table>

Table 6 – Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

These projects are deemed to be of the highest priority and meet the greatest need. All allocation amounts and specific projects have been approved by City Council.
### AP-38 Project Summary

#### Project Summary Information

<table>
<thead>
<tr>
<th></th>
<th>Project Name</th>
<th>Middletown LMI Target Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><strong>Project Name</strong></td>
<td>Neighborhood Revitalization-LMI Neighborhood</td>
</tr>
<tr>
<td></td>
<td><strong>Target Area</strong></td>
<td>Middletown LMI Target Areas</td>
</tr>
<tr>
<td></td>
<td><strong>Goals Supported</strong></td>
<td>Neighborhood Revitalization</td>
</tr>
<tr>
<td></td>
<td><strong>Needs Addressed</strong></td>
<td>Lack of amenities/neighborhood appeal in LMI areas</td>
</tr>
<tr>
<td></td>
<td><strong>Funding</strong></td>
<td>CDBG: $217,344</td>
</tr>
<tr>
<td></td>
<td><strong>Description</strong></td>
<td>The City is targeting its resources in LMI neighborhoods within City limits. Funds will be targeted to help address lack of amenities such as green space and create strong visual appeal through neighborhood beautification.</td>
</tr>
<tr>
<td></td>
<td><strong>Target Date</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Estimate the number and type of families that will benefit from the proposed activities</strong></td>
<td>1313 households</td>
</tr>
<tr>
<td></td>
<td><strong>Location Description</strong></td>
<td>LMI Target area</td>
</tr>
<tr>
<td></td>
<td><strong>Planned Activities</strong></td>
<td>Funds will be targeted to help address lack of amenities such as green space and create strong visual appeal through neighborhood beautification.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Project Name</th>
<th>Neighborhood Infrastructure- LMI Neighborhood</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td><strong>Target Area</strong></td>
<td>Middletown LMI Target Areas</td>
</tr>
<tr>
<td></td>
<td><strong>Goals Supported</strong></td>
<td>Infrastructure</td>
</tr>
<tr>
<td></td>
<td><strong>Needs Addressed</strong></td>
<td>Improve the condition of streets in LMI areas</td>
</tr>
<tr>
<td></td>
<td><strong>Funding</strong></td>
<td>CDBG: $217,344</td>
</tr>
<tr>
<td></td>
<td><strong>Description</strong></td>
<td>The Department of Public Works and Utilities and the City Administration are committed to improving the public facilities and infrastructure to preserve the community’s general well-being. Public facilities and infrastructure are critical to maintain and preserve commercial and residential areas and attract new development. The City will prioritize public infrastructure in its designated LMI target areas</td>
</tr>
<tr>
<td></td>
<td><strong>Target Date</strong></td>
<td></td>
</tr>
<tr>
<td>Estimate the number and type of families that will benefit from the proposed activities</td>
<td>1313 households</td>
<td></td>
</tr>
<tr>
<td>Location Description</td>
<td>LMI target Areas</td>
<td></td>
</tr>
<tr>
<td>Planned Activities</td>
<td>Public infrastructure improvements in LMI neighborhoods, including street resurfacing.</td>
<td></td>
</tr>
<tr>
<td><strong>3</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Project Name</strong></td>
<td>Legal Aid of Greater Cincinnati</td>
<td></td>
</tr>
<tr>
<td><strong>Target Area</strong></td>
<td>Citywide</td>
<td></td>
</tr>
<tr>
<td><strong>Goals Supported</strong></td>
<td>Fair Housing</td>
<td></td>
</tr>
<tr>
<td><strong>Needs Addressed</strong></td>
<td>Fair housing activities</td>
<td></td>
</tr>
<tr>
<td><strong>Funding</strong></td>
<td>CDBG: $15,000</td>
<td></td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td>Legal Aid will provide legal services relative to fair housing issues for LMI families.</td>
<td></td>
</tr>
<tr>
<td><strong>Target Date</strong></td>
<td>5/1/21 – 4/30/22</td>
<td></td>
</tr>
<tr>
<td>Estimate the number and type of families that will benefit from the proposed activities</td>
<td>15 LMI households will be served.</td>
<td></td>
</tr>
<tr>
<td>Location Description</td>
<td>Available city-wide to LMI households.</td>
<td></td>
</tr>
<tr>
<td>Planned Activities</td>
<td>Provide legal services relative to fair housing issues for LMI families.</td>
<td></td>
</tr>
<tr>
<td><strong>4</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Project Name</strong></td>
<td>Fair Housing: H.O.M.E.</td>
<td></td>
</tr>
<tr>
<td><strong>Target Area</strong></td>
<td>Citywide</td>
<td></td>
</tr>
<tr>
<td><strong>Goals Supported</strong></td>
<td>Fair Housing</td>
<td></td>
</tr>
<tr>
<td><strong>Needs Addressed</strong></td>
<td>Fair housing activities</td>
<td></td>
</tr>
<tr>
<td><strong>Funding</strong></td>
<td>CDBG: $7,500</td>
<td></td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td>Fair housing continues to be a priority for the City, specifically education and responses to fair housing complaints. The activities will be addressed through the partnership with HOME.</td>
<td></td>
</tr>
<tr>
<td><strong>Target Date</strong></td>
<td>5/1/21 – 4/30/22</td>
<td></td>
</tr>
<tr>
<td><strong>Estimate the number and type of families that will benefit from the proposed activities</strong></td>
<td>85 LMI households will benefit from this activity.</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td><strong>Location Description</strong></td>
<td>Fair housing services are available city-wide to LMI households.</td>
<td></td>
</tr>
<tr>
<td><strong>Planned Activities</strong></td>
<td>Education, awareness and responses to fair housing complaints</td>
<td></td>
</tr>
</tbody>
</table>

5

| **Project Name** | Community Building Institute-Community Center Program |
| **Target Area** | Citywide |
| **Middletown LMI Target Areas** | |
| **Goals Supported** | Public Services |
| **Needs Addressed** | Lack of qualified work force |
| **Lack of youth activities** | |
| **Funding** | CDBG: $80,000 |
| **Description** | CDBG funds will be used to partner with CBI for youth activities and workforce development activities. |
| **Target Date** | |
| **Estimate the number and type of families that will benefit from the proposed activities** | 75 individuals through workforce development; 45 youth through youth activities. |
| **Location Description** | Services are offered at CBI which is located in the Douglass Neighborhood, a targeted, LMI community. Access to youth activities and workforce development are available to any LMI household in the City of Middletown. |
| **Planned Activities** | Workforce development services including resume development, job search, and soft-skills training. |
| **Youth services including groups, recreational activities, community gardening and other constructive activities.** | |

6

<p>| <strong>Project Name</strong> | Emergency Repair Program (PWC) |
| <strong>Target Area</strong> | Citywide |
| <strong>Goals Supported</strong> | Housing revitalization |
| <strong>Needs Addressed</strong> | Address distressed and dilapidated housing |</p>
<table>
<thead>
<tr>
<th>Funding</th>
<th>CDBG: $50,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description</td>
<td>PWC provides home repair to LMI households.</td>
</tr>
<tr>
<td>Target Date</td>
<td></td>
</tr>
<tr>
<td>Estimate the number and type of families that will benefit from the proposed activities</td>
<td>40 households will benefit from home repairs offered through PWC.</td>
</tr>
<tr>
<td>Location Description</td>
<td>PWC services are available city-wide to LMI households.</td>
</tr>
<tr>
<td>Planned Activities</td>
<td>Home repairs to LMI households.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Project Name</th>
<th>S.E.L.F.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Target Area</td>
<td>Citywide</td>
</tr>
<tr>
<td>Goals Supported</td>
<td>Housing revitalization</td>
</tr>
<tr>
<td>Needs Addressed</td>
<td>Address distressed and dilapidated housing</td>
</tr>
<tr>
<td>Funding</td>
<td>CDBG: $20,000</td>
</tr>
<tr>
<td>Description</td>
<td>Funding will be utilized using census data to select low income tracts enforce repairs necessary to address code violations as well as any nuisance code complaints.</td>
</tr>
<tr>
<td>Target Date</td>
<td></td>
</tr>
<tr>
<td>Estimate the number and type of families that will benefit from the proposed activities</td>
<td>40 households will be served through homeowner repair.</td>
</tr>
<tr>
<td>Location Description</td>
<td>Assistance is available city-wide to LMI households.</td>
</tr>
<tr>
<td>Planned Activities</td>
<td>Homeowner repair to qualifying LMI households</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Project Name</th>
<th>Planning/Program Management</th>
</tr>
</thead>
<tbody>
<tr>
<td>Target Area</td>
<td>Citywide</td>
</tr>
<tr>
<td>Goals Supported</td>
<td>Housing revitalization, Neighborhood Revitalization, Public Services, Fair Housing, Infrastructure</td>
</tr>
</tbody>
</table>
| Needs Addressed                                                                 | Address distressed and dilapidated housing  
|                                                                                | Improve the condition of streets in LMI areas  
|                                                                                | Lack of amenities/neighborhood appeal in LMI areas  
|                                                                                | Lack of qualified work force  
|                                                                                | Lack of youth activities  
|                                                                                | Insufficient social services to meet need  
|                                                                                | Addressing needs of homeless households  
|                                                                                | Appropriate housing for LMI households  
|                                                                                | Fair housing activities  
| Funding                                                                        | CDBG: $151,797  
| Description                                                                    | Grant admin costs  
| Target Date                                                                    |  
| Estimate the number and type of families that will benefit from the proposed activities | Administrative costs for PY21  
| Location Description                                                           | n/a  
| Planned Activities                                                             | Program Admin for PY21  

AP-50 Geographic Distribution - 91.420, 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

Infrastructure and Neighborhood Revitalization activities will be targeted to LMI neighborhoods in Middletown.

Public service activities (workforce development and youth activities) will be provided in the Douglass Neighborhood but open to all LMI qualifying persons throughout the City of Middletown.

Housing Revitalization will be limited to LMI-qualifying households throughout the City.

Fair housing activities will be available to LMI-qualifying households throughout the City.

Rationale for the priorities for allocating investments geographically

All funds and activities will be targeted at LMI areas and/or LMI households.
AP-75 Barriers to affordable housing -91.420, 91.220(j)

Introduction

The City of Middletown uses controls such as zoning ordinances, subdivision controls, permit systems, and housing codes and standards to ensure access to affordable and quality housing. The City is committed to ensuring the health, safety, and quality of life of its residents while minimizing the barriers that may impede the development of affordable housing.

Middletown has a significant number of old housing units. These units contain lead-based paint, asbestos, mold, or other hazards, which must be remediated in order to make the houses safe and bring them up to code. For units which are repairable without the need for full remediation, the City uses its CDBG funds through SELF and PWC to accomplish home repair. Other homes are removed through demolition while a fair number continue to be in disrepair.

Middletown partnered with Butler County for the development of the Analysis of Impediments to Fair Housing Choice. The AI will drive efforts for ensuring the city continues to remove identified barriers and work to increase access to fair housing for all residents.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

The AI revealed that the City of Middletown’s public policies do not create barriers to affordable housing. The City’s zoning ordinances, subdivision controls, permit systems, and housing codes and standards support the development of housing redevelopment. The City has been part of the local land bank and will seek to use this resource to better ready the community for residential investment.

Discussion

The City will continue its work to implement the recommendations outlined in the AI, will seek opportunities to ensure fair housing opportunities through partnerships with Legal Aid and HOME and proactively seek redevelopment of affordable housing as it focuses its funds on housing for LMI households.

Annual Action Plan
2021

OMB Control No. 2506-0117 (exp. 09/30/2021)
AP-85 Other Actions - 91.420, 91.220(k)

Introduction

The ongoing challenge for the City is to adequately meet needs with its available resources. The City constantly looks for opportunities to partner and seek greater levels of collaboration with local agencies and organizations in order to maximize and leverage its funds.

Actions planned to address obstacles to meeting underserved needs

The City promotes its housing and community service programs in the areas with the highest concentration of low and moderate income households to address the continuing needs of the underserved population. The City uses its network of community based organizations, nonprofit, Chamber of Commerce, local newspaper, City newsletter, and community events to promote its activities and services.

Actions planned to foster and maintain affordable housing

As articulated in the Consolidated Plan, the City will continue coordination and collaboration with the Butler Metropolitan Housing Authority, Butler County Land Bank, Butler County Housing and Homeless Coalition and other local nonprofits and public providers to foster and maintain affordable housing through:

- Mortgage assistance programs (HOME funds through Butler County Consortium)
- Development of workforce/affordable housing (HOME funds)
- Coordination with neighborhood networks to elaborate on the needs of the community
- Housing Revitalization Programs (home repair assistance)
- Infrastructure improvements
- Provision of Fair Housing Services

Actions planned to reduce lead-based paint hazards

The City will use its own funds to maintain current efforts to reduce lead-based paint hazards. No CDBG funds are anticipated to be used to this end.

Actions planned to reduce the number of poverty-level families

The City takes a balanced approach to community revitalization. The economic development team works to stabilize and attract small business in an effort to create jobs and improve the local economy. Key stakeholders such as Community Building Institute, SELF and Middletown City Schools are working on issues of workforce development and life skills training. CDBG provides critical funding for large-scale infrastructure improvements and removal of blight but relies on its community partners to
engage in meeting critical basic needs such as healthcare, childcare, housing, and transportation. The alleviation of poverty is complicated and requires a multi-faceted approach. The City works with community partners to identify educational, life skills and training needs and provide opportunities for self-empowerment that will enable low- and moderate-income residents to become and remain self-sufficient and economically independent. The City seeks to support efforts to train youth and develop employment programs that will lead to livable wage job opportunities for its residents.

The ConPlan articulates the City's ongoing strategy to work with community partners to tackle issues of poverty. Specifically, this PY21 action plan provides direct funds for workforce development to address issues of poverty.

**Actions planned to develop institutional structure**

The City of Middletown will continue to seek opportunity to continue to improve the systemic structures in the community. Through its partnerships with public and private organizations and its continued involvement in community collaborations and initiatives, the City will continue to identify gaps and look for creative solutions to improve the system for its residents.

**Actions planned to enhance coordination between public and private housing and social service agencies**

The City plans to continue its involvement in the Butler County Housing and Homeless Coalition and work with other providers to coordinate housing initiatives and social service provision. The City has been a leader in efforts to identify coordination opportunities and address in services. The City will continue to work closely with Butler County in several areas including social services, workforce development and mental health/substance use disorder services. The City will continue to seek to establish new relationships with the private sector to accomplish economic and community development activities.

**Discussion**

The City of Middletown’s new Development Service Department will take the key role for implementation and monitoring its housing and community development projects to ensure long-term compliance with program requirements and comprehensive planning requirements. The City’s partnership with Community Development Professionals enhances its ability to establish strong systems and ensure there are regular and ongoing monitoring visits with sub-recipients as needed as well as desk reviews, and financial and performance monitoring on a quarterly basis.

Monitoring of all City operated projects will be done through desk reviews, periodic reviews of the Action Plan and Consolidated Plan, reviews of funding applications, and through compliance with all...
applicable federal regulations.

Each housing program funded by the City of Middletown will be reviewed for compliance with federal regulations such as Section 504/Handicapped Accessibility, Lead Based Paint requirements, Housing Quality Standards (IPMC), Davis-Bacon, Section 3, and other federal requirements.
LEGISLATION
ITEM 16
RESOLUTION NO. R2021-24

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, 2021 AND DECLARING AN EMERGENCY. (GENERAL & STORM WATER FUNDS)

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

Section 1

The following sum is hereby transferred as follows:

FROM: General Fund (Fund #100) $55,000.00
TO: Storm Water Fund (Fund #515): $55,000.00
TOTAL $55,000.00

Section 2

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

FROM: Unappropriated Storm Water Fund (Fund #515) $55,000.00
TO: Accounts of 461:
   Salaries & Wages (515.461.51110) $15,906.28
   PERS (515.461.51211) $ 2,226.84
   Workers' Compensation (515.461.51220) $ 636.24
   Medicare (515.461.51270) $ 230.64
   Supplies to Maintain Equipment (515.461.53510) $ 5,000.00
   Small Tools & Equipment (515.461.53610) $ 6,000.00
   Autos and Truck Depreciation (515.461.54310) $25,000.00
TOTAL STORM WATER FUND $55,000.00

Section 3

The Finance Director is hereby authorized to draw 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 wage except to persons employed by authority of and in accordance with law or ordinance.
Section 4

All legislation inconsistent herewith is hereby repealed.

Section 5

This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: to allow the funds to be immediately available when the Court is ready to implement the community service program, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

Adopted: ____________

Attest: _________________________
Clerk of City Council
DATE: April 26, 2021

TO: Jim Palenick, City Manager

FROM: Susan Cohen, Assistant City Manager

PURPOSE

To request a supplemental appropriation of $55,000 to support a Community Service Program with Middletown Municipal Court.

BACKGROUND AND FINDINGS

The City has been working with Judge Sherron and Clerk Steven Longworth about the possibility of bringing back a community service program where offenders in Middletown Municipal Court may be ordered to serve community services hours in lieu of payment of fines or other penalties. The Court would then order parties to provide labor to assist in community clean up and beautification activities.

In order to make such a program effectively, the Court is asking for assistance to fund a person to supervise the program and coordinate activities. In speaking with city staff and court staff, we believe this could be accomplished through the Transform Middletown Program currently utilized by the City. Under the Transform Middletown Program, seasonal employees work to address minor but important improvements necessary to make our community as beautiful as possible. This could involve anything from painting, assisting with graffiti removal, trash clean up and beautification.

With this funding, we would like to hire 1 or 2 additional seasonal employees (position: Transform Middletown Supervisor) to supervise the court community service program. This person will coordinate participants with court staff and will coordinate beautification efforts with city staff. Staff discussed potential uses for community service hours in cleaning and clearing alleyways, clean up after community events, assisting in coordinated clean up efforts and trash removal in city neighborhoods. This partnership will help Court operations as well as help to further beautify and maintain the community.

Staff proposes the following budget for the program:

1. Transform Middletown Seasonal Supervisor: $19,000
2. Consumable Supplies for work at sites (for example, trash bags, paint, etc.): $5,000
3. Tools for use at work sites: $6,000
4. Vehicle for Supervisor to utilize to transport necessary tools to worksites: $25,000

This is a total appropriation request for amount not to exceed $55,000 to fund the program. Costs for tools and consumables will be managed as projects are scheduled. In the future, this program could be evaluated annually for need and to fit within the City’s regular budget and will only require ongoing costs of labor and consumable materials.

ALTERNATIVES

Council may choose to not to appropriate funds.

FINANCIAL IMPACTS

The total amount of the transfer and supplement appropriation requested is $55,000. This program will require a transfer of $55,000 from the unappropriated General Fund (Fund # 100) to the Storm Water Fund (Fund #515) – where the Transform Middletown program is budgeted. Next it will require the following supplemental appropriations:

515.461.51110 (Salaries & Wages) $15,906.28
515.461.51211 (PERS) $2,226.84
515.461.51220 (Workers’ Comp) $636.24
515.461.51270 (Medicare) $230.64
515.461.53510 (Supplies to Maintain Equipment) $5,000
515.461.53610 (Small Tools & Equipment) $6,000
515.461.54310 (Autos and Truck Depreciation) $25,000

EMERGENCY/NON EMERGENCY

Second reading emergency requested (action May 18, 2021) in order for the program to be staffed and the supplies and vehicle to be in place when the Court is ready to implement the community service program in the coming months.
LEGISLATION
ITEM 17
ORDINANCE NO. O2021-44

AN ORDINANCE ESTABLISHING A PROCEDURE FOR AND AUTHORIZING A CONTRACT WITH MCI AND BUTLER COUNTY REGIONAL TRANSIT AUTHORITY FOR THE PURCHASE OF UP TO FIVE 45-FOOT HEAVY DUTY COMMUTER COACHES.

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 R.C. Chapter 735, shall enter into a contract with MCI and Butler County Regional Transit Authority for the purchase of up to five 45-foot heavy-duty commuter coaches, subject to the availability of federal funds, at a cost of $603,973.39 per unit plus a 10% contingency for use in the Middletown Transit System. Funding is guaranteed for five coaches and pending for three additional coaches. The purchase shall be in accordance with the collective purchasing arrangement between the City of Middletown, Butler County Regional Transit Authority, and the State of Georgia.

Section 2

For said purpose the Finance Director is hereby authorized and directed to pay a sum not to exceed $3,321,853.65 from the Transit Fund (Fund # 530).

Section 3

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 R.C. Chapter 735 shall not be applicable to the award and execution of the aforesaid contract.

Section 4

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

Section 5

This ordinance shall take effect and be in force at the earliest time permitted by law.

Nicole Condrey, Mayor
DATE: April 26, 2021

TO: Jim Palenick, City Manager

FROM: Susan Cohen, Assistant City Manager

PURPOSE

To approve a contract with Butler County Regional Transit and MCI of Des Plaines, IL for the purchase of five commuter coaches for operation by Middletown Transit System and BCRTA for new commuter bus service from the City of Middletown to the Cincinnati area.

BACKGROUND AND FINDINGS

The Middletown Transit System runs regular fixed route public transportation through the City. The City contracts with Butler County Regional Transit Authority to administer the program and the associated State and Federal Grants associated with the administration of the transit system.

On December 1, 2020, BCRTA officials presented to council an idea for expanding services in Middletown to include a commuter bus service from Middletown to downtown Cincinnati. BCRTA approached the City about utilizing excess grant capacity to partner with BCRTA to operate commuter coach service from Middletown. This would represent an increased capacity for the City of Middletown. Previous commuter service went to the West Chester area of Butler County. BCRTA and City of Middletown have received 100% grant funds from the Ohio Department of Transportation for the acquisition of five commuter coaches and are awaiting approval of a pending application for three additional coaches.

As part of the transit strategy, BCRTA and the City of Middletown have partnered with the State of Georgia for the collaborative purchase of commuter coaches and access to best pricing for those coaches through collective purchasing to recognize economies of scale. This partnership identified MCI of Des Plaines, IL as the best costs and value provider of buses. The City now wishes to utilize the existing agreement to authorize the purchase of five 45-foot heavy-duty commuter coaches from MCI at a cost of $603,973.39 per unit plus a 10% contingency for a total not to exceed cost of $3,321,853.65.

Funds are available for this purchase through grant funding and existing match dollars already in place through Ohio Toll Credits.
ALTERNATIVES

(1) The City could choose not to pursue the expansion of services into commuter services.
(2) The City could choose to authorize less of commitment as far as number of buses.
(3) The City could attempt to contract with more partners to provide expanded services if desired.

However, due to the availability of grant funds for the City’s Transit System, we believe the purchase of five commuter coaches is the best path forward for the City residents to be able to reach employment in other areas and for the city to attract new people to work within the City limits. This will also represent a continuation of the partnership with BCRTA and help to bring increased transit access to other parts of Butler County.

FINANCIAL IMPACTS

Purchase will be funded through grant funds and Toll Credits in place as local match. No additional City funds are required. Transit Fund (Fund # 530)

EMERGENCY/NON-EMERGENCY

Non-Emergency
LEGISLATION
ITEM 18
RESOLUTION NO. R2021-25

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, 2021. (APPROPRIATION TRANSFER – DOWNTOWN IMPROVEMENT FUND)

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

Section 1

The following previously appropriated sums in the Downtown Improvement Fund are hereby transferred:

FROM: DOWNTOWN IMPROVEMENT FUND:
  Other Professional Services (481.990.52480) $43,000.00
TO: DOWNTOWN IMPROVEMENT FUND:
  Purchase of Real Estate (481.990.54401) $43,000.00
TOTAL: $43,000.00

Section 2

The Finance Director is hereby authorized to draw 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 take effect and be in force at the earliest time permitted by law.

Nicole Condrey, Mayor

1st Reading: __________
2nd Reading: __________
Adopted: ____________
Effective: ____________

Attest:

_____________________
Clerk of the City Council

H:/Law/leg/2021 Leg/Approp Transfer Downtown Improv Fund
DATE: April 15, 2021

TO: Jim Palenick, City Manager

FROM: Chris Xeil Lyons, Economic Development Director, prepared by Alaina Geres, Economic Development Program Manager

Supplemental Appropriation & Transfer
Authorize Purchase of South Main Parking Lot

PURPOSE
To authorize the purchase of the parking lot at 69 S. Main Street located at the corner of South Main and First Avenue owned by Hutch LLC.

To authorize the supplemental appropriation and transfer of $43,000 from 481.990.52480 to 481.990.54401 for the purchase.

BACKGROUND and FINDINGS
As staff was working on the hotel/conference center project, the opportunity to purchase a highly visible lot on the corner of South Main and First Avenue at the entrance to the proposed project became available. The city entered into an option agreement with Hutch LLC on March 1, 2021, to purchase 69 S. Main Street (parcel number Q6511005000036) for the purchase price of $55,000. The seller was paid $2,000 for the option agreement that will go towards the purchase price. The option agreement expires May 29th.

ALTERNATIVES
The alternative is to not authorize the purchase. In doing so, the option will expire and the City will lose the opportunity to purchase this piece of property. This is not desired as this is a high-profile corner lot at the proposed entrance to the hotel/conference center project. The due diligence period for the hotel/conference center project is 6 months, but staff was only able to negotiate a 3-month option agreement with the seller. Should the project not come to fruition, this will still be an important piece of real estate for the city to own and control the use and development of as we continue to redevelop downtown.

FINANCIAL IMPACT
$10,000 –100.409.54356 (Property Acquisition)
$43,000 –481.990.52480 (Downtown Improvement Fund / Other Professional Services) to 481.990.54401 (Downtown Improvement Fund / Purchase of Real Property)

EMERGENCY/NON EMERGENCY
Non-emergency. The agreement states the closing shall be held within 60 days after notice from Buyer to Seller exercising option. This timing will allow us to complete transaction after this goes into effect June 18th.
LEGISLATION
ITEM 19
RESOLUTION NO. R2021-26

A RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY KNOWN AS 69 S. MAIN STREET FROM THE HUTCH, LLC.

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 for the purchase of real property known as 69 S. Main Street from The Hutch, LLC in accordance with the Option Agreement attached hereto as Exhibit “A”. The real property is also known as parcel number Q6511005000036.

Section 2

For said purposes, the Finance Director is authorized and directed to expend a sum not to exceed $55,000.00 as follows: $10,000.00 from the General Fund (Fund # 100) and $43,000.00 from the Downtown Improvement Fund (Fund # 481), which such sum is hereby appropriated to the accounts of 990 (481.990.54401). The remaining $2,000.00 (Option Money) was previously paid from the Property Development Fund (Fund # 499).

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: to allow the purchase to be completed without delay after the completion of due diligence, and shall take effect and be in force from and after its adoption.

Nicole Condrey, Mayor

1st Reading: May 4, 2021
2nd Reading: ___________
Adopted: ____________
Effective: ____________

Attest: __________________
Clerk of City Council
Exhibit "A"

OPTION AGREEMENT

This OPTION AGREEMENT (this “Agreement”) is made and entered into as of March 1, 2021 (the “Effective Date”), by and between The Hutch LLC, an Ohio limited liability company whose address is 1320 Hook Drive, Middletown, Ohio 45042 (“Seller”) and The City of Middletown, Butler County, Ohio, an Ohio municipal corporation whose address is One Donham Plaza, Middletown, Ohio 45042 (“Buyer”).

RECITALS

A. Seller is the owner in fee simple of the real property located at 69 S. Main Street, Middletown, Ohio 45042, Butler County Parcel No. Q6511005000036.

B. Seller desires to grant Buyer an option to purchase said real property, and Buyer desires to obtain an option to purchase said real property pursuant to the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of Two Thousand Dollars ($2,000.00) and the mutual representations, benefits and covenants contained herein and other good and valuable consideration the receipt and sufficiency of which are acknowledged, Seller and Buyer covenant and agree as follows:

TERMS AND CONDITIONS

1. The Property. The real property is located at 69 S. Main Street, Middletown, Ohio 45042, Butler County Parcel No. Q6511005000036, together with any and all improvements now existing or hereafter located thereon, and all rights, privileges and appurtenances belonging thereto (the “Property”).

2. Option.

   (a) Grant of Option. In exchange for the mutual covenants set forth herein, Seller grants to Buyer the exclusive right, privilege and option (the “Option”) to purchase the Property upon the terms and conditions set forth herein.

   (b) Term of Option. The term of the Option (the “Option Period”) shall be ninety (90) days from the Effective Date.

   (c) Exercise of Option; Termination. Buyer may exercise the Option at any time prior to the end of the Option Period by delivering written notice thereof to Seller by certified mail, return receipt requested. Upon exercise of the Option, Buyer shall purchase the Property from Seller, and Seller shall sell the Property to Buyer, subject to the terms and conditions of this Agreement. If Buyer does not provide Seller with written notice of its exercise of the Option prior to the expiration of the Option Period, then Buyer shall be deemed to have waived its right to exercise the Option, the Option shall lapse, this Agreement shall terminate,
and the Option Money, as defined herein, shall be retained by Seller in consideration of the Option.

3. Purchase and Sale.

(a) Purchase Price. The purchase price (the “Purchase Price”) for the Property shall be Fifty-Five Thousand and No/100 Dollars ($55,000.00) and shall be paid by Buyer to Seller on the Closing Date in cash, by cashier’s check, or by wire transfer of immediately available funds to such account as Seller may designate, subject to proration and credits as provided herein.

(b) Option Money.

(i) Within five (5) business days after the complete execution and delivery of this Agreement, Buyer shall deposit with Seller the sum of Two Thousand and No/100 Dollars ($2,000.00) (the “Option Money”).

(ii) The Option Money shall be credited to Buyer against the Purchase Price at closing.

4. Closing; Closing Adjustments and Costs; Closing Documents.

(a) Closing Date. If the Option is exercised, the closing shall be held on a date to be selected by Buyer and Seller (the “Closing Date”), which date shall be within sixty (60) days after the notice from Buyer to Seller exercising the Option.

(b) Closing Time and Place. The closing shall be held on the Closing Date at a time and place that is mutually agreed upon by Buyer and Seller.

(c) Closing Costs. Buyer shall pay the recording fee for the deed, any stamp or transfer tax due with respect to the transfer of the Property, any closing or escrow fee associated with the transfer of the Property and all title examination fees and title insurance premiums necessary to provide Buyer with an owner’s policy of title insurance and Buyer’s lender, if any, with a loan policy of title insurance. Buyer and Seller shall each be responsible for the payment of their own attorneys’ fees and expenses.

(d) Limited Warranty Deed. On the Closing Date, Seller shall convey to Buyer a good and marketable fee simple title to the Property by recordable deed of Limited Warranty, with release of dower rights, if applicable, (i) subject to easements, conditions and restrictions of record, (ii) zoning, building laws, and regulations, (iii) taxes and assessments not yet due and payable, and (iv) legal highways and rights of way, such that a nationally recognized title insurance company shall insure Buyer by American Land Title Association (“ALTA”) owner’s policy of title insurance and Buyer’s lender, if any, by ALTA Loan policy of title insurance, free and clear of all monetary liens and encumbrances; provided, however, title to the Property shall be subject to such matters as would be revealed by the Title Commitment and/or the Survey which are approved or deemed approved by Buyer hereunder.
(e) **Real Property Taxes.** All real property ad valorem taxes, and assessments against or on the Property, due and payable in the year of closing, shall be prorated between Seller and Buyer as of the Closing Date on a calendar year or fiscal year basis, whichever is appropriate. All real property ad valorem taxes and assessments against or on the Property for any year prior to the year of closing shall be paid by Seller at closing.

(f) **Affidavit of Title.** On the Closing Date, Seller shall deliver to Buyer an affidavit of title reasonably satisfactory to Seller and Buyer’s title insurance company, and any other documents that may reasonable be requested by the title insurance company to convey good title to the Buyer.

(g) **Gap Indemnity.** On the Closing Date, Seller shall deliver a title gap indemnity for title insurance purposes.

5. **Possession.** Exclusive possession of the Property shall be delivered to Buyer on the Closing Date.

6. **Tests, Engineering Studies and Inspections.** Upon the execution of this Agreement, Buyer and any agent or representative of Buyer shall have the right, with reasonable notice to Seller, at any reasonable time during the Option Period and, if the Option is exercised, at any reasonable time prior to the Closing Date, to enter the Property to conduct any tests and studies which Buyer deems appropriate and to otherwise examine and inspect the Property as Buyer deems appropriate, including, without limitation, making surveys, environmental studies, geotechnical studies, taking borings of the soil and inspecting or testing the real property and the physical condition of any improvements located on the Property. Any provision of this Agreement to the contrary notwithstanding and notwithstanding any expiration of the Option Period or any termination of this Agreement, Buyer shall promptly repair any damage caused by Buyer or Buyer’s agents or representatives resulting from the entry onto the Property of Buyer, its agents or representatives.

7. **Representations, Warranties and Covenants of Seller.** In order to induce Buyer to execute, deliver and perform this Agreement, Seller represents, warrants and covenants to Buyer that:

(a) Seller possesses full right, power and authority to execute, deliver and perform this Agreement, and when executed Seller shall be lawfully bound pursuant to the terms, covenants and conditions of this Agreement.

(b) Seller has and will have on the Closing Date good and marketable fee simple title to the Property, and the same is or will be unencumbered at closing, except for matters to which Purchaser has specifically approved in writing. There are no encroachments of buildings or improvements on the Property from adjacent property and there are no encroachments of improvements from the Property onto the adjacent property; to the best of Seller’s actual knowledge and there are no boundary line disputes or other matters affecting title or the description of the Property.
(c) No lease affects all or any part of the Property and, except as would be shown on the Survey, no persons occupy all or any part of the Property.

(d) Seller has received no notice of any action, suit or proceeding that is pending or, threatened before or by any judicial body or any governmental agency or authority, against or affecting all or any part of the Property.

(e) No mechanic’s lien, materialman’s lien or lis pendens action affects the Property, and, as of the Closing, all taxes, sewer, water and other utility bills that are then due will be paid in full.

(f) Seller has received no notice of any eminent domain or similar condemnation proceeding affecting all or any part of the Property is now pending or, threatened.

(g) No special assessment exists or is pending as to all or any part of the Property.

(h) Purchaser shall have sole possession of the Property on the date of closing.

(i) The Property is in material compliance with all applicable local, state and federal building code, zoning, land use and other laws.

(j) There are not now, nor shall there be on the date of the closing, any unrecorded easements, options, rights of first refusal or offer, leases, licenses, agreements relating to the lease, purchase or development of the Property, or other agreements of any kind relating to the Property not already known by the parties.

(k) The individual signing this Agreement on behalf of Seller has the authority to bind Seller to the terms hereof.

All representations and warranties of Seller contained in this Agreement shall be true, correct and complete as of the Closing Date as if they were made at such time. If at any time after Buyer exercises the Option and at any time on or prior to the Closing Date, any representation and warranty of Seller contained in this Agreement is untrue, incorrect or incomplete, then Buyer may, in addition to any other remedies hereunder, terminate this Agreement and receive a full refund of the Option Money.

8. Survey; Title.

(a) Buyer may, at its expense, obtain an accurate survey of the Property prepared by a registered land surveyor licensed by the State of Ohio which shall be satisfactory to Buyer in its sole discretion (the “Survey”). In all other respects the Survey shall meet the requirements of any governmental agency having jurisdiction over the Property and any requirements of the title insurance company of Buyer necessary to issue Buyer’s and lender’s Title Policy.
(a) if Buyer is the party in default, then Seller may, terminate this Agreement whereupon Seller shall retain the Option Money in its entirety as liquidated damages (and not as a penalty), and thereafter neither party will have any further obligations hereunder (other than Buyer’s obligations under Paragraph 6); and

(b) if Seller is the party in default, then Buyer shall have the right to (i) pursue its right to specific performance against Seller; (ii) receive a refund of the Option Money; or (iii) pursue any other remedy available at law or equity.


(a) Delivery. Any notice or consent authorized or required by this Agreement shall be in writing and (i) (A) delivered personally, (B) sent postage prepaid by certified mail or registered mail, return receipt requested, or (C) sent by a nationally recognized overnight carrier that guarantees next business day delivery, directed to the other party at the address set forth in this Paragraph 13 or such other parties or addresses as may be designated by either Buyer or Seller by notice given from time to time in accordance with this Paragraph 13.

To Buyer: City of Middletown, Ohio
Attn: Susan Cohen
One Donham Plaza
Middletown, Ohio 45042

With a copy to: Austin W. Musser, Esq.
Frost Brown Todd LLC
9277 Centre Pointe Drive, Suite 300
West Chester, Ohio 45069
amusser@fbtlaw.com

To Seller: The Hatch, LLC
1320 Hook Drive
Middletown, Ohio 45042

A notice or consent given in accordance with this Paragraph 13 shall be considered received (i) one day after giving it to a nationally recognized overnight carrier, (ii) upon depositing it in an office of the United States Postal Service or any successor governmental agency for delivery by certified mail or registered mail, return receipt requested, or (iii) otherwise upon actual delivery (or rejection) at the address noted above or upon the addressee’s (or its authorized agent’s) written acknowledgement of receipt.

14. Real Estate Commission. Seller and Buyer each warrant and represent to the other that neither has engaged any real estate agent or broker in connection with the transaction contemplated by this Agreement.
(b) Buyer, at Buyer’s expense, may obtain a title commitment in favor of Buyer (the “Title Commitment”) from a national title insurance company of Buyer’s choice (the “Title Company”) with respect to the Property, in such amounts as may be determined by Buyer and its lender(s). The Title Policy shall insure in Buyer a good and marketable fee simple title, free and clear of all liens and encumbrances and standard title policy exceptions, except as may be approved or deemed approved or accepted by Buyer hereunder. The Title Policy shall contain such affirmative coverages and endorsements as Buyer and its lender(s) deem desirable. In the event Buyer disapproves of any matter pertaining to the Title Commitment or the Survey, Buyer may request that Seller correct such defects or disapproved matters and effectuate such correction(s) within thirty (30) days after receipt of written notice from Buyer. In the event that Seller is unable to or for any reason whatsoever does not satisfy any such defect or disapproved matter in a manner reasonably acceptable to Buyer, Buyer may: (1) accept the state of title subject to the defect or disapproved matter, in which event such condition shall be deemed satisfied; (2) reject the state of title, in which event this Agreement shall be terminated, the Option Money shall be returned to Buyer and this Agreement shall be of no further force and effect; (3) attempt to cause the Title Company to insure over such defect; or (4) take title “as is” and deduct from the Purchase Price the amount of any financial liens or encumbrances of a definite and ascertainable amount.

9. Risk of Loss. All risk of loss with respect to the Property shall remain with Seller until the closing and delivery of the deed to Buyer.

10. Non-Assumption of Liabilities. Buyer shall not assume, pay or perform any liabilities or obligations of Seller of any kind whatsoever, known or unknown, contingent or accrued, including, but not limited to, any tort liabilities of Seller or any obligations of Seller with respect to any federal, state and local income, ad valorem, occupational or other taxes, resulting from, or in any way connected with, Seller’s ownership or operation of the Property prior to the Closing Date.

11. Casualty and Condemnation. If at any time prior to the Closing Date, all or any part of the Property is damaged by fire or other casualty (other than the existing house at the Property), taken or appropriated by virtue of eminent domain or similar proceedings, or is condemned for any public or quasi-public use, then Buyer may terminate this Agreement and the Option Money in its entirety shall be returned to Buyer. If Buyer terminates this Agreement, then Seller shall be entitled to receive all insurance proceeds or condemnation proceeds paid for that portion of the Property damaged or taken. If Buyer elects to purchase the Property, then (a) Buyer shall be entitled to receive all insurance proceeds or condemnation proceeds paid for that portion of the Property damaged or taken and not expended for repairs, or (b) if the insurance proceeds or condemnation proceeds have been paid to Seller, then Buyer shall receive a credit against the Purchase Price equal to the amount of insurance proceeds or condemnation proceeds paid to Seller and not expended for repairs.

12. Default. If, following the full execution of this Agreement, either party defaults in the performance of its duties or obligations under this Agreement, or any representation or warranty hereunder is untrue or incomplete, then:
15. **Benefit and Binding Effect.** This Agreement shall be binding upon, and shall inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and assigns.

16. **Survival of Covenants.** The terms, covenants, conditions, representations and warranties contained in this Agreement shall survive the closing and delivery of the deed.

17. **Time of the Essence.** Time is of the essence for this Agreement.

18. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto with respect to the matters to which it pertains, and may be amended only by written agreement signed by both Buyer and Seller.

19. **Drafting.** This Agreement was drafted by Buyer for convenience purposes only, and shall not be construed for or against Seller on such basis.

20. **Memorandum of Agreement.** Either party hereto may execute and record a memorandum hereof setting forth that this Agreement has been entered into, that it relates to the Property setting forth the option period. An affidavit signed by both parties as to the termination or extension of the option, which shall be recorded with the Butler County Recorder, shall be sufficient to terminate or extend the option. The cost of recording any such memorandum shall be paid by the Buyer.

21. **Execution of Option Agreement.** This Agreement may be executed in any number of counterparts and signature to any counterpart shall constitute signature to all such counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument.

[Signatures to follow]
IN WITNESS WHEREOF, Seller and Buyer have duly executed this Agreement as of the date first set forth above, but actually on the dates set forth below.

SELLER:

THE HUTCH, LLC,

By: _____________________________
Print Name: Raymond L. Scott
Its: Owner of Hutch LLC CEO
Date: 26 February, 2021

BUYER:

CITY OF MIDDLETOWN, OHIO
an Ohio municipal corporation

By: _____________________________
Print Name: Susan Cohen
Title: Acting City Manager Middletown
Date: 26 February, 2021

Approved as to form:

Benjamin J. Yoder, Law Director
DATE: April 15, 2021

TO: Jim Palenick, City Manager

FROM: Chris Xeil Lyons, Economic Development Director,
prepared by Alaina Geres, Economic Development Program Manager

### Supplemental Appropriation & Transfer
**Authorize Purchase of South Main Parking Lot**

**PURPOSE**
To authorize the purchase of the parking lot at 69 S. Main Street located at the corner of South Main and First Avenue owned by Hutch LLC.

To authorize the supplemental appropriation and transfer of $43,000 from 481.990.52480 to 481.990.54401 for the purchase.

**BACKGROUND and FINDINGS**
As staff was working on the hotel/conference center project, the opportunity to purchase a highly visible lot on the corner of South Main and First Avenue at the entrance to the proposed project became available. The city entered into an option agreement with Hutch LLC on March 1, 2021, to purchase 69 S. Main Street (parcel number Q6511005000036) for the purchase price of $55,000. The seller was paid $2,000 for the option agreement that will go towards the purchase price. The option agreement expires May 29th.

**ALTERNATIVES**
The alternative is to not authorize the purchase. In doing so, the option will expire and the City will lose the opportunity to purchase this piece of property. This is not desired as this is a high-profile corner lot at the proposed entrance to the hotel/conference center project. The due diligence period for the hotel/conference center project is 6 months, but staff was only able to negotiate a 3-month option agreement with the seller. Should the project not come to fruition, this will still be an important piece of real estate for the city to own and control the use and development of as we continue to redevelop downtown.

**FINANCIAL IMPACT**
$10,000 – 100.409.54356 (Property Acquisition)
$43,000 – 481.990.52480 (Downtown Improvement Fund / Other Professional Services) to 481.990.54401 (Downtown Improvement Fund / Purchase of Real Property)

**EMERGENCY/NON EMERGENCY**
Non-emergency. The agreement states the closing shall be held within 60 days after notice from Buyer to Seller exercising option. This timing will allow us to complete transaction after this goes into effect June 18th.
NEW BUSINESS