AGENDA FOR THE TOWN MEETING

August 8, 2016
7:00 p.m.

Red Indicates –	Action Item
Green Indicates –	Ordinance Introduction
Blue Indicates –	Link to Additional Information

PLEDGE TO THE FLAG

CALL TO ORDER

CONSENT AGENDA

- Town Meeting Minutes
  - July 25, 2016 –Town Meeting

PERSONAL REQUESTS FOR AGENDA:

UNFINISHED BUSINESS:

- Ordinance No. 16-08-01 – Definition for Storage & Disposal Containers
- Ordinance No. 16-08-02 – Sale of Motor Vehicles for Residential Uses in TC District
- Ordinance No. 16-08-03 – Off Street Parking Motor Vehicles for Residential Uses in TC District
- Draft Charter Changes
- Draft Middletown Code Changes
- Discussion of Tap Fee Increase
- Parking Banners – West Main Street

REPORT OF COMMITTEES:

Water/Sewer	Commissioner Falcinelli
Public Works	Commissioner Bussard
Planning Commission Liaison	Commissioner Catania
Parks & Recreation	Commissioner Goodman
Finance	Commissioner Dietrick
Public Information Committee	Commissioner Falcinelli

NEW BUSINESS:

- Road Patching Priorities
- Request for YMCA Women's Sprint Triathlon

PUBLIC COMMENTS:

ANNOUNCEMENTS:

- *Movie Night, Inside Out – Friday, August 19, 2016, 7:00PM*
- *The Heat is On 5K Race – Saturday, August 27, 2016, 7:00AM*

ADJOURNMENT

BURGESS AND COMMISSIONERS
OF MIDDLETOWN MARYLAND

TOWN MEETING MINUTES

REGULAR MEETING **July 25, 2016**

The second monthly meeting of the Burgess and Commissioners of Middletown was called to order on July 25, 2016, by Burgess Miller at 7:00 p.m. in the Middletown Municipal Center, 31 W. Main Street, Middletown, Maryland. Present were: Commissioners Larry Bussard, Jennifer Falcinelli, Rick Dietrick, Tom Catania and Christopher Goodman.

CONSENT AGENDA
Financial statements and town minutes – July 11, 2016
Commissioner Dietrick motioned to accept this consent agenda as corrected, seconded by Commissioner Bussard and passed unanimously.

Personal Requests for Agenda:
Delegate Kathy Afzali – Delegate Afzali was present to update the Board on the funding that the Town is going to receive in FY17.

Scott Farrow, President MVAA – Reservation forms and fees – Mr. Farrow was present to discuss the proposed reservation form and fees for Remsberg Park. The Board was receptive to the proposed forms and fees but had concerns with what that money was going to be used for and how much would the Town receive? After much discussion the Town will prepare an MOU for the MVAA to review. The Town Board also discussed the possibility of updating and making changes to the site plan for Remsberg Park. The Town will look into the costs associated with revising the site plan.

Unfinished Business:
Charter Amendments Discussion – Burgess Miller asked if any of the Commissioners had any other changes they would like to make? Commissioner Catania went over several different sections for clarification. Upon discussion of those sections Drew will forward onto the Town Attorney for clarification and/or change the language.
Memorial Park Improvements – Phase II & III – Commissioner Goodman went over the proposed upgrades to Phase 2 ($21,326) and 3($18,881) of the Memorial Park improvements. Phase 1 is in the FY17 budget. Phase 2 we have received POS funds for and Phase 3 we will apply for Community Playground funds later this month.
Walking Trail Maps Review – Commissioner Goodman reported that the Parks & Rec. committee reviewed these maps and here is a list of things they would like to include: County Park walking trails, restrooms (if applicable), contact number, doggie poop bag stations and where the dog park is located.
Water & Sewer Recommendation on tap fee increase – The Water & Sewer Committee is recommending a $4,000 increase.....$2,000 on water tap and $2,000 on sewer tap for a total of $24,000. The Board discussed the current developments under construction as to if they would be impacted by this proposed increase. Commissioner Falcinelli stated that we do not have any public works agreements with any of the current developments, therefore the proposed tap fee increase would apply to those developments. This item will be on the August agenda for additional discussion.

NEW BUSINESS:

Parking Banners – West Main Street – Burgess Miller stated that Main Street is proposing the banner (picture included in packet) as the new Parking Banners along Main Street. The Board was receptive to what was shown and will have the August agenda for final approval in case there are any additional comments.

Removal of Pine Tree at Memorial Park – Commissioner Goodman explained that the tree by the merry go round blocks some of the equipment and with all the money that we are putting into making this park better, he would like to see this tree trimmed or removed? The Board discussed it and agreed to trim it up 5' off the ground to see what that looked like.

Rental of Town Property for Construction Staging Area for Streetscape – Drew stated that with the upcoming streetscape project the contractor needs a 3 acre site to store their equipment and supplies on while doing the project. Drew suggested the library site along E. Green Street, the Board did not like that area as it is too close to the school complex and traffic is already bad in that area. The second location Drew suggested is the Cemetery location off of Ifert Drive, the Board did not like that location as West Green Street will be done by that time and we do not want heavy equipment running on the new street. The Board suggested either the AC Jets property or the Remsberg Park. Drew will make those proposals to the contractor.

PUBLIC COMMENT: none

ANNOUNCEMENTS:

National Night Out – August 2, 2016 from 5:30-8:30pm. at the Carnival grounds.

ADJOURNMENT

Meeting adjourned at 9:15pm.

Respectfully submitted,

Ann Griffin
Office Manager

ORDINANCE NO. 16-08-01

AN ORDINANCE TO AMEND TITLE 17, CHAPTER 17.32, SECTION 17.32.045 OF THE MIDDLETOWN MUNICIPAL CODE BY PROVIDING A DEFINITION FOR THE TERM "DISPOSAL CONTAINER"; TO PROVIDE THAT THE ZONING ADMINISTRATOR, INSTEAD OF THE PLANNING COMMISSION, IS THE PERSON CHARGED WITH REVIEWING AND APPROVING APPLICATIONS TO PLACE STORAGE AND DISPOSAL CONTAINERS ON PROPERTY; TO DELETE ENFORCEMENT PROVISIONS AS BEING SUPERFLUOUS.

SECTION I. BE IT RESOLVED, ORDAINED AND ENACTED by the Burgess and Commissioners of Middletown that Title 17, Chapter 17.32, Section 17.32.045 of the Middletown Municipal Code be, and hereby is, amended as follows. New language is designated by being in **BOLD CAPITAL LETTERS.** Deleted language is designated by being in [~~brackets and stricken through~~]:

Title 17 - Zoning

Chapter 17.32 - DESIGN STANDARDS GENERALLY

Section 17.32.045. Storage and disposal containers

A. Except as otherwise provided in this [~~chapter~~] **SECTION**, storage and disposal containers are prohibited in the Town of Middletown, and no person who owns, leases, occupies or has charge of any premises or property, in whole or in part, shall place, keep or maintain a storage or disposal container on the premises or property. **FOR PURPOSES OF THIS SECTION, "DISPOSAL CONTAINER" MEANS A LARGE CAPACITY CONTAINER SUCH AS A DUMPSTER, A BAGSTER BAG, (DUMPSTER IN A BAG), OR SIMILAR LARGE OBJECT WHICH IS USED TO HOLD TRASH, WASTE OR DEBRIS.**

B. In a commercial or industrial zone, **AND UPON APPLICATION TO AND APPROVAL BY THE ZONING ADMINISTRATOR FOR A ZONING CERTIFICATE,** storage and disposal containers may be placed, kept or maintained on premises or property for a period of no more than six consecutive months. [~~upon application to and approval of the planning commission.~~] The [~~planning commission~~] **ZONING ADMINISTRATOR** may, upon application,

extend the six-month period of time for another six month or less period. The storage or disposal container may be approved by the ~~[planning commission]~~ **ZONING ADMINISTRATOR** only if (1) the storage or disposal container is situated on the property in compliance with setback requirements as established for buildings in the district, (2) its placement and use satisfies all other zoning requirements, and (3) **THE STORAGE OR DISPOSAL CONTAINER** is either situated in the rear yard of the property or is screened in a manner approved by the ~~[planning commission]~~ **ZONING ADMINISTRATOR** so as to visually limit as much as reasonably practicable the appearance and presence of the storage or disposal container. No storage or disposal container may exceed a height of twelve (12) feet or a width of eight feet. Storage and disposal containers may not be stacked on top of each other.

C. The ~~[planning commission]~~ **ZONING ADMINISTRATOR** may, upon application, approve the placing, keeping or maintaining of a storage or disposal container on property or premises in any zone if the storage or disposal container is to be used for and in connection with a construction, reconstruction or renovation project on the property or premises. The storage or disposal container shall be used in accordance with the conditions placed upon it by the ~~[planning commission]~~ **ZONING ADMINISTRATOR**. Any storage or disposal container used in connection with such an approval shall be removed from the property or premises immediately upon the completion of the project or at such time as provided in the approval.

D. Any storage or disposal container which is located or situated on any property or premises on the effective date of the ordinance codified in this chapter shall be permitted to continue to remain in the same location on the property or premises for a period of three years from the effective date of the ordinance codified in this chapter. Thereafter, such storage container or disposal shall be removed or otherwise conform to the requirements of this section, and the failure to do so shall constitute a violation of this section.

~~[E. Any person violating the provisions of this section shall be guilty of a municipal infraction and be fined no more than one hundred dollars ($100.00) for each infraction. Each day that the violation exists or continues shall be deemed a separate infraction. Any infraction may be enforced as a municipal infraction or in any other means authorized by law, including injunction and specific enforcement.]~~

SECTION II. BE IT FURTHER ENACTED AND ORDAINED that this Ordinance

shall take effect twenty (20) calendar days following its approval by the Burgess and Commissioners.

INTRODUCED ON THE _____ DAY OF _____, 2016

PASSED ON THE _____ DAY OF _____, 2016

EFFECTIVE DATE: _____, 2016

ATTEST:

BURGESS AND COMMISSIONERS OF MIDDLETOWN

_____
Andrew J. Bowen, Town Administrator

By:_____
John D. Miller, Burgess

ORDINANCE NO. 16-08-02

AN ORDINANCE TO AMEND TITLE 17, CHAPTER 17.32, SECTION 17.32.125 OF THE MIDDLETOWN MUNICIPAL CODE TO REGULATE THE SALES OF MOTOR VEHICLES FOR PROPERTY USED FOR RESIDENTIAL USES IN THE TC (TOWN COMMERCIAL) DISTRICT.

SECTION I. BE IT RESOLVED, ORDAINED AND ENACTED by the Burgess and Commissioners of Middletown that Title 17, Chapter 17.32, Section 17.32.125 of the Middletown Municipal Code be, and hereby is, amended as follows. New language is designated by being in **BOLD CAPITAL LETTERS.**

Title 17 - Zoning

Chapter 17.32 - DESIGN STANDARDS GENERALLY

17.32.125 - Sales of motor vehicles in residential districts **AND FOR RESIDENTIAL USE PROPERTY IN THE TC (TOWN COMMERCIAL) DISTRICT.**

A. As used in this section, "motor vehicle" is defined as any self-propelled device in, or by which any individual or property is or might be transported or towed on a highway, and includes, but is not limited to automobiles, trucks, motorcycles, low-speed vehicles and off-highway recreational vehicles.

B. Sales of motor vehicles are permitted in any residential district **AND ON PROPERTY USED FOR RESIDENTIAL PURPOSES IN THE TC (TOWN COMMERCIAL) DISTRICT** subject to the following.

1. Only one motor vehicle may be for sale at any one time.

2. The motor vehicle for sale must be currently titled in the name of a person who resides on the property where the motor vehicle is for sale.

3. The motor vehicle for sale must be parked in a designated parking space on the property as provided in Section 17.32.060 and may not be parked on yards or other grassy or vegetative areas on the property.

SECTION II. BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect twenty (20) calendar days following its approval by the Burgess and Commissioners.

INTRODUCED ON THE _____ DAY OF _____, 2016

PASSED ON THE _____ DAY OF _____, 2016

EFFECTIVE DATE: _____, 2016

ATTEST:

BURGESS AND COMMISSIONERS OF MIDDLETOWN

_____
Andrew J. Bowen, Town Administrator

By:_____
John D. Miller, Burgess

ORDINANCE NO. 16-08-03

AN ORDINANCE TO AMEND TITLE 17, CHAPTER 17.32, SECTION 17.32.060 OF THE MIDDLETOWN MUNICIPAL CODE TO REGULATE THE OFF-STREET PARKING OF MOTOR VEHICLES FOR PROPERTY USED FOR RESIDENTIAL USES IN THE TC (TOWN COMMERCIAL) DISTRICT; TO PROVIDE SCREENING REQUIREMENTS FOR THE PARKING OF UNREGISTERED OR INOPERABLE MOTOR VEHICLES IN RESIDENTIAL DISTRICTS AND FOR RESIDENTIAL USE PROPERTY IN THE TC (TOWN COMMERICAL) DISTRICT AND TO LIMIT THE PERMITTED NUMBER OF SUCH VEHICLES.

SECTION I. BE IT RESOLVED, ORDAINED AND ENACTED by the Burgess and Commissioners of Middletown that Title 17, Chapter 17.32, Section 17.32.060 of the Middletown Municipal Code be, and hereby is, amended as follows. New language is designated by being in **BOLD CAPITAL LETTERS.** Deleted language is designated by being in [~~brackets and stricken through~~]:

Title 17 - Zoning

Chapter 17.32 - DESIGN STANDARDS GENERALLY

17.32.060 Off-Street Parking in Residential Districts.

A. – I. *{Unchanged}*

J. Off-Street Parking in Residential Districts **AND FOR RESIDENTIAL USE PROPERTY IN THE TC (TOWN COMMERICAL) DISTRICT**.

1. This subsection applies to any property located in a residential zoning district **AND TO ANY PROPERTY USED FOR RESIDENTIAL PURPOSES IN THE TC (TOWN COMMERICAL) DISTRICT.**

2. **THE PARKING AND STORAGE OF NOT MORE THAN ONE UNREGISTERED OR INOPERABLE MOTOR VEHICLE IS PERMITTED PROVIDED THAT SUCH VEHICLE IS EFFECTIVELY SCREENED FROM ADJOINING PROPERTIES.**

[~~2.~~] **3.** A person may only park a motor vehicle on an impervious surface.

[~~3.~~] **4.** Except as otherwise provided in subsection [~~4.~~] **5.** of this section, a person may not park a restricted vehicle in a front yard.

[~~4.~~] **5.** The following are exempt from the prohibition of subsection [~~3.~~] **4.** of this section:

a. – c. *{Unchanged}*

SECTION II. BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect twenty (20) calendar days following its approval by the Burgess and Commissioners.

INTRODUCED ON THE _____ DAY OF _____, 2016

PASSED ON THE _____ DAY OF _____, 2016

EFFECTIVE DATE: _____, 2016

ATTEST:

_____
Andrew J. Bowen, Town Administrator

BURGESS AND COMMISSIONERS OF MIDDLETOWN

By:_____
John D. Miller, Burgess

- **ARTICLE I - GENERAL CORPORATE POWERS**

- **Section 101. - Incorporation**

The inhabitants of Middletown, Frederick County, Maryland, are hereby constituted a body corporate under the name and title of the "Burgess and Commissioners of Middletown" and by that name, shall have perpetual succession, sue and be sued, have and use a common seal which may be altered at pleasure, and shall have all of the powers incident to or may attach to a municipal corporation, and shall have and possess all the rights, powers, property and duties vested in and devolving upon the Burgess and Commissioners of Middletown except as the same may be changed by this Charter. The said Burgess and Commissioners of Middletown shall have the right to acquire property by gift, purchase, condemnation, or otherwise, and to dispose of the same by ordinance and legal conveyance.

(Amended by Resolution 99-06)

- **ARTICLE II - CORPORATE UNITS**

- **Section 201 - Boundaries**

The taxable limits of the Town Middletown shall be as they existed immediately prior to the date of this Charter, subject to all rights, reservations, limitations, and conditions as may be set forth in all prior resolutions of annexation and in the Charter of the town in effect immediately prior to this Charter, and as may be hereafter amended as provided by law. The courses and distances showing the corporate limits of the town shall be filed at all times with the Clerk of the Circuit Court for Frederick County and the Director of the Department of Legislative Services of the Maryland General Assembly. In addition, a copy of the courses and distances describing the corporate boundaries shall be on file in the town offices and available for public inspection during normal business hours.

(Amended by Resolution 99-06)

- **ARTICLE III - BURGESS AND COMMISSIONERS**

- **Section 301. - Numbers, Term, Selection**

All legislative powers of the town are vested in the burgess and five commissioners, the legislative body. The term in office of the burgess and commissioners shall be four years. The terms shall be staggered. Elections shall be held every even-numbered year. The next election for the burgess and two commissioners shall be in 2000 and the three remaining commissioners in 2002.

(Amended by Resolution 99-07)

- **Section 302. - Qualifications of Burgess and Commissioners**

The burgess and commissioners of Middletown shall have resided in Middletown for a least one year immediately preceding their election, shall be at least twenty-one years of age, and shall be qualified voters of said town.

- **Section 303. - Compensation of Burgess and Commissioners**

The burgess and commissioners shall receive as compensation for their respective services, to be paid out of the funds of the town, an annual salary which shall be as specified from time to time by an ordinance passed by the burgess and commissioners in the regular course of business; provided, however, that the salaries specified at the time the burgess and commissioners take office shall not be changed during the period for which they were elected. The ordinance making any change in salary paid to the burgess and the several commissioners, either by way of increase or decrease, shall be finally ordained prior to the municipal election for the next burgess and commissioners and shall take effect only as to such succeeding burgess and commissioners.

- **Section 304. - Meetings of Burgess and Commissioners**

The Burgess and Commissioners of Middletown may meet as often as occasion may require upon the business of the Town, at which meetings the Burgess shall preside, provided that the regular meeting shall be held on the second and fourth Monday of each month at such time as may be designated by the Burgess or such other day and time as may be designated for due cause by the Burgess.

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Field Code Changed

- **Section 305. - Quorum**

A majority of the legislative body shall constitute a quorum for the transaction of business, but no ordinance shall be approved without the favorable votes of a majority of the legislative body. For other business matters voted upon by the burgess and commissioners, unless for a specific action identified herein or by ordinance a different majority is required, a favorable vote of a majority of the members of the legislative body present and voting is required for passage.

Commented [DB1]: Is there any way to clear up this language? I think I get what it is saying, but the Board would like to make it clear to anyone who reads this. Not just attorneys.

(Amended by Resolution 99-07)

- **Section 306. - Procedure of Meetings**

The burgess and commissioners shall determine their own rules and order of business. They shall keep minutes of the proceedings of meetings and enter therein the yeas and nays and abstentions upon final action on any question, resolution, or ordinance, or at any other time if required by any one member. The minutes shall be open to the public for inspection.

- **Section 307. - Burgess Pro Tempore**

The commissioners, at their first meeting after each municipal election and qualifications, shall select one of their own number as burgess pro tempore, to act as burgess in the case of the temporary absence or indisposition of the burgess and who, while so acting, shall have and exercise all the powers of the burgess conferred by this charter.

- **Section 308. - Vacancies**

If, during the term for which they are elected, any of the five commissioners should die, resign, remove from the town or become non compos mentis, a special election shall be called by the burgess to fill the vacancy, at which election all persons qualified, as provided in this charter, shall be entitled to vote. In the event of the death, resignation, removal or disqualification of the burgess, the board of commissioners shall select one of their own body to serve as burgess until a special election is held.

- **Section 309. - When Elected Officials Take Office; Special Election for Filling of Vacancies**

The burgess and commissioners of Middletown shall take office on the Monday following their election. In the event of death, resignation or disqualification of the burgess or one or more commissioners more than three months prior to a regular election, the burgess and commissioners shall call a special election for the purpose of filling such vacancies.

- **Section 310. - Ordinances**

(a) No ordinance shall be passed at the meeting at which it is introduced. At any regular or special meeting of the burgess and commissioners held not less than six nor more than sixty days after the meeting at which an ordinance was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date. In cases of emergency the provision that an ordinance may not be passed at the meeting at which it is introduced may be suspended by the affirmative votes of all members of the legislative body present at that meeting, provided that a quorum exists.

(b) Every ordinance, unless it is passed as an emergency ordinance, shall become effective at the expiration of twenty calendar days following approval by the burgess and commissioners.

- **Section 311. - Files of Ordinances**

Ordinances shall be permanently filed by the town administrator and shall be kept available for public inspection.

(Amended by Resolution 99-08)

- **Section 312. - Violations of Ordinances**

A. Burgess and Commissioners shall have power to provide that violations of ordinances and resolutions authorized by this article shall be punishable as misdemeanors, but no penalty shall exceed a fine of one thousand dollars ($1,000.00) and imprisonment for six months. Imprisonment in default of fine and costs shall be regulated by the provisions of (ACM Article 23A, Section 3.)

B. 1. The Burgess and Commissioners may provide that violations of any municipal ordinance shall be a "municipal infraction" unless the violation is declared to be a felony or a misdemeanor by law or ordinance. In addition, the legislative body of a municipality may classify as a "municipal infraction": (i) A violation of any zoning or land use ordinance or regulation authorized to be adopted or enacted by that municipality; and (ii) littering within the municipality, as prohibited under Article 27, Section 468, of the Maryland Code. For purposes of this section a municipal infraction is a civil offense.

2. A fine not to exceed One Thousand Dollars ($1,000.00) may be imposed for each conviction of a municipal infraction. The fine is payable by the recipient of the citation to the Town of Middletown within 20 calendar days of receipt of the citation. If a person charged with an infraction fails to pay the fine by the date set forth in the citation, the Town may double the fine to an amount not-to-exceed One Thousand Dollars ($1,000.00). Repeat offenders may be assessed a fine not to exceed One Thousand Dollars ($1,000.00) for each repeat offense, and each day a violation continues shall constitute a separate offense.

(Amended by Resolution 99-08)

- **ARTICLE IV - GENERAL POWERS**

- **Section 401. - General Powers**

(a) The burgess and commissioners shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this charter as it may deem necessary for the good government of the town; for the protection and preservation of the town's property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger, or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of and visitors in the town.

(b) Specific Powers. The burgess and commissioners shall have, in addition, the power to pass ordinances not contrary to the Constitution and laws of this State, for the specific purposes provided in the remaining subsections of this section. This enumeration of powers shall be in addition to, not in substitution for, any power which may have been or may hereafter be granted.

(1) Animals. The burgess and commissioners shall prohibit the running at large of any animals.

(2) Appropriations. To appropriate municipal monies for any purpose within the powers of the burgess and commissioners.

(3) Buildings. To make reasonable regulations in regard to buildings and signs to be erected, constructed, or reconstructed in the town, and to grant building permits for them; to formulate a building code and a plumbing code and to appoint a building inspector and a plumbing inspector, and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure, and to require that such buildings and structures be made safe or be taken down, provided that the granting of building permits, the formulation and enforcement of building and planning, as well as inspection, may be delegated to the appropriate Frederick County office pursuant to an agreement.

(4) Codification. To provide for the codification of all ordinances which have been or may hereafter be passed.

(5) Cooperative Activities. To make agreements with other municipalities, counties, districts, bureaus, commissions, and governmental authorities for the joint performance of or for cooperation in the performance of any governmental functions.

(6) Finances. To levy and collect ad valorem property taxes and other municipal taxes permitted by law; to expend municipal funds for any public purpose; to have general management and control of the finances of the town; to appropriate municipal monies for any purpose within the powers of the burgess and commissioners; to borrow money in accordance with the provisions of this charter.

(7) Fire. To contribute funds to volunteer fire companies serving the town; to inspect buildings for the purpose of reducing fire hazards; to forbid and prohibit the use of fire-hazardous buildings and structures; to regulate or prevent the use of bonfires, explosives, or any other similar matters which may endanger persons or property; to take all other measures necessary to control and prevent fire in the town.

(8) Franchises. To grant and regulate franchises to water companies, electric light companies, gas companies, transit companies, taxicab companies, and any others which may be deemed advantageous and beneficial to the town, subject, however, to the limitations and provisions of Articles 23 and 78 of the Annotated Code of Maryland (1957 edition, as amended). No franchise shall be granted for a longer period than fifty years.

(9) Health. To protect and preserve the health of the town and its inhabitants; to regulate, inspect, and abate any buildings, structures, or places which cause or may cause any unsanitary conditions or conditions detrimental to health. To compel the owner or occupant of any premises, building or other structure located in the town, when the same has become filthy or unwholesome, to abate or cleanse the condition; and after reasonable notice to the owners or occupants to authorize such work to be done by the town at the owner's expense, such expense to constitute a lien upon the property collectible as tax monies. Provided, however, that the exercise of these powers shall not be construed to affect in any manner any of the powers and duties of the State Board of Health, the County Board of Health, or any public general or local law relating to the subject of health.

(10) House Numbers. To regulate the numbering of houses and lots and to compel owners to renumber them, or in default thereof to authorize and require the work to be done by the town at the owner's expense, such expense to constitute a lien upon the property collectible as tax monies.

(11) Licenses. Subject to any restrictions imposed by the public general laws of the State, to license and regulate all persons beginning or conducting transient or permanent business in the town for the sale of any goods, wares, merchandise, or services; to license and regulate any business, occupation, trade, calling, or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of this charter.

(12) Nuisances. To prevent or abate by appropriate ordinance all nuisances in the town which are so defined at common law, or by the laws of the State of Maryland, whether the same be herein specifically named or not; to regulate, to prohibit, to control location of, or to require the removal from the town of all trading in, handling of, or manufacture of any commodity which is or may become offensive, obnoxious, or injurious to the public comfort or health.

(13) Obstructions. To remove all nuisances and obstructions from the streets lanes and alleys and from any lots adjoining thereto, or any other places within the limits of the town.

(14) Parking Facilities. To license and regulate and to establish, obtain by purchase, by lease or by rent, own, construct, operate, and maintain parking lots and other facilities for off-street parking.

(15) Parks and Recreation. To establish and maintain public parks, gardens, playgrounds, and other recreational facilities and programs to promote the health, welfare, and enjoyment of the inhabitants of the town.

(16) Planning and Zoning. To exercise the power as to planning and zoning, conferred upon municipal corporations generally in Article 66B of the Annotated Code of Maryland (1957) edition, as amended) subject, however, to the limitations and provisions of said article.

(17) Police Force. To establish, operate, and maintain a police force.

(18) Police Powers. To enforce all laws of the city and state equally within the limits of the city.

To enforce all ordinances relating to disorderly conduct and the suppression of nuisances equally within the limits of the city and beyond those limits for one half mile or for so much of this distance as does not conflict with the powers of another municipal corporation.

(19) Property. To acquire by conveyance, purchase or gift, real or leasable property for any public purposes; to erect buildings and structures thereon for the benefit of the town and its inhabitants; and to convey any real or leasehold property when no longer needed for the public use, after having given at least twenty days' public notice of the proposed conveyance; to control, protect and maintain public buildings, grounds and property of the town.

(20) Regulations. To adopt by ordinance and enforce within the corporate limits, police, traffic, speed, parking, and other similar regulations not in conflict with the laws of the State of Maryland or with this charter.

(21) Sidewalks. To construct, maintain, and improve sidewalks and regulate the use of sidewalks and all structures in, under or above the same; to require the owner or occupant of premises to keep the sidewalks in front thereof free from snow or other obstructions; to prescribe hours for clearing and cleaning sidewalks.

(22) Streets. To construct, maintain and improve the streets and to control the public ways of the town; to erect and maintain bridges; to provide for the lighting of the town.

(23) Trespassing. To adopt ordinances for the control and punishment of trespassing.

(24) Water and Sewer. To provide for the establishment, regulation and management of a water and sewer department to furnish water and sewer services to the town and to all its residents, to fix and establish rates or charges for the water and sewer services and to provide for the collection and enforcing payments of water and sewer bills and all other related charges.

- **Section 402. - Exercise of Powers**

For the purpose of carrying out the powers granted in this article or elsewhere in this charter, the burgess and commissioners may pass all necessary ordinances. All the powers of the town shall be exercised in the manner prescribed by this charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

- **ARTICLE V - REGISTRATION, NOMINATION AND ELECTIONS**

- **Section 501. - Voters**

The citizens of Middletown of the age of eighteen years and upwards, being citizens of the United States, shall be entitled to vote, provided that they have registered as provided in this charter, at any election for burgess and commissioners or any other municipal election in the town.

(Amended by Resolution 99-09)

- **Section 502. - Registration**

The registration of eligible voters residing within the corporate limits of Middletown shall be conducted by the Frederick County Election Board following universal registration procedures as authorized by ACM Article 33, Section 3-2(d). A public notice to this effect will be posted at the Middletown Municipal Center at least 60 days prior to an election. In order to vote in an election, a voter must be registered at least 15 days prior to the election, including weekends and holidays.

(Amended by Resolution 99-09)

- **Section 503. - Nominations**

The burgess of Middletown shall, at least forty days before the time of election in each election year, issue a call for a nominating convention, to be composed of the residents of the town who may attend the same, and who shall be entitled to vote in the coming election. The nominating convention shall be held at some public place in the town, to be designated by the burgess, notice of which shall be published in a newspaper of general circulation in the town at least four days prior to the time of the holding of such convention, giving the time and place thereof which convention shall be held not later than thirty days prior to the date of election.

The convention shall nominate not less than one nor more than two candidates for burgess and not less than one nor more than two candidates for each commissioner's position to be voted upon at the forthcoming election.

If more than two candidates are nominated for the position of burgess or two candidates for each commissioner's position, then a paper ballot vote will take place at the convention. The most votes will determine which candidate will be nominated by the convention.

Commented [DB2]: This is what have been doing as long as I have been here, but the Board would like to have the details in the charter. Feel free to change the wording, I just wanted you to get the idea.

Each aspirant for the office of burgess or commissioner in the town who shall not have been nominated by the nominating convention may file with the town administrator, not later than twenty days before the election, excluding Sunday, nominating papers for the office for which they may be aspiring, in writing, signed by at least forty of the qualified voters of the town. No signature shall be counted if it shall appear upon the nomination papers of more than one candidate for the office of burgess or more than the exact number of candidates for commissioner to be voted on at that election.

Only those persons nominated by the convention or by the petition shall be considered valid candidates for municipal office. Only the votes for candidates so nominated shall be counted.

(Amended by Resolution 99-09)

- **Section 504. - Election of Burgess and Commissioners**

Elections for the burgess and commissioners of Middletown shall be held biennially on the first Monday of April, between the hours of 7:00 a.m. and 8:00 p.m. every even-numbered year.

On the first Monday in April, 2000, and on the same day every four years thereafter, the qualified voters of the town shall elect a burgess and two commissioners to serve for a term of four years.

On the first Monday in April, 2002, and on the same day every four years thereafter, the qualified voters of the town shall elect three commissioners. Said three commissioners shall serve for a term of four years.

The burgess and commissioners shall at least fourteen (14) days prior to any scheduled election appoint two or more persons to serve as election judges on the day of the election.

(Amended by Resolution 99-09)

- **Section 505. - Ballots**

The town administrator, shall prepare, for each town election, a ballot containing the names of all persons nominated. The ballot shall be prepared and printed under the direction and supervision of the town administrator and shall be supplied at the election to voters desiring to vote. Such ballots shall be official ballots and shall be distributed only to the voters as they present themselves to the election officials on the day of the election. Such ballots shall be immediately used by the voter and shall not be removed from the voting room, except after they are counted by the election officials. No other ballots shall be used or permitted to be used at such election, although specimen ballots may be printed by the town administrator by any candidate or other citizens for circulation prior to the election. Any ballot used in the election other than the official ballot prepared by the register and supplied by the election officials to the voters shall be null and void and shall not be counted.

Persons desiring to vote shall make a clear and distinct mark after the name of the person on the ballot for whom they desire to vote. In no event shall a voter vote for more than one candidate for burgess and more than two or three candidates for commissioner, depending on the election year.

(Amended by Resolution 99-09)

- **Section 506. - Absentee Ballots**

(a) Any qualified voter registered to vote in Middletown is entitled to vote in any municipal election by absentee ballot.

(b) The town administrator shall mail absentee ballots to qualified voters, at the request of those voters, not less than ten days prior to the elections.

(Amended by Resolution 99-09)

- **Section 507. - Vote Count**

Immediately after the closing of the polls, the election judges shall determine all the votes cast, including regular and absentee ballots, for each candidate or question and shall certify the results of the election to the burgess

and commissioners of the town who shall record the results in their minutes. Only the votes for candidates nominated under the provisions of Section 503 above shall be counted.

Commented [DB3]: Not sure this is the section, but the Board wants to add a section that identifies the procedure in the event of a tie vote. I would ask you to provide language for a special runoff election within 30 days. Also I believe there was something the General Assembly passed this past session that requires all municipalities to have provisions for tie votes.

(Amended by Resolution 99-09)

- **Section 508. - Preservation of Ballots**

All ballots and records used in any town election shall be preserved for at least six months from the date of the election.

- **Section 509. - Election to Comply with Ordinances of Town**

All town elections shall be held and conducted as shall from time to time be directed by the ordinances of the town not inconsistent with this article.

- **ARTICLE VI - FINANCE**

- **Section 601. - Fiscal Year**

The town shall operate on an annual budget. The fiscal year of the town shall begin on the first day of July and shall end on the last day of June in each year. Such fiscal year shall constitute the tax year, the budget year, and the accounting year.

- **Section 602. - Operating Budget**

The burgess shall prepare and submit an operating budget to the commissioners at least sixty-two days before the beginning of any fiscal year. The budget shall provide a complete financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures for the coming year. The total of the anticipated revenues shall equal or exceed the total of the proposed expenditures. The budget shall be a public record in the office of the town administrator, open to public inspection by anyone during normal business hours.

Deleted: <#>thirty-two

(Amended by Resolution 99-10)

- **Section 603. - Operating Budget Adoption**

Before adopting the operating budget the burgess and commissioners shall hold a public hearing on the matter after notice in a newspaper having general circulation within the town. The burgess and commissioners may insert new items or may increase or decrease the items of the budget. Where the burgess and commissioners shall increase the total proposed expenditures they shall also increase the total anticipated revenues in an amount at least equal to such total proposed expenditures. The budget shall be prepared and adopted in the form of a resolution. A favorable vote of a majority of the legislative body shall be necessary for adoption.

(Res. No. 10-02, § 1, 3-8-2010; Amended by Resolution 99-10)

- **Section 604. - Transfer of Funds**

Any transfer of funds between major appropriations for different purposes must be approved by the burgess and commissioners before becoming effective.

- **Section 605. - Appropriations Lapse After One Year**

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered. Any unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year.

- **Section 606. - Checks**

All checks issued in payment of salaries or other municipal obligations shall be signed by both the town administrator and the burgess. In the absence of either one, such checks may be signed by the one not absent and one other person who shall be or who shall have previously been designated to do so by the burgess and commissioners.

(Res. No. 10-02, § II, 3-8-2010)

- **Section 607. - Taxable Property**

All real property and/or business personal property within the corporate limits of the town shall be subject to taxation for municipal purposes. The assessment used for municipal taxation shall be the same as that for state and county taxes. No authority is given by this section to impose taxes on property which is exempt from taxation by any Act of the General Assembly.

- **Section 608. - Budget Authorized Levy**

From the effective date of the budget, the amount stated there as the amount to be raised by the property tax shall constitute a determination of the amount of the tax levy in the corresponding tax year.

- **Section 609. - Notice of Tax Levy**

Each year after the tax levy is made, a bill or account of the taxes due from him or her shall be mailed or delivered in person to each taxpayer or his agent at his last known address. This bill or account shall contain a statement of the amount of real estate property and/or business personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due, and the date on which the taxes will bear interest. Failure to give or receive notice required by this section shall not relieve any taxpayer of the responsibility to pay on the dates established by this charter all taxes levied on his property.

- **Section 610. - When Taxes are Overdue**

The Real Property taxes provided for in Section 609 of this charter shall be due and payable on the first day of July in the year for which they are levied and shall be overdue and in arrears on the first day of the

following October. They shall bear interest while in arrears at the rate prescribed by law for each month or fraction of a month until paid. All taxes not paid and in arrears after the first day of the following March may be collected as provided in Section 611.

Business personal property taxes are due and payable upon receipt of the tax bill by the business upon which the tax was levied. Business personal property taxes are overdue and in arrears at the end of the third month following the date on which the personal property tax was levied. Business license application forms will not be approved by the town if a business' personal property tax is in arrears for the current or any prior year at the time the application is received. Business personal property taxes which are in arrears at the end of the ninth month may be collected as provided in Section 611.

(Amended by Resolution 99-10)

- **Section 611. - Sale of Tax Delinquent Property**

A list of all property on which the town taxes have not been paid and which are in arrears as provided by Section 610 of this charter shall be turned over by the town administrator to the official of the county responsible for the sale of tax delinquent property as provided in state law. All property listed thereon shall if necessary be sold for taxes by this county official, in the manner prescribed by state law.

- **Section 612. - Audit**

The financial books and accounts of the town shall be audited annually in a manner determined by the burgess and commissioners but not contrary to applicable state law.

- **Section 613. - Authorization to Borrow Money**

The burgess and commissioners shall have the power to borrow money for any proper public purpose and to evidence such borrowing by tax anticipation notes or by the issuance and sale of general obligation bonds, revenue bonds or bonds secured primarily by revenues from projects and secondarily by the general obligation of the town. The issuance of the tax anticipation notes and bonds shall be pursuant to the procedures of laws of the State of Maryland; however, when the burgess and commissioners determine it to be in the public interest, the tax anticipation notes and the bonds may be sold at a private negotiated sale and not at a public sale and when the burgess and commissioners decide to sell tax anticipation notes and bonds at a private negotiated sale, any advertising or public notice requirements for the sale of bonds need not be followed.

(Amended by Resolution 99-10)

- **Section 614. - Payment of Indebtedness**

The power and obligation of the town to pay any and all bonds, notes, or other evidences of indebtedness issued by it shall be unlimited and the town shall levy ad valorem taxes upon all the taxable property of the town for the payment of such bonds, notes, or other evidences of indebtedness and interest thereon. The faith and credit of the town is hereby pledged for the payment of the principal of and the interest on all bonds, notes, or other evidences of indebtedness, hereafter issued under the authority of this charter, whether or not such pledge be stated in the bonds, notes, or other evidences of indebtedness, or in the ordinance authorizing their issuance.

- **Section 615. - Previous Issues**

All bonds, notes, or other evidences of indebtedness validly issued by the town previous to the effective date of this charter and all ordinances passed concerning them are hereby declared to be valid, legal, and binding and of full force and effect as if herein fully set forth.

- **Section 616. - Purchasing and Contracts**

(a) Purchases for the town government shall be made under the direction of the burgess and commissioners. They shall have the power to provide by ordinance for rules and regulations regarding purchasing procedures such as the use of competitive bids.

(b) All contracts involving professional services such as accounting, architecture, auditing, engineering, law, planning, and surveying shall be negotiated by the burgess and commissioners.

- **Section 617. - Sale of Certain Town Property**

The burgess and commissioners of Middletown are hereby authorized and empowered to lease, sell or convey, as they may see fit, any property, real, personal or mixed, now owned by the town which, in the judgment of the burgess and commissioners, is no longer needed for town purposes.

- **ARTICLE VII - GENERAL PROVISIONS AND ADMINISTRATION**

- **Section 701. - Oath of Office of Town Officials**

The burgess of Middletown shall qualify by taking and subscribing the oath of office before the clerk of the circuit court for the county or before one of his sworn deputies. The commissioners and all other officers of the town, before entering upon the duties of their respective offices, shall severally take and subscribe before the burgess, the following oath: "I, _____, in the presence of Almighty God, do solemnly promise and declare that I will faithfully execute the office of _____ to the best of my knowledge and ability, without favor, affection or partiality."

If the persons elected burgess and commissioners shall fail to take the oath prescribed in this section within ten days after notice of their election shall have been communicated to them in writing by the person who, under the ordinances of the town, may be appointed to hold such election, such person so appointed, within five days thereafter, shall order an election to fill the vacancy caused by such failure to qualify.

- **Section 702. - Town Administrator**

The burgess and commissioners shall have power to hire a town administrator, assign his or her duties, and allow him or her compensation as they deem proper. This administrative and supervisory position is responsible for performing the variety of administrative, fiscal, and program duties involved in the day-to-day operation of the town, including serving as office manager, chief financial officer, grants administrator, contract administrator and public works administrator. He or she schedules, assigns and oversees the work of the town staff. The administrator shall receive and disburse, on the order of the burgess, all money

collected under any of the ordinances of the town. He or she shall give bond to the burgess and commissioners, with such security as they shall require. The administrator shall report to the burgess and commissioners annually, and as often as required by them, the financial condition of the town, with an account of all money received and expended.

(Amended by Res. No. 10-03, § I, 3-8-2010; Resolution 99-11)

- **Section 703. - Reserved**

Editor's note— Res. No. 10-03, § II, adopted Mar. 8, 2010, repealed § 703. Former § 703 pertained to water and sewer superintendent and was amended by Res. No. 99-11.

- **Section 704. - Appointments and Compensation**

The burgess and commissioners may appoint, or may abolish the appointment of, town officers and may add or abolish town employee positions as may be necessary to carry out the intent and objectives of this charter and town ordinances. The compensation for all such positions must be consistent with and stated in the town operating budget.

(Amended by Resolution 99-11)

- **Section 705. - Town Hall; Town Hall Commission**

The burgess and commissioners of Middletown may purchase and maintain public buildings for town purposes, for a community and town hall or for other related purposes, upon such terms and at such prices as may be fair and equitable in the judgment of the burgess and commissioners.

(Amended by Resolution 99-11)

- **ARTICLE VIII - PUBLIC WAYS AND SIDEWALKS**[m]

- **Section 801. - Definition of Public Ways**

The term "public ways" as used in this charter includes, but is not limited to, all public streets, avenues, roads, highways, public thoroughfares, lanes, and alleys.

(Res. No. 10-04, § I, 3-8-2010)

- **Section 802. - Improvements—Construction and Maintenance of Public Ways; Authority to Acquire Property and Assess Adjacent Property**

The town shall have power to provide for designing, opening, constructing, maintaining, improving, altering, extending, and abandoning the public ways within the town, and to provide for the installation of water and sewer lines and equipment in, under and along such public ways, and for curbing, street lighting, bridges, landscaping and other public amenities which is required by the public health, welfare, safety, comfort or

convenience. The town shall have the power to acquire by conveyance, purchase or condemnation any real or personal property, or any interest therein, which is needed for such public purposes; provided, however, that the exercise of the power of eminent domain shall be in accordance with the constitution and laws of the State of Maryland and with any procedures or requirements which may be established by the burgess and commissioners by ordinance.

The town shall have the power to provide for assessing all or any portion of the costs of any such work, either before or after the work has been done, upon the adjoining or abutting property and any other properties benefitted thereby on such basis as the burgess and commissioners may determine. The town may provide for the collection of such assessments in the same manner as other town taxes are collected, or by pursing an action at law or in equity, or in such other manner as may be established by ordinance. The imposition of any such assessment shall be made after holding a public hearing thereon. Notice of the date, time and location of the hearing and of the proposed assessment shall be published in a newspaper of general circulation in the town once a week for two successive weeks prior to the hearing. All persons interested may appear at the hearing and be given the opportunity to be heard before the amount assessed against them is finally established by the burgess and commissioners.

Any person or property owner feeling aggrieved by the decision of the burgess and commissioners shall have the right to appeal that decision to the circuit court for Frederick County in accordance with Title 7, Chapter 200 of the Maryland Rules of Procedure, and may have further appeal from the decision of the circuit court to the Maryland Court of Special Appeals.

Commented [DB4]: A question from one of my Commissioners, isn't this section a form of eminent domain?

(Res. No. 10-04, § I, 3-8-2010)

- **Section 803. - Improvements—Paving and Repair of Sidewalks**

The town shall have the power to have the sidewalks in the town paved and repaired at the expense of the owners of property abutting or adjacent thereto and may direct how and with what materials the same shall be paved or repaired. The town may provide for the collection of such expenses in the same manner as other town taxes are collected, or by pursing an action at law or in equity, or in such other manner as may be established by ordinance.

(Res. No. 10-04, § I, 3-8-2010)

- **Section 804. - Authority to Pass Ordinances**

The burgess and commissioners may pass any ordinances deemed necessary and proper for the exercise and enforcement of the powers granted in this Title.

(Res. No. 10-04, § I, 3-8-2010)

Drew Bowen

From:	John R. Clapp <johnrclapp@verizon.net>
Sent:	Thursday, July 28, 2016 4:01 PM
To:	Drew Bowen
Subject:	Re: Middletown - Charter Changes
Attachments:	Proposed Charter Amendments.docx

Drew:

I have attached a paper that contains some proposed language for Charter amendments and answers the question about eminent domain. I thought this might be an appropriate first step before I prepare the actual resolutions. And, yes, it is a resolution for Charter amendments.

I did a whole re--write of section 305 - so that, hopefully, a JD degree is not required to interpret it. It provides that a quorum must be present to transact business and that for most matters, once a quorum is present, a majority vote of those present and voting is all that is required for approval. The exception is for ordinances and charter and annexation resolutions. Originally, section 305 only excepted ordinances; however, annexations are done by resolution, so I thought it best to include them. Charter amendments are also done by resolution, but state law requires a majority of the legislative body to approve them - so this may be redundant.

Section 507 has my added language in bold caps. This is just my language and I'm not wedded to it, but I thought it covered the bases. And, yes, there is a new Maryland law re: tie votes which becomes effective Oct 1. The new state law provides that any vacancy created by a tie vote must be filled by the municipality within 90 days of the tie-vote election. This will generally be accomplished by the run-off election within 30 days; however, if for some reason the run-off election(s) continue to result in a tie vote, or for some reason the tie isn't officially broken, somehow that vacancy will have to be filled by "the municipality". The new law doesn't say how, but I suspect if it isn't done by election, the Burgess and Commissioners will have to appoint someone to fill the vacancy within 90 days. (Why this is such an issue that our General Assembly had to take the time and effort to address is, I don't know. I can't imagine this comes up much.)

Section 802 - I hope this answers the Commissioner's questions. As usual, probably more wordy that I should have been.

If the Board and Burgess are OK with this language, I can prepare the final resolutions. One thing to be aware of. Each section being amended will require a separate resolution. State law provides that each charter amendment "shall embrace one subject only". In my view, this requires separate resolutions. Also, since a charter amendment can be brought to referendum, it may be that the voters will approve of one change but not others. If all the changes are in one resolution, that means even the approved changes would have to be brought to a referendum even if only change was objectionable. So, four sections, four resolutions.

John

PROPOSED CHARTER AMENDMENTS

Section 304 – Meetings. - Change will be made.

Section 305. – Quorum (NEW)

A MAJORITY OF THE LEGISLATIVE BODY SHALL CONSTITUTE A QUORUM, AND A QUORUM IS REQUIRED FOR THE TRANSACTION OF BUSINESS. UNLESS A DIFFERENT MAJORITY IS REQUIRED BY CHARTER, ORDINANCE OR OTHER LAW, BUSINESS MATTERS COMING BEFORE THE LEGISLATIVE BODY SHALL BE APPROVED BY THE FAVORABLE VOTE OF A MAJORITY OF THE MEMBERS PRESENT AND VOTING. ORDINANCES, CHARTER RESOLUTIONS AND ANNEXATION RESOLUTIONS MUST BE APPROVED BY A FAVORABLE VOTE OF THE ENTIRE LEGISLATIVE BODY.

Section 507 - Vote Count

Immediately after the closing of the polls, the election judges shall determine all the votes cast, including regular and absentee ballots, for each candidate or question and shall certify the results of the election to the burgess and commissioners of the town who shall record the results in their minutes. Only the votes for candidates nominated under the provisions of Section 503 above shall be counted. **IN THE EVENT OF A TIE-VOTE IN THE ELECTION OF ANY OFFICE OR ISSUE, A RUN-OFF ELECTION SHALL BE HELD WITHIN THIRTY DAYS OF THE DATE OF THE INITIAL ELECTION. NOTICE OF THE DATE AND TIMES OF THE RUN-OFF ELECTION SHALL BE PROVIDED BY THE BURGESS AND COMMISSIONERS IN A MANNER GENERALLY USED BY THE TOWN TO PROVIDE PUBLIC NOTICES. THE LOCATION OR LOCATIONS FOR VOTING IN THE RUN-OFF ELECTION AND THE IDENTITY OF THE CANDIDATES OR ISSUE SHALL BE INCLUDED IN THE NOTICE. THE PROCEDURES FOR CONDUCTING THE RUN-OFF ELECTION PROCEDURE AND CERTIFYING THE RESULTS SHALL BE THE SAME AS FOR THE INITIAL ELECTION. A VACANCY IN AN OFFICE RESULTING FROM A TIE VOTE SHALL BE FILLED WITHIN 90 DAYS OF THE DATE OF THE ELECTION WHICH CREATED THE VACANCY.**

Section 602 - **Operating Budget** - Change will be made.

Section 802 - Question re: whether this section is a form of eminent domain.

This section deals with two separate types of actions. The first paragraph does address eminent domain, or condemnation. The State has enacted enabling legislation which authorizes municipalities to acquire by conveyance, purchase, or condemnation any real or leasehold property needed for a public purpose. *Local Government* Article, Section 5-204(c)(1). Section 802 is the Town's acceptance of that authority. The first sentence authorizes the Town to take measures to deal with infrastructure matters, i.e., sewers, waterlines, curbing, bridges, etc. The second sentence authorizes the Town to use eminent domain, if necessary, to acquire any property needed in furtherance of those infrastructure, or other, projects. The caveat is, of course, that the exercise of the power of eminent domain has to be in accordance with law. Some of those legal requirements are that the acquisition has to be for a public purpose and the Town has to pay "just compensation" for the property it acquires.

The second paragraph deals with Special Assessments, sometimes called "front-foot charges" or "special benefit assessments". This isn't eminent domain, but they sometimes go hand-in-hand with condemnation proceedings. These benefits are assessed against landowners whose property adjoins a public improvement, usually a road or a sidewalk. For instance, if a new road with curbing and sidewalk in installed in front of a person's property, the idea of the assessment is that the value of the person's property is increased because of this improvement. A property with a dirt road in front of it is not as valuable as one with an asphalt road with curb, gutter and sidewalk. So the landowner is assessed a fee based upon the increase in the value of the property. The amount is sometimes a pro rata amount based upon the overall cost of the project vs. how much road frontage the person has on the project – hence "front-foot benefit" charge. This section simply authorizes the Town to do this and outlines a procedure for imposing the assessment (notice, hearing). They are collected in the same manner as taxes. It is not, however, eminent domain.

The third paragraph may be a problem. It provides for an appeal from any action of the burgess and commissioners using the provisions in the Maryland Rules of Procedures (applicable to Courts). The section of the Rules referred to (Title 7, Chapter 200) are the rules which pertain to appeals from administrative decisions, like the Board of Appeals or rezoning decisions. This section, however, provides for appeals from decisions of the B&C – which in this case would relate not only to the Special Assessment but also to condemnation actions. There are already state procedures in place for appeals from condemnation actions. And they are not administrative appeals under this Rule. I think it somewhat unusual to have an appeal from the assessment made under the rules pertaining to appeals from administrative agencies. But, I'd have to research this one further to see if it is appropriate to have appeals from these decisions pursuant to these Rules.

RECOMMENDED CHANGES TO THE MUNICIPAL CODE July 25, 2016

CHANGE ONE—Planning Commission Membership

2.16.020 - Composition.

The commission shall consist of five members appointed by the burgess with confirmation by the commissioners, each to serve five years, or until a successor takes office. In addition, the burgess and commissioners may designate [AN ALTERNATE AND SECOND ALTERNATE] members to the commission who may sit on the commission in the absence of any member of the commission. When the alternate is absent, the [SECOND] alternate [WILL SIT] on the commission. The alternate and [SECOND] alternate will serve for five years from the date of original appointment.

(Ord. 99-09-02 § 1, 1999; prior code § 2-2102)

Commented [DB1]: I believe the intent of the Town Board is to avoid using the language of Alternate and Temporary Alternate. Not sure if this is governed by 66B (or whatever it is now).

CHANGE TWO—Standing Committees of the Town

2.04.030 – Standing Committees

A. There is established the following standing committees which shall be appointed by [the Burgess with approval by the Commissioners] and report to the burgess and commissioners:

Commented [DB2]: I believe the intent is to make this section the same as Section 2.16.020

1.Water and Sewer committee;

2.Public Works committee;

3.Parks and Recreation committee;

4.[SUSTAINABILITY] committee;

Commented [DB3]: New Standing Committee

[5.Revitalization committee;] DELETE

Commented [DB4]: Standing Committee hasn't functioned in years. Was basically replaced by the Main Street Board.

6.Public Information committee.

B.The chairperson of each standing committee shall be a currently-serving town commissioner.

(Ord. 06-05-01 § 1, 2006; Ord. 01-11-01, 2001; Ord. 00-04-02, 2000; Ord. 99-09-02 § 3, 1999; prior code § 2-2301)

Drew Bowen

From: John R. Clapp <johnrclapp@verizon.net>
Sent: Wednesday, July 27, 2016 5:34 PM
To: Drew Bowen
Subject: Re: Middletown - Code Changes
Attachments: Ordinance.Planning Commission Alternates.2016.docx

Drew: See attached Ordinance.

Comments:

I made a few stylistic changes to, I think, make the revised ordinances read a bit more clearly.

2.04.030:
On the version you sent me, the Finance Committee was not included. Did the Board intend to eliminate that? It wasn't mentioned so I left it in and simply replaced the Revitalization Committee with the Sustainability Committee.

I took out "currently serving town commissioner" in subsection B and replaced it with "member of the board of commissioners". When it says "then-serving" does that mean "then" when the original ordinance was passed or "then" meaning "the present"? I just thought this eliminated this possible question.

2.16.020
I changed the language from the version you sent me to, hopefully, make it clear in what order the alternate members will sit on the PC.
I left in provisions pertaining to a temporary person because the State Code provides for this. A temporary member is not required, but the town may use one. Specifically, the state code reads:

(f) Municipal alternates. --

(1) The legislative body may designate one or more alternate members to sit on the planning commission in the absence of any member of the commission.

(2) If an alternate member is absent, the legislative body may designate a temporary alternate member to sit on the planning commission.

If the Board doesn't want to provide for a temporary person, we can change this; however, it might occur that a member of the PC is absent and so are both alternates. This gives the Board an opportunity to appoint a person just for that one meeting. The temporary person is just sort of a "one-nighter". They wouldn't be appointed in advance or have a term of office like the alternates do but would just be appointed as the need arises.

I also changed the language re: the terms of office for the alternates. I thought it might be confusing to have a term of office run from the date of the ORIGINAL appointment. For instance, a PC alternate member might

have 2, 3 or 4 separate terms of office if they keep getting re-appointed. But, the length of the term of their 2nd or subsequent terms would not extend from the ORIGINAL appointment because the original appointment which would be from the beginning of the first term.

Let me know if you want this revised further.

John

John R. Clapp
Clapp & Carper, LLC
5235 Westview Drive
Suite 100
Frederick, Maryland 21703
(301) 694-9700
johnrclapp@verizon.net
-------Original Message-------

ORDINANCE NO. _____

AN ORDINANCE TO AMEND TITLE 2 "ADMINISTRATION AND PERSONNEL" OF THE MIDDLETOWN MUNICIPAL CODE BY AMENDING CHAPTER 2.04, SECTION 2.04.030 PERTAINING TO STANDING COMMITTEES AND SECTION 2.16.020 PERTAINING TO THE PLANNING COMMISSION; TO PROVIDE THAT THE MEMBERS OF STANDING COMMITTEES SHALL BE APPOINTED BY THE BURGESS AND CONFIRMED BY THE BOARD OF COMMISSIONERS; TO ELIMITATE THE REVITALIZATION COMMITTEE AND TO ESTABLISH THE SUSTAINABILITY COMMITTEE; TO PROVIDE FOR BOTH A FIRST ALTERNATE TO THE PLANNING COMMISSION AND A SECOND ALTERNATE TO THE PLANNING COMMISSION; TO ESTABLISH THE ORDER IN WHICH THE FIRST AND SECOND ALTERNATE MEMBERS OF THE PLANNING COMMISSION SHALL SIT ON THE PLANNING COMMISSION; TO MAKE STYLISTIC AND GRAMMATICAL CHANGES.

SECTION I. BE IT ORDAINED AND ENACTED by the Burgess and Commissioners of the Town of Middletown, Maryland that Title 2, Chapter 2.04, Section 2.04.030 of the Middletown Municipal Code be, and hereby is, amended as follows. New language is designated by being in **BOLD CAPITAL LETTERS**. Language being deleted is designated by being ~~[in brackets and stricken through.]~~:

TITLE 2 – ADMINISTRATION AND PERSONNEL

Chapter 2.04 - THE BURGESS AND COMMISSIONERS

2.04.030 - Standing committees.

A. There is established the following standing committees, **THE MEMBERS OF** which shall be appointed by **THE BURGESS AND CONFIRMED BY THE BOARD OF COMMISSIONERS. EACH SUCH COMMITTEE SHALL** ~~[and]~~ report to the burgess and commissioners:

1. Water and sewer committee;

2. Public works committee;

3. Parks and recreation committee;

4. [~~Finance~~] **SUSTAINABILITY** committee;

[~~5. Revitalization committee;~~]

[~~6.~~] **5.** Public information committee.

B. The chairperson of each standing committee shall be a [~~currently serving town commissioner~~] **MEMBER OF THE BOARD OF COMMISSIONERS**.

SECTION II. BE IT ORDAINED AND ENACTED by the Burgess and Commissioners of the Town of Middletown, Maryland that Title 2, Chapter 2.16, Section 2.16.020 of the Middletown Municipal Code be, and hereby is, amended as follows. New language is designated by being in **BOLD CAPITAL LETTERS**. Language being deleted is designated by being [~~in brackets and stricken through.~~]:

TITLE 2 – ADMINISTRATION AND PERSONNEL

2.16 Planning Commission

2.16.020 - Composition.

The commission shall consist of five members appointed by the burgess with confirmation by the commissioners, each to serve five years, or until a successor takes office. In addition, the burgess and commissioners may designate [~~one~~] **A FIRST** alternate member to the commission **AND A SECOND ALTERNATE MEMBER TO THE COMMISSION. THE FIRST ALTERNATE MEMBER** [~~who~~] may sit on the commission in the absence of any

member of the commission, **AND THE SECOND ALTERNATE MEMBER MAY SIT ON THE COMMISSION IN THE ABSENCE OF BOTH A MEMBER OF THE COMMISSION AND THE FIRST ALTERNATE MEMBER.** When **BOTH** the **FIRST AND SECOND** alternate **MEMBERS ARE** ~~[is]~~ absent, the burgess and commissioners may designate a temporary alternate to sit on the commission. The **FIRST AND SECOND** alternate **MEMBERS** ~~[and temporary alternate]~~ will serve for five years from the date of **THEIR** ~~[original]~~ **RESPECTIVE** ~~[appointment]~~ **APPOINTMENTS.**

SECTION III. BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect twenty (20) calendar days following its approval by the Burgess and Commissioners.

INTRODUCED ON THE _____ DAY OF _____, 2016

PASSED ON THE _____ DAY OF _____, 2016

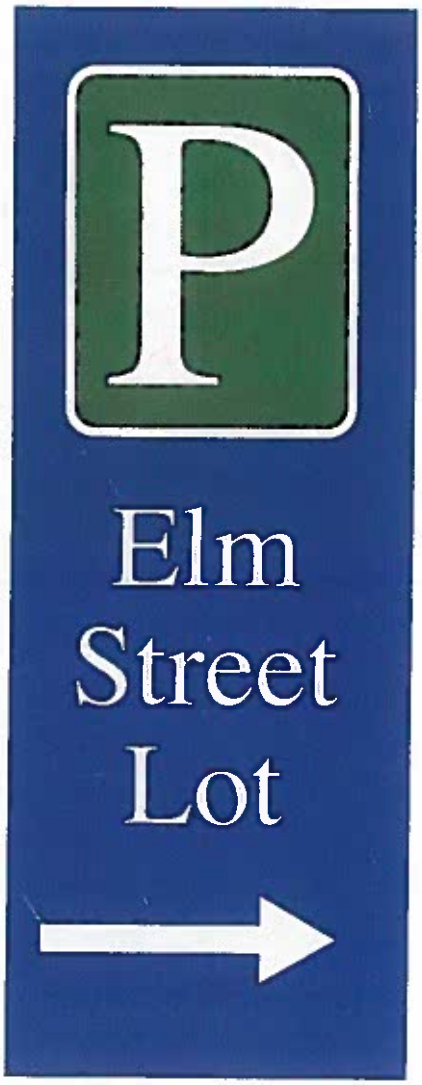
EFFECTIVE DATE: _____, 2016

ATTEST:

BURGESS AND COMMISSIONERS OF MIDDLETOWN

_____
Andrew J. Bowen, Town Administrator

By:_____
John D. Miller, Burgess



Double-sided Banners on p
directional arrows as approp

Finished size: 18" w x 46" h

Burgess and Commissioners of Middletown, Maryland

Road Patching Contract 2017 COST BY PRIORITY AREAS
Town of Middletown

				CJ Miller Priority 1 Areas			CJ Miller Priority 2 Areas	
Item	Description	Unit	Qty	Unit Price	Total Price	Qty	Unit Price	Total Price
1	Removal of Unsuitable Material	CY	20	$ 29.00	$ 580.00	0	$ 29.00	$ -
2	Backfill for Unsuitable Material	CY	20	$ 44.00	$ 880.00	0	$ 44.00	$ -
3	Aggregate Base for Patching 6"d	SY	538.8	$ 22.75	$ 12,257.70	72.7	$ 22.75	$ 1,653.93
4	Hot Mix Asphalt Base 4"d for Patch	SY	568.7	$ 32.20	$ 18,312.14	72.7	$ 32.20	$ 2,340.94
5	Hot Mix Asphalt Surf. 2"d for Patch	SY	579.1	$ 21.00	$ 12,161.10	504.4	$ 21.00	$ 10,592.40
6	Mobilization	LS	1	$ 13,000.00	$ 13,000.00	0	$ 13,000.00	$ -
7	Pavement Milling 2"d	SY	0	$ 28.00	$ -	504.4	$ 28.00	$ 14,123.20
8	Pavement Milling 2"d Contingent	SY	0	$ 28.00	$ -	0	$ 28.00	$ -
9	Concrete Curb and Gutter up to 18" pan	LF	0	$ 93.00	$ -	0	$ 93.00	$ -
10	Excavate 4" Franklin St	SY	0	$ 13.00	$ -	0	$ 13.00	$ -
11	HMA 2" Base	SY	0	$ 18.00	$ -	0	$ 18.00	$ -
12	Wedge and Level	TN		$ 100.00	$ -		$ 100.00	$ -
					$ -			$ -
					$ -			$ -
					$ -			$ -
					$ -			$ -
					$ -			
	Priority 1 Area Cost				$ 57,190.94	Priority 2 Area Cost		$ 28,710.47

Striping				
East Green St	Centerline	3,558		
	Lane Line	1,450		
	Edge	7,116		
Parkway	Centerline	2,845		
	Lane Line	1,400		
	Edge	5,690		
Franklin	Centerline	2,778		
	Lane Line	1,200		
	Edge	5,556		
Double yellow	LF	9,181	$ 0.50	$ 4,590.50
White Edge / Lane or skip	LF	22,412	$ 0.30	$ 6,723.60
				$ 11,314.10

Patching		
Priority 1 Patches		$ 57,190.94
Priority 2 Patches		$ 28,710.47
	All Areas	$ 85,901.41

Total Cost		
	Striping	$ 11,314.10
	Patching Cost	$ 85,901.41
	Total Cost	**$ 97,215.51**

Funding Recommendation	
General Fund FY 2017 Budget	$ 53,000.00
FEMA Reimbursement - Blizzard	$ 24,542.60
Deputy Contract Savings	$ 12,227.00
	$ 89,769.60
Surplus/Deficit	**$ (7,445.91)**

TOWN OF MIDDLETOWN
ROAD PATCHING LOCATIONS FY 2017

LOCATION	DESCRIPTION	SIZE (FT) L	W	AREA (SY)	PRIORITY
24 Young Branch Drive Joint	FD	30	4	13.3	1
226 Broad St	FD	12	7.33	9.8	1
226 Broad St	FD	20	8	17.8	1
3 Linden Blvd	water line repair no stone	10	8	8.9	1
3 Linden Blvd	Surface only gutter	10	9.33	10.4	1
208 Lombardy Ct	FD	29	11	35.4	1
210 Lombardy	FD	29	12	38.7	1
Lombardy near Locust Int	FD	29	6	19.3	1
EWWTP driveway	FD	43	8	38.2	1
EWWTP driveway	FD	9	4	4.0	1
EWWTP driveway	FD	69	9	69.0	1
EWWTP driveway	FD	10	1	1.1	1
16 Caroline Drive	FD	37	21	86.3	1
1 Cone Branch Dr	FD	22	4	9.8	1
1 Cone Branch Dr	FD	16	11	19.6	1
intersection Rod Circ and Mina Dr	Waterline	12	12	16.0	1
Int E Green and Martha Mason	waterline repair no stone	27	8	24.0	1
102 E Green St	development area FD	36	16	64.0	1
102 E Green St	development area FD	11	9	11.0	1
102 E Green St	development area FD	53	14	82.4	1
102 Manda Dr	2" mill and overlay	135	15	225.0	2
102 Manda Dr	2" mill and overlay	30	15	50.0	2
1 Smithfield Dr	2" mill and overlay	83	17	156.8	2
1 Woodmere Circle	FD	8	8	7.1	2
30 E Green St	FD	14	13	20.2	2
30 E Green St	FD	51	8	45.3	2

Maryland State Highway Administration
Special Event Permit – Data Sheet

Event: YMCA of Frederick County - Women's Sprint Triathlon

Start Date: Sunday, September 25, 2016 End Date: Same

Start Time: 7:00 am End Time: 11:00 am

Purpose/Type: Triathlon

Organizer: YMCA of Frederick County

Contact Person and Address: Judy Couillard, 1000 North Market St. Frederick, MD 21701

Daytime Phone: 301-663-5131 ext. 1258

Evening Phone: 240-457-1105

Email Address: JCouillard@frederickymca.org

No. of Participants: 200-300 No. of Vehicles/Units: Ø Rain/Snow Date: none

Proposed Route: See attached.
(Written Description)

Will you be occupying all or part of a highway travel lane? No _____ Yes ✓

Will you be closing all or part of a roadway? No ✓ Yes _____

If Yes to either of the above, where? MD Route 17 North from East Green St. to Harmony Rd, Route 40 between Harmony Rd and Hollow Rd, US-ALT 40 from Hollow Rd to Cone Branch Rd.

Have you requested Local Police assistance?* No _____ Yes ✓ Number 5

Have you requested Maryland State Police assistance?* No ✓ Yes _____ Number _____

*** THE EVENT ORGANIZER IS RESPONSIBLE FOR OBTAINING LOCAL AND/OR STATE POLICE ASSISTANCE ***

CIRCLE THE DISTRICT(S) AND COUNTY(S) YOUR EVENT WILL TAKE PLACE IN

DISTRICT 1 Dorchester / Somerset / Wicomico / Worcester

DISTRICT 2 Caroline / Cecil / Kent / Queen Anne's / Talbot

DISTRICT 3 Montgomery / Prince George's

DISTRICT 4 Baltimore / Harford

DISTRICT 5 Anne Arundel / Calvert / Charles / St. Mary's

DISTRICT 6 Allegany / Garrett / Washington

DISTRICT 7 Carroll / Howard / Frederick

RECEIVED
AUG 01 2016
TOWN OF MIDDLETOWN

ATTACH THE FOLLOWING

☑ Map of affected routes

☑ Traffic Control Plan (including details on how intersections will be controlled, a detour plan, locations of police officers/volunteers and locations of all traffic control devices, as appropriate)

☐ Other event details _____

(Contact the District Office to determine what, if any, additional information will be required for your event.)

*** Submit completed Data Sheet and Signature Sheet to SHA no later than 60 DAYS prior to your event ***
http://www.marylandroads.com/Index.aspx?PageId=59

Maryland State Highway Administration
Special Event Permit - Signature Sheet

EVENT: YMCA of Frederick County - Women's Sprint Triathlon

ORGANIZER'S ACKNOWLEDGEMENT

I/We hereby affirm that the **ORGANIZER** of this **EVENT** and all **PARTICIPANTS** will comply with the Laws of the State of Maryland and any applicable county and municipal statutes and ordinances and will adhere to the terms and conditions set forth in this **PERMIT**. My/Our signature(s) below confirm that the **ORGANIZER** and all **PARTICIPANTS** agree to hold harmless from any liability, incurred by them or to others associated with this **EVENT**, the various governmental agencies providing assistance for this **EVENT**. The **ORGANIZER** may be required to obtain Liability and Property Damage Insurance with limits of at least $300,000 per incident/$1,000,000 aggregate.

ORGANIZER: Judy Couillard - YMCA of Frederick Co.
PLEASE PRINT NAME

REPRESENTATIVE: Judy Couillard - YMCA of Frederick Co.
PLEASE PRINT NAME

SIGNATURE: Judy Caw
PLEASE SIGN

TERMS AND CONDITIONS

1) This **EVENT** shall adhere to the route, number of participants and vehicles (not more than 10% higher than the numbers on this Permit), date(s) and times shown on the attached _____sheet(s).
2) The **ORGANIZER** shall ensure that the approved **TRAFFIC CONTROL PLAN** is followed.
3) In the event of winter weather during the event, SHA will require access to all State Highways for weather related operations. This may require cancellation of the event.
4) Immediately following the event, the **ORGANIZER** shall clean up all litter, temporary signs and other event materials and return the roadway to a condition equal to or better than its condition before the event.
5) Additional stipulations: _____

AGENCY APPROVALS

Before signing and giving approval for your agency, consider the following:
1) Ensure you have the approval authority to sign for your agency to commit manpower and resources.
2) Ensure you have looked over the entire application package, including the Route Map and Traffic Control Plan. If you identify any problems, have the event organizer address them prior to signing.
3) If reimbursement is required, ensure you have mutually agreed upon the amount (in writing) and terms under which payment will be made.

Local Government (Town): [signature] Andrew Bowen 8/1/16
AGENCY SIGNATURE PRINTED NAME DATE
Town Administrator

Local Government (_____): _____
AGENCY SIGNATURE PRINTED NAME DATE

Local Government (_____): _____
AGENCY SIGNATURE PRINTED NAME DATE

Maryland State Police: _____
SIGNATURE PRINTED NAME DATE

State Highway Administration: _____
SIGNATURE PRINTED NAME DATE

YMCA OF FREDERICK COUNTY-WOMEN'S TRIATHLON

Bike Course-10 miles

Start in the parking lot at Middletown High School

Take Schoolhouse Drive to East Green Street

Turn Right on East Green Street and follow to Route 17

Turn Right on 17 and follow to Harmony Road

Turn Right on Harmony Road and follow to Route 40

Turn Right on Route 40 and follow to Hollow Road

Turn Right on Hollow Road and follow to Alternate 40

Turn Right on Alternate 40 and follow to Conebranch Drive

Turn Right on Conebranch Drive

Take first left off of Conebranch Drive onto East Green Street to Schoolhouse Drive

Turn Right onto Schoolhouse Drive and follow back to Middletown High parking lot

Run Course-3.1 miles

Run course will be mainly in Middletown Park

Start in Middletown High parking lot

Exit parking lot and follow to the entrance of Middletown Park adjacent to school grounds

Loop through the park and back through high school parking lot

TRAFFIC CONTROL PLAN

YMCA WOMEN'S TRI

10-MILE BIKE COURSE

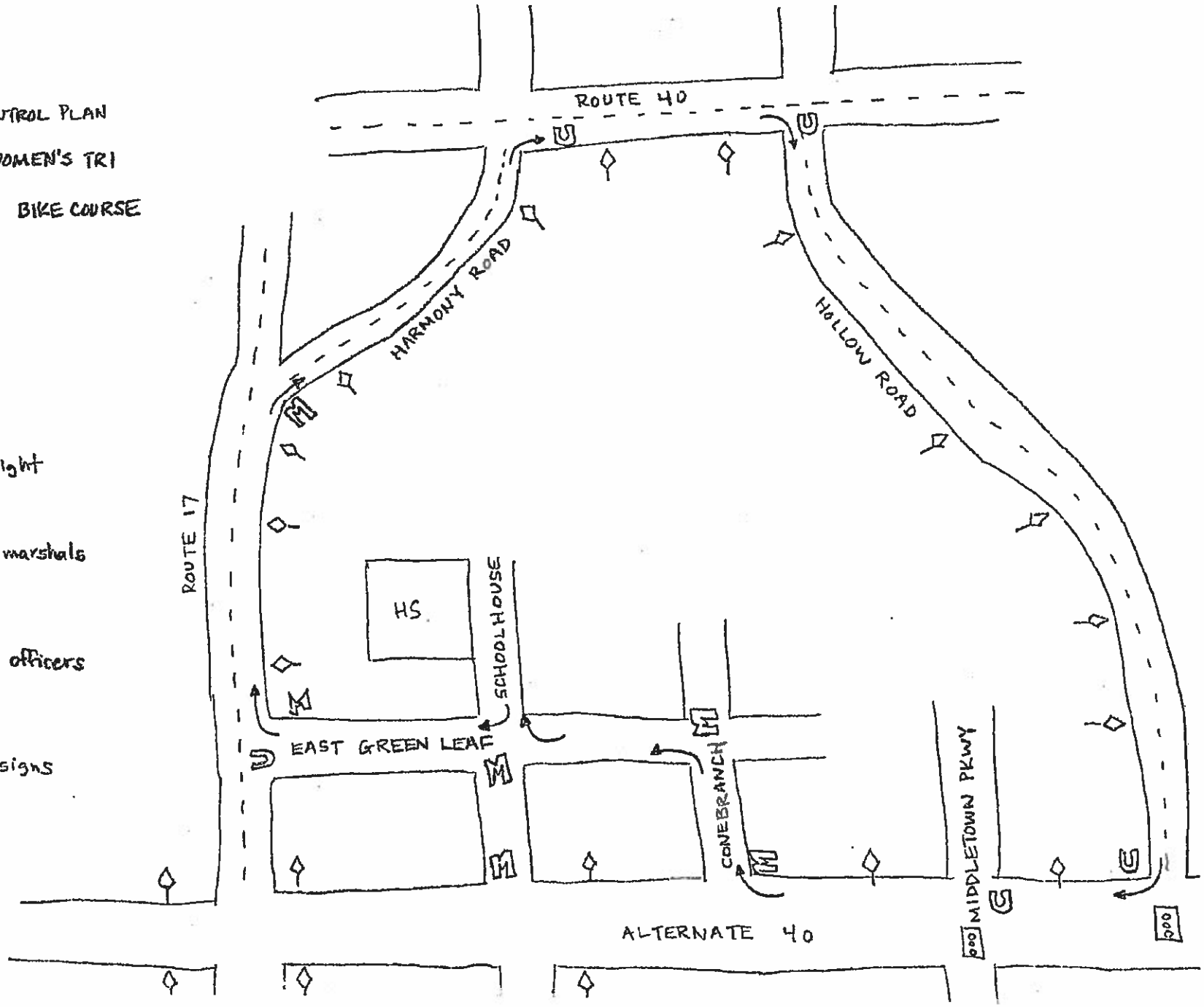
LEGEND

= traffic light

M = course marshals

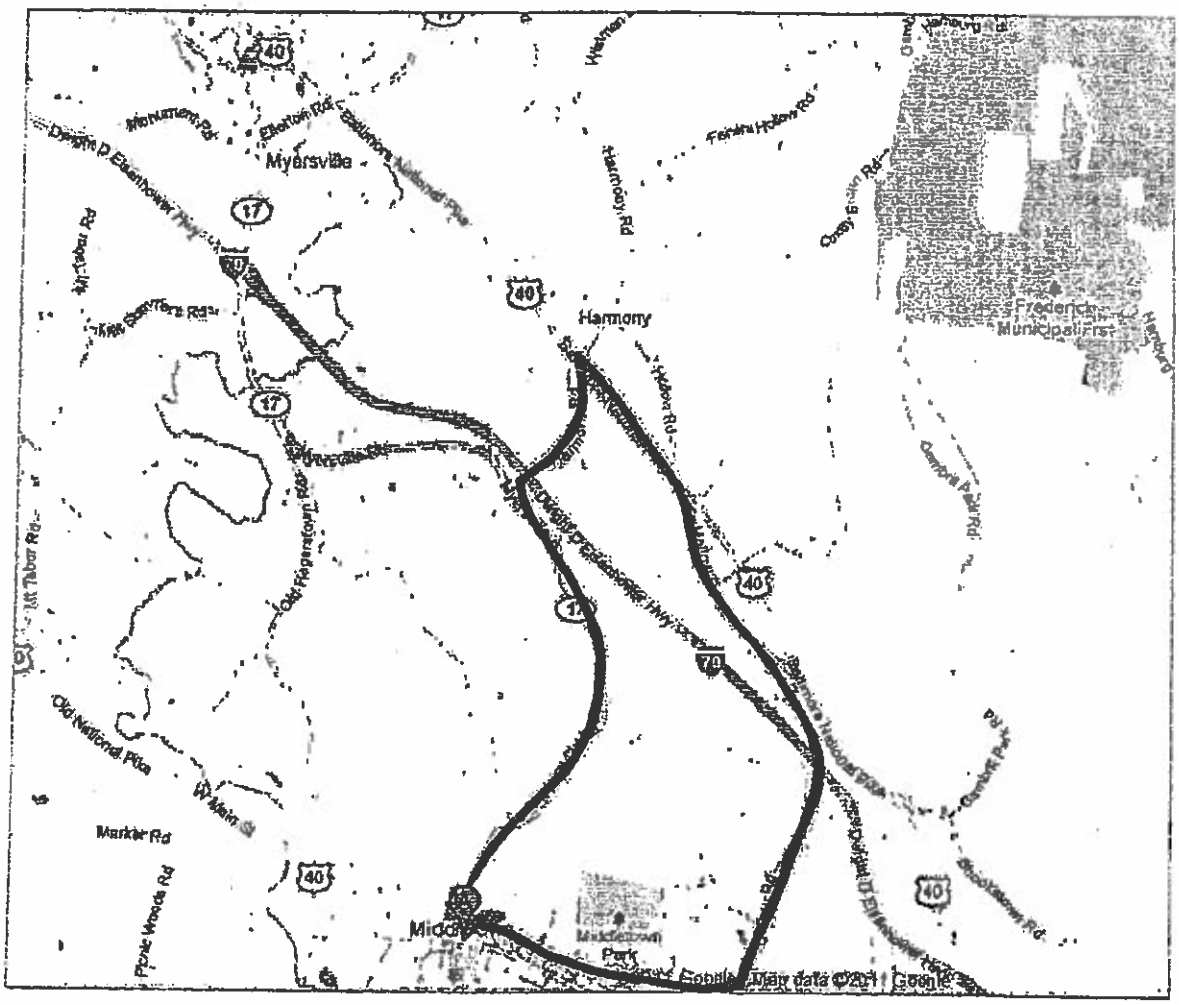
U = uniform officers

= caution signs



Google maps

To see all the details that are visible on the screen, use the "Print" link next to the map.



YMCA OF FREDERICK COUNTY-WOMEN'S TRIATHLON

TRAFFIC CONTROL PLAN

Bike Course-10 miles

The design of the 10-mile bike course provides for all right hand turns with the exception of the final turn back to Middletown High School. Because of this, the flow of traffic will not be adversely affected as bikes will be travelling in the same direction of traffic and not crossing over roads that would require complete stoppage of traffic. The only spot that may require stoppage of traffic would be at the light at the intersection of Middletown Parkway and Alternate 40.

While route 17, Harmony Road and Hollow Road do not provide shoulders, the more heavily travelled roads of Rote 40 and Alternate 40 do provide a shouldered area for bikers.

The ten mile bike course includes three areas that we will be asking for assistance from uniformed police officers. We anticipate needing five uniformed officers. They include East Green Street to 17, Hollow Road to Alternate 40 and the light at Middletown Parkway and Alternate 40. All other areas of the course will be monitored and marshaled by volunteers with safety vests and directional flags.

Course will be clearly marked and numerous signs will be up on the bike course to warn motorists to drive with caution and make them aware that there are bikers on the road. We will also supply two oversized SHA approved signs that read "Special Event, Stay Alert."

Course will also be patrolled by lead vehicles and sag wagons to assist any bikers who may encounter problems.

Run Course-3.1 miles

The run course will be held primarily in the Middletown Park and should not pose problems to traffic flow. No ROADS OUTSIDE OF THE Middletown High complex and the park will be utilized.