AGENDA FOR THE TOWN MEETING
Revised
August 11, 2014
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

PUBLIC HEARINGS

- Capital Improvements Programs (CIP)
  - General Fund
  - Water & Sewer Fund

- Water & Sewer Rate Increase – Ordinance 14-08-02

CONSENT AGENDA

- Public Hearing Scheduled for Thursday, September 4, 2014 at 7:00PM
  - Ordinance 14-08-03 - Adult Entertainment Business
  - Ordinance 14-08-04 – Active Adult Regulations & Cluster Developments
- Town Minutes
  - June 14, 2014 – Town Meeting

PERSONAL REQUESTS FOR AGENDA:

- *State Delegate Kelly M. Schulz*

UNFINISHED BUSINESS:

- Ordinance 14-08-01 – Compensation of Elected Officials
- Ordinance 14-08-02 – Water & Sewer Rate Increase
- Review of On-Call Procedures – Alternatives
- Amendment to Personnel Policy

REPORT OF COMMITTEES:

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

NEW BUSINESS:

- Discussion of Location Restrictions of Guns Sales near, Churches, Schools, and Playgrounds

PUBLIC COMMENTS:

Please state Name and Address for the Record

ANNOUNCEMENTS:

- *The Town asking for volunteers to serve on the Town's Ethics Commission. Please submit a letter of interest to the Town Office.*

  4.12.010 There is a Middletown Ethics Commission that consists of three (3) members who are appointed by the Burgess and confirmed by the Commissioners each to serve two years or until a successor takes office. Each member of the Ethics Commission shall be a resident of the Town of Middletown at all times during their term of office. The members of the Ethics Commission may be compensated for performing their duties at such rate as may be determined from time to time by resolution of the Burgess and Board of Commissioners.

Executive Session – *(If Necessary)*

ADJOURNMENT

NOTICE OF PUBLIC HEARING
ON PROPOSED MIDDLETOWN CAPITAL IMPROVEMENT BUDGETS

In compliance with regulations governing the payment of entitlements, the Burgess and Commissioners of Middletown will hold a Public Hearing on **Monday, August 11, 2014** at **7:15 P.M.**, in the Middletown Municipal Center, 31 West Main Street, Middletown, on the proposed use of its General Fund and Water & Sewer Fund Capital Improvement Budgets for the fiscal year beginning July 1, 2014 and ending June 30, 2015. At such hearing, citizens have the opportunity to provide written and oral comments on the proposed uses of such funds and to ask questions concerning the entire budget. Copies of the Town's Capital Improvement Budgets are available at the Town Office upon request and on the Town website at www.middletown.md.us .

All citizens wishing to be heard will be recognized at this hearing. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer. Individuals requiring special accommodations are requested to contact Andrew Bowen, Town of Middletown, at (301) 371-6171 no later than 72 hours prior to the meeting.

BURGESS AND COMMISSIONERS OF MIDDLETOWN

GENERAL CAPITAL IMPROVEMENT BUDGET

FY 2015 - FY 2019

	FY '15	FY '16	FY '17	FY '18	FY '19
INCOME					
CASH RESERVES	1,242,019	182,219	368,819	3,718	31,232
INTEREST INCOME	3,105	456	922	9	78
OPERATING INCOME From Previous Years	360,635	304,008	400,000	400,000	400,000
PROGRAM OPEN SPACE (Development)	78,300	20,376			
PROGRAM OPEN SPACE (Acquisition)	42,000				
MVAA Contribution					
Loan - West Green Street (5% for 20 years)		700,000			
OTHER	7,000				
SUB-TOTAL	1,733,059	1,207,059	769,741	403,727	431,310
PROJECTS					
Highways & Streets					
WEST GREEN STREET IMPROVEMENTS	1,000,000	700,000	53,495	53,495	53,495
Franklin St. to Broad St. - Selective Patching, Mill & Overlay	100,000				
Franklin St. to Walnut Pond - Selective Patching, Mill & Overlay	15,000	60,000			
Broad St. - Franklin Street (Inlets and Road Reconstruction)	40,000		250,000		
Broad St. - Main to Locust Alley (Road Reconstruction)	30,000		200,000		
Linden Blvd. (Broad Street to Pine Street)					275,000
Manda Drive - Mill & Overlay				125,000	
Manda Court - Mill & Overlay				68,000	
Prospect St. (Road Reconstruction)				35,000	315,000
Lombardy Court - Selective Patching, Mill & Overlay			78,000		
SWM Fence Replacements	9,000	15,000	20,700		
Salt Building - Equipment Storage Shed	35,000				
Recreation & Culture					
Walking Trail Land Acquisition - East Main Street to Linden Blvd (100% POS Grant - Town Share $(	42,000				
Middletown Park - Skatespot (75% Grant POS 25% Skateboard Group - Town Share $0)			8,028		
Remsberg Park - Walking Trail and Bridge over Cone Branch Creek (90% Grant POS 10% Town)	45,000				
Remsberg Park - Picnic Tables (90% Grant POS 10% Town)	3,000				
Wiles Branch Park - Pavilion near Multi-Purpose Field (90% Grant POS 10% Town)	18,000				
Wiles Branch Park - Resurfacing Walking Trail from West Main Street to West WWTP	21,000				
Wiles Branch Park - Tottler Swing Set - Wood Carpet and Border Installed	6,500				
Wiles Branch Park - Shingle Replacements		5,000			
Foxfield Walking Path Overlay	23,940	17,640			
Cone Branch Park - Roof Replacement Gazebo	5,000				
Middletown Valley Historical Society (Recurring Annual Donation - Operating Expenses $5,000)	5,000	5,000	5,000	5,000	5,000
Wayfinding Signs				15,000	15,000
General Services Administration & Operations					
Municipal Center - HVAC Replacement	85,000				
Municipal Center - Carpet Replacement 2nd Floor		15,000			
Truck Replacements and New Trucks			130,000	50,000	
Equipment - Sign Post Driver, Skid Loader Trailer, Mower Replacement, Silt Seeder, Snowblow	47,000				
Backhoe Replacement Lease (4 years)	15,200	15,200	15,200	15,200	
Computer Replacements (3 Computers/Year)	5,200	5,400	5,600	5,800	6,000
SUB-TOTAL	1,550,840	838,240	766,023	372,495	669,495
SURPLUS/(DEFICIT)	**$182,219**	**$368,819**	**$3,718**	**$31,232**	**-$238,185**

Denotes Grant Funding

7/29/2014

Town of Middletown
Water Sewer Fund
Capital Improvement Program

Burgess and Commissioners of Middletown
Water & Sewer Capital Improvement Program
FY 2015 - FY 2019

INCOME	FY '15	FY '16	FY '17	FY '18	FY '19
DEBT SERVICE FEE - NEW HOMES	$137,400	$138,600	$144,200	$148,400	$153,200
CAPITAL IMPROVEMENT FEE	$128,736	$139,464	$150,192	$160,920	$171,648
Land Leases	$168,044	$173,085	$178,278	$183,626	$189,135
Tap Fees (See Growth Projections)	$120,000	$560,000	$420,000	$480,000	$480,000
Loan (Main Street Waterline)			$4,000,000		
Loan (Reservoir Project)					
Other Income	$16,700	$16,700			
Previous Year Carry Over	$100,479	$179,905	$233,770	$272,008	$273,003
Income from Operating Fund	$71,479	$0	$0	$0	$0
Total Revenue	$742,838	$1,207,755	$5,126,440	$1,244,954	$1,266,986
Debt Service					
WATER STORAGE TANK LOAN	$111,468	$111,820	$111,806		
EAST WWTP LOAN	$241,265	$241,265	$241,265	$241,265	$241,265
Main Street Waterline Loan (5% for 20 Years)				$305,686	$305,686
DEVELOPMENT PROJECTS					
Brookridge WTP (Loan Payments)	$16,700	$16,700	$401,362		
Total Debt Service	$369,433	$369,785	$754,432	$546,951	$546,951
Net Income	$373,405	$837,970	$4,372,008	$698,003	$720,036
Projects					
SYSTEM UPGRADE PROJECTS					
WATER SYSTEM					
Main Street Waterline Program			$4,000,000		
Reservoir - Dual Feed Cover/Liner Replacement	$60,000	$440,000		$300,000	
Reservoir -Raw Water Meter & Potable Waterline to Plant	$5,500	$10,000			
Well #15 - Manganese & Iron Removal System	$120,000				
Well Fields - Scada Control System					$27,800
Stream Erosion - Well Field Restoration					$125,000
Booster Station - Pumping Connection for Future Maintenance	$8,000				
Booster Station - Replace Starters with VFD's				$125,000	
Booster Station - Process Piping Replacement			$20,000		
Water Distribution - Repair PRV Vault & Hydrants & PLD Listening		$21,200			
Maple Street - Waterline Replacement			$8,200		
WASTEWATER SYSTEM					
West WWTP - New Chemical Storage Building		$8,000	$22,000		
West WWTP - Curtain Replacement		$60,000			
East WWTP - Bar Screen Refurbishment		$40,000			
East WWTP - Influent Flume & Ultrasonic Meter			$12,800		
East WWTP - Sludge Mag Meter			$6,000		
Brookridge PS Vault Magmeter & Cabinet			$11,000		
Brookridge PS - 3 Phase VFD and New Pump Installation			$20,000		
Cone Branch PS - Control Panel Upgrade		$25,000			
Total Projects	$193,500	$604,200	$4,100,000	$425,000	$152,800
Surplus / Deficit	$179,905	$233,770	$272,008	$273,003	$567,236

NOTICE OF PUBLIC HEARING
TOWN OF MIDDLETOWN

Notice is hereby given that the Burgess and Commissioners of Middletown will hold a Public Hearing on **Monday, August 11, 2014 beginning at the hour of 7:20 P.M.,** at the Town Office 31 West Main Street, Middletown, Maryland to consider the adoption of a RESOLUTION to establish the following:

RESOLUTION NO. 14-02 & 14-03
The Resolution proposes to increase the cost of the rates, for **residential** & **non-residential** users. The tables below provide the proposed rates.

Residential Rates

Quarterly Usage	Existing Rates	Proposed Rates	Increase
0 to 3,000 gallons	$ 65.87	$ 67.85	3.00%
3,001 to 25,000 gallons	$ 9.34	$ 9.62	3.00%
25,001 to 30,000 gallons	$ 13.99	$ 14.41	3.00%
30,001 to 35,000 gallons	$ 18.68	$ 19.24	3.00%
35,001 to 40,000 gallons	$ 28.00	$ 28.84	3.00%
40,001 to 45,000 gallons	$ 32.65	$ 33.62	3.00%
45,001 to 50,000 gallons	$ 37.33	$ 38.45	3.00%
50,001 to 55,000 gallons	$ 55.98	$ 57.66	3.00%
55,001 to 60,000 gallons	$ 69.98	$ 72.08	3.00%
60,001 to 65,000 gallons	$ 83.97	$ 86.49	3.00%
65,001 to 70,000 gallons	$ 97.95	$ 100.88	3.00%
70,001 to 75,000 gallons	$ 111.96	$ 115.32	3.00%
75,001 gallons and above	$ 125.93	$ 129.71	3.00%

Non-Residential Rates

Quarterly Usage	Existing Rates	Proposed Rates	Increase
5/8 to 3/4 inch meter			
Base Use - 3,000 gallons	$ 65.87	$ 67.85	3.00%
Cost / 1,000 Additional	$ 9.34	$ 9.62	3.00%
1 inch meter			
Base Use - 4,200 gallons	$ 92.17	$ 94.94	3.00%
Cost / 1,000 Additional	$ 9.34	$ 9.62	3.00%

1.5 inch meter			
Base Use - 5,400 gallons	$ 118.52	$ 122.08	3.00%
Cost / 1,000 Additional	$ 9.34	$ 9.62	3.00%
2 inch meter			
Base Use - 8,700 gallons	$ 190.96	$ 196.69	3.00%
Cost / 1,000 Additional	$ 9.34	$ 9.62	3.00%
3 inch meter			
Base Use - 33,000 gallons	$ 724.36	$ 746.09	3.00%
Cost / 1,000 Additional	$ 9.34	$ 9.62	3.00%
4 inch meter			
Base Use - 42,000 gallons	$ 921.90	$ 949.56	3.00%
Cost / 1,000 Additional	$ 9.34	$ 9.62	3.00%
6 inch meter			
Base Use - 63,000 gallons	$ 1382.86	$ 1424.35	3.00%
Cost / 1,000 Additional	$ 9.34	$ 9.62	3.00%
8 inch meter			
Base Use - 87,000 gallons	$ 1909.65	$ 1966.94	3.00%
Cost / 1,000 Additional	$ 9.34	$ 9.62	3.00%

All citizens wishing to be heard will be recognized at this hearing. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

AND

To increase the Capital Improvement Fee from $33.00/Quarter to **$36.00**/Quarter.

Individuals requiring special accommodations are requested to contact Andrew Bowen, Town of Middletown, at (301) 371-6171, as least 72 hours prior to the Public Hearing.

Example Quarterly Residential Usage
Residential Only

Quarterly Usage	Existing Rate	Proposed Rate	Cost Increase / Quarter	Cost Increase / Month
3,000	$ 65.87	$ 67.85	$ 1.98	$ 0.66
18,000	$ 205.97	$ 212.15	$ 6.18	$ 2.06
25,000	$ 271.35	$ 279.49	$ 8.14	$ 2.71

*** This does not include Debt Service Fees or Bay Restoration Fees or Capital Improvement Fee*

WATER & SEWER RATE COMPARISON

ALL COSTS ARE BASED ON AN AVERAGE QUARTERLY USAGE OF 18,000 GALLONS

UTILITY SYSTEM NAME	RANK	WATER	SEWER	COMBINED	Other Fees	Total	Monthly
WSSC	1	$ 131.22	$ 296.60	$ 427.82	$ 26.00	$ 453.82	$ 151.27
WASHINGTON COUNTY	2	$ 212.20	$ 180.65	$ 392.85	$ 15.00	$ 407.85	$ 135.95
THURMONT	3	$ 129.70	$ 198.75	$ 328.45	$ 15.00	$ 343.45	$ 114.48
MYERSVILLE	4	$ 163.28	$ 163.28	$ 326.56	$ 15.00	$ 341.56	$ 113.85
BRUNSWICK	5	$ 134.60	$ 152.00	$ 286.60	$ 15.00	$ 301.60	$ 100.53
MIDDLETOWN - Proposed (DSF) - 3%	6	$ 106.08	$ 106.08	$ 212.16	$ 65.00	$ 277.16	$ 92.39
MIDDLETOWN - Existing (DSF)	7	$ 102.98	$ 102.98	$ 205.96	$ 65.00	$ 270.96	$ 90.32
EMMITSBURG	8	$ 80.60	$ 170.60	$ 251.20	$ 15.00	$ 266.20	$ 88.73
WOODSBORO	9	$ 89.20	$ 161.08	$ 250.28	$ 15.00	$ 265.28	$ 88.43
MIDDLETOWN - Proposed (CIF) - 3%	10	$ 106.08	$ 106.08	$ 212.16	$ 48.00	$ 260.16	$ 86.72
MIDDLETOWN - Existing (CIF)	11	$ 102.98	$ 102.98	$ 205.96	$ 45.00	$ 250.96	$ 83.65
HAGERSTOWN	12	$ 54.00	$ 94.67	$ 148.67	$ 82.50	$ 231.17	$ 77.06
FREDERICK CITY	13	$ 81.87	$ 116.81	$ 198.68	$ 27.16	$ 225.84	$ 75.28
MT. AIRY	14	$ 90.96	$ 87.60	$ 178.56	$ 36.00	$ 214.56	$ 71.52
FREDERICK COUNTY	15	$ 92.22	$ 87.50	$ 179.72	$ 15.00	$ 194.72	$ 64.91
WALKERSVILLE	16	$ 71.92	$ 87.50	$ 159.42	$ 15.00	$ 174.42	$ 58.14

DSF - Debt Service Fee
CIF - Capital Improvement Fee

***As of July 23, 2014**

ORDINANCE NO. 14-08-02

AN ORDINANCE TO AMEND TITLE 13, CHAPTER 13.12, SECTION 13.12.060 OF THE MIDDLETOWN MUNICIPAL CODE FOR THE PURPOSE OF REVISING THE RATE SCHEDULE FOR WATER AND SEWER SERVICE FOR RESIDENTIAL USER ACCOUNTS AND NON-RESIDENTIAL USER ACCOUNTS AND THE AMOUNT OF THE QUARTER-ANNUAL CAPITAL IMPROVEMENT FEE.

WHEREAS, the Town of Middletown is authorized to establish rates and charges for water and sewer service pursuant to Annotated Code of Maryland, Environment Article, Section 9-720 *et seq.* and Chapter 13.12 of the Middletown Municipal Code; and

WHEREAS, the Burgess and Commissioners of the Town of Middletown have reviewed and considered proposed changes to the water and sewer rates for both residential and non-residential user accounts and the capital improvement fee and find said changes to be reasonably related to the cost of providing such services; and

WHEREAS, notice of a public hearing on said changes was duly publicized in a newspaper of general circulation in the Town of Middletown; and

WHEREAS, after a public hearing was held on said rate changes, the Burgess and Commissioners deem it to be in the best interest of the Town of Middletown and its citizens to revise said rates in accordance herewith.

SECTION I. BE IT ORDAINED, RESOLVED AND ENACTED by the Burgess and Commissioners of the Town of Middletown, Maryland that Title 13, Chapter 13.12, Section 13.12.060 of the Middletown Municipal Code be amended as follows. Deleted language is designated by being in ~~[brackets and marked through]~~ and new language is designated by being in **BOLD NUMERALS OR BOLD CAPITAL LETTERS**, as the case may be:

13.12.060 Rate and fee schedules - Residential and non-residential users.

A. Residential users of water and sewer services and their accounts will be billed on a tiered system based upon the amount of quarter-annual usage of water and sewer service at the location at which service is provided. Water and sewer rates for such residential accounts shall be as follows:

For Quarter-Annual Usage Of:	The Rate is:
0 to 3000 gallons	~~[$65.87]~~ **$67.85**
3,001 - 25,000 gallons	~~[$9.34]~~ **$9.62** per 1,000 gallons
25,001 - 30,000 gallons	~~[$13.99]~~ **$14.41** per 1,000 gallons
30,001 - 35,000 gallons	~~[$18.68]~~ **$19.24** per 1,000 gallons
35,001 - 40,000 gallons	~~[$28.00]~~ **$28.84** per 1,000 gallons
40,001 - 45,000 gallons	~~[$32.65]~~ **$33.62** per 1,000 gallons
45,001 - 50,000 gallons	~~[$37.33]~~ **$38.45** per 1,000 gallons
50,001 - 55,000 gallons	~~[$55.98]~~ **$57.66** per 1,000 gallons
55,001 - 60,000 gallons	~~[$69.98]~~ **$72.08** per 1,000 gallons
60,001 - 65,000 gallons	~~[$83.97]~~ **$86.49** per 1,000 gallons
65,001 - 70,000 gallons	~~[$97.95]~~ **$100.88** per 1,000 gallons
70,001 - 75,000 gallons	~~[$111.96~~ **$115.32** per 1,000 gallons
75,001 gallons and above	~~[$125.93]~~**$129.71** per 1,000 gallons

B. Nonresidential users of water and sewer services and their accounts will be billed based upon the size of the meter for the location at which service is provided. Water and sewer rates for such nonresidential accounts shall be as follows:

5/8 to 3/4 inch meter	~~[$65.87]~~ **$67.85** for 3,000 gallon base	~~[$9.34]~~ **$9.62** /1,000 gallons after base
1 inch meter	~~[$92.17]~~ **$94.94** for 4,200 gallon base	~~[$9.34]~~ **$9.62** /1,000 gallons after base
1 ½ inch meter	~~[$118.52]~~ **$122.08** for 5,400 gallon base	~~[$9.34]~~ **$9.62** /1,000 gallons after base
2 inch meter	~~[$190.96]~~ **$196.69** for 8,700 gallon base	~~[$9.34]~~ **$9.62** /1,000 gallons after base
3 inch meter	~~[$724.36]~~ **$746.09** for 33,000 gallon base	~~[$9.34]~~ **$9.62** /1,000 gallons after base
4 inch meter	~~[$921.90]~~ **$949.56** for 42,000 gallon base	~~[$9.34]~~ **$9.62** /1,000 gallons after base
6 inch meter	~~[$1382.86]~~ **$1424.35** for 63,000 gallon base	~~[$9.34]~~ **$9.62** /1,000 gallons after base

8 inch meter	~~[$1909.65]~~ **$1966.94** for 87,000 gallon base	~~[$9.34]~~ **$9.62** /1,000 gallons after base

C. Unless otherwise exempted as hereinafter provided, each residential and non-residential user of water and sewer services shall pay a capital improvement fee of ~~[thirty dollars ($33.00)]~~ **THIRTY-SIX DOLLARS ($36.00)** per quarter the capital improvement fee shall be in addition to the fees charged pursuant to subsections A. and B. of this section, and shall be billed and included in the quarter-annual bills for each user. Each user, customer or account which is subject to and is obligated to pay the debt service charge required by Section 13.20.010 of the Middletown Municipal Code is and shall be exempt from the obligation to pay the capital improvement fee until January 1, 2020.

SECTION II: This Ordinance shall take effect twenty (20) calendar days following its approval by the Burgess and Commissioners.

INTRODUCED ON THE 14th DAY OF July, 2014

PASSED ON THE 11th DAY OF August, 2014

EFFECTIVE DATE: August 31, 2014

ATTEST:

BURGESS AND COMMISSIONERS OF MIDDLETOWN

_____
Andrew J. Bowen, Town Administrator

By:_____
John Miller, Burgess

u:JClapp\Middletown\Ordinance.WaterRate2013

MEMORANDUM

Date: 7/22/2014

To: Burgess and Commissioners, Middletown

From: Cynthia K. Unangst, Middletown Staff Planner

RE: Adult Entertainment Business text amendment

The Middletown Planning Commission on July 21, 2014 reviewed the proposed Adult Entertainment Business text amendment which would provide definitions for the terms "Adult Entertainment Activities" and "Adult Entertainment Business" and authorize the use of property as an adult entertainment business provided it is not located within 1,500 feet of other property used as a school, park, child day care center, church or house of worship, or another adult entertainment business. By consensus the Planning Commission recommends approval of the proposed text amendment.

The Town Attorney has drafted an ordinance which is attached. A public hearing should be scheduled ahead of a vote by the Town Board on the proposed ordinance.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND TITLE 17 OF THE MIDDLETOWN MUNICIPAL CODE TO PROVIDE DEFINITIONS FOR THE TERMS "ADULT ENTERTAINMENT ACTIVITIES" AND "ADULT ENTERTAINMENT BUSINESS"; TO AUTHORIZE THE USE OF PROPERTY AS AN ADULT ENTERTAINMENT BUSINESS PROVIDED IT IS NOT LOCATED WITHIN 1,500 FEET OF OTHER PROPERTY USED AS A SCHOOL, PARK, CHILD DAY CARE CENTER, CHURCH OR HOUSE OF WORSHIP, OR ANOTHER ADULT ENTERTAINMENT BUSINESS.

RECITALS

WHEREAS, the Burgess and Commissioners of the Town of Middletown are concerned with the potential adverse secondary effects of adult oriented entertainment businesses which may elect to locate in the Town of Middletown; and

WHEREAS, the Burgess and Commissioners have reviewed the evidence of the adverse secondary effects of adult oriented businesses found in various studies, experiences and reports made available to them and which have been considered by other municipalities and local governments, including but not limited to:

- "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analysis" Eric S. McCord and Richard Tewksbury; *Crime & Delinquency,* October 2013; vol. 59, 7: pp. 1108-1125., first published on November 29, 2012.

- "Adult Business Study" Town and Village of Ellicottville, Cattaraugus County, New York January 1998.

- Testimony to Illinois State Senate Public Health Committee March 2012 re: Illinois Senate Bill 3348 of Richard McCleary, (Professor of Criminology, Environmental Health Science, and Planning, University of California, Irvine) and Lori Sexton, (Assistant Professor at the University of Missouri, Kansas City).

- "Crime-Related Secondary Effects Of Sexually-Oriented Businesses" - Report To The County Attorney Palm Beach County, Florida ; Valerie Jenness, Ph.D., Richard McCleary, Ph.D., James W. Meeker, JD, Ph.D. August 15, 2007.

- "The Association of Adult Businesses with Secondary Effects: Legal Doctrine, Social Theory, and Empirical Evidence", Alan C. Weinstein and Richard McCleary Cleveland-Marshall College of Law, Cleveland State University, October 2011.
- A report on the secondary impacts of adult use businesses in the city of Denver January 1998.
- Caroline County, Maryland Ordinance #2005-002 and findings stated therein;

and

WHEREAS, court decisions considering issues relative to the secondary effects of adult oriented businesses hold that such secondary effects are a legitimate basis for regulating such businesses. Such cases include, but are not limited to:

- *Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002)
- *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000)
- *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986)
- *Steiner v. County Commissioners of Caroline County*, 490 F.Supp.2d 617 (D.Md.,2007)
- *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010)
- *Independence News, Inc. v. City of Charlotte*, 568 F.3d 148 (4th Cir. 2009);

and

WHEREAS, the material reviewed by the Burgess and Commissioners show that adult oriented businesses are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties and property values, urban blight, litter, and sexual assault and exploitation; and

WHEREAS, the Town of Middletown has a population of 4,136 as of the last census (2010) and is relatively small in size having a geographic area of 1.741 square miles; and

WHEREAS, the Town of Middletown has no police department and must rely upon a resident Frederick County Sheriff's deputy as its primary means of law enforcement, and law enforcement efforts and effectiveness will be increasingly strained with any increase in criminal activity; and

WHEREAS, the Burgess and Commissioners, in an effort to prevent such secondary adverse effects in the Town of Middletown, and to protect and promote the safety, health, morals, and general welfare of the citizens of the Town of Middletown, have determined that the nature of adult oriented businesses requires the enactment of certain zoning restrictions relating thereto and that adult oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Burgess and Commissioners of the Town of Middletown, Maryland that Title 17 of the Middletown Municipal Code be, and hereby is, amended as follows.

SECTION I. Title 17, Chapter 17.04, Section 17.04.030, "Definitions" of the Middletown Municipal Code is hereby amended by adding thereto the definition of "Adult Entertainment Activities" and by adding thereto the definition of "Adult Entertainment Business", "Adult Oriented Business" or "Sexually Oriented Business". Said definitions shall be codified and inserted in Section 17.04.030 of the Code alphabetically. The remaining provisions of Section 17.04.030 remain unchanged.

TITLE 17 ZONING

Chapter 17.04

Section 17.04.030 – Definitions

"Adult Entertainment Activities" means:

A. Any merchandise, object, item, or device that is designed and/or marketed with the intention of causing, or that reasonably may be expected to cause, sexual stimulation, sexual excitement or sexual gratification.

B. Any performance, conduct, activity, depiction, or text that is intended to cause or provide, or reasonably may be expected to cause or provide, sexual stimulation, sexual excitement, or sexual gratification and:

1. in which an individual or individuals appear in a state of nudity or partial nudity; or
2. that consists, in whole or in part, of action, activity, poses, portrayal, depiction, or description of:
    (a) human genitals in a discernable state of sexual stimulation or arousal; or
    (b) any act, whether real or simulated, of masturbation, sexual intercourse, anal intercourse, sodomy, fellatio, cunnilingus, fondling of the buttocks, anus, female breasts, pubic area, or genital area, sadomasochistic activity, physical contact or attempted contact with clothed or unclothed genitals, pubic areas, buttocks, anus, or female breasts; or
3. consists of contact with animals or inanimate objects.

"Adult Entertainment Business" also known as "Adult Oriented Business" or "Sexually Oriented Business" means a business establishment whose primary business and stock in trade is dependent upon Adult Entertainment Activities. By way of example, and not by way of limitation, the following shall be considered as an adult entertainment business:

A. An arcade or other place to which the public is permitted or invited and where photographs, motion pictures or other image-producing devices are maintained to, for money or other value, show images depicting or describing Adult Entertainment Activities.

B. A bar, club, cabaret, lounge, dance hall, restaurant, or other similar establishment or place of business which features dancers, strippers or similar entertainers or employees that engage in Adult Entertainment Activities, or any such business establishment, the advertising for, or a sign identifying which, uses the words, "adult," "topless," "nude," "bottomless," or other words of similar import.

C. A motion picture theater or similar commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, CDs, DVDs, slides, or similar photographic reproductions are regularly, commonly, habitually, or consistently shown that are characterized by the depiction or description of Adult Entertainment Activities.

D. A retail store or similar commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that depict or describe Adult Entertainment Activities, and novelty items, games, greeting cards, instruments, devices, or paraphernalia that are designed for use in connection with Adult Entertainment Activities.

SECTION II. Title 17, Chapter 17.32, of the Middletown Municipal Code is hereby amended by adding thereto the following as Section 17.32.225.

TITLE 17 ZONING

Chapter 17.32 Design Standards Generally

Section 17.32.225 – Adult Entertainment Business

A. It is the purpose of this ordinance to regulate Adult Entertainment Business in order to promote the health, safety, and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of Adult Entertainment Business within the town. It is the intent of the Burgess and Board of Commissioners in adopting this ordinance to enact a content neutral ordinance that imposes time, place and manner restrictions in order to address the adverse secondary effects of Adult Entertainment Business. It is not the intent of the Burgess and Board of Commissioners to suppress any speech protected by the First Amendment to the United States Constitution or Article 40 of the Maryland Declaration of Rights. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

b. Adult Entertainment Businesses are permitted provided that such businesses are not located within 1,500 feet of any school, park, child day care center, church or house of worship or another Adult Entertainment Business. For the purpose of this sub-section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an Adult Entertainment Business is conducted to the nearest property line of the school, park, child day care center, church or house of worship, or other Adult Entertainment Business.

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 _____, 2014

PASSED ON THE _____ DAY OF _____, 2014

EFFECTIVE DATE: _____, 2014

ATTEST:

BURGESS AND COMMISSIONERS OF MIDDLETOWN

_____
Andrew J. Bowen, Town Administrator

By:_____
John D. Miller, Burgess

MEMORANDUM

Date: 8/1/2014

To: Burgess and Commissioners, Middletown

From: Cynthia K. Unangst, Middletown Staff Planner

RE: Active adult/Cluster development regulations text amendment

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The Middletown Planning Commission on July 21, 2014 discussed the revised Active Adult/Cluster development text amendment that would separate out the cluster development regulations from the active adult regulations. The Planning Commission did not make a recommendation either for or against the revised regulations; no action was taken after the discussion.

The Town Attorney has drafted an ordinance which is attached in which the cluster development regulations are a separate section of the Code and are a permitted use in the R-20 District. The draft ordinance includes the provisions for active adult communities that are on parcels less than 100 acres and are developed as a cluster development, and the provision that driveways in the active adult communities need to be a minimum of 20 feet from a public or local street. A public hearing will need to be scheduled for this ordinance.

Below are minutes from discussions that took place within the past eight months concerning the proposed text amendment regarding active adult communities:

Town Board Meeting – June 23, 2014

Ordinance 14-05-01 – Residential Clusters – Burgess Miller stated that the public hearing for this Ordinance was held on May 12, 2014. At that public hearing we heard comments from residents and we took into consideration of making the driveway's longer to 20' so that pedestrians are able to use sidewalk instead of walking around vehicles into the roadway.
Commissioner Ventre stated that he has a problem with where the Planning Commission wants to place this ordinance within the Active Adult section of the zoning code only. Commissioner Ventre stated that he agrees with Cindy's staff report that this should be a separate section of the code in order to address any potential types of cluster developments that could occur in other zoning districts.
Motion by Commissioner Goodman to approve the ordinance as written. Motion failed with no second. It was agreed to send this back to the Planning Commission to consider as a separate section in the zoning code for all zoning districts.

Town Board Public Hearing – May 12, 2014

PUBLIC HEARING
Ordinance No. 14-05-01 – to repeal and re-enact, with amendments, Title 17, Chapter 17.48, Section 17.48.015 of the Middletown Municipal code pertaining to special exception requirements for active adult communities; to authorize the establishment of an active adult community as a residential cluster development on parcels of between thirty and one hundred acres; to establish special exception standards and requirements for active adult communities as a residential cluster development.

Cindy Unangst, Staff Planner went over the Ordinance and amendments.

Barbara Reeder, 4 Groff Court – stated that the driveways in the current Active Adult Community are not long enough for a car to park in without blocking the sidewalk. Mrs. Reeder also stated that she feels the streets should be wide enough for snow plows to be able to maintain the street properly.

Burgess Miller stated that we have learned from our previous actions with developments and agrees that vehicles parked in the driveway should be able to be parked in the driveway without blocking the sidewalk.

It was the consensus of the Board to have Cindy add language to the Ordinance that the house setback is 10 feet and that the driveway must be a minimum of 20 feet to allow for cars to be parked in driveway without blocking sidewalk.

The Public Hearing adjourned at 7:32pm.

Planning Commission meeting – March 17, 2014

Cluster Development Regulations – The changes suggested from last month's meeting and last week's workshop were reviewed. It was suggested that a definition for "eligible uses" be added to the definitions section of the regulations. Subsection A of section 17.42.060 Home Owner's Association was recommended to be removed as it is already mentioned in section 17.48.015 Active Adult Community. It was also recommended that subsections B and C of Section 17.42.060 Home Owner's Association be incorporated into Section 17.48.015 Active Adult Community after subsection G, but before subsection I.

The Staff Planner stated that she recommends placing the cluster development regulations as part of active adult communities stating that she thinks these regulations should have their own section in order to be able to address any potential types of cluster developments which could occur in the future. The Planning Commission has discussed this issue at previous meetings/workshops and understood the Staff Planner's recommendation.

Action: Commissioner Lake motioned to approve the cluster development regulation for active adult communities as amended tonight for recommendation to the Town Board for approval at the next Town Board meeting March 24, 2014. Commissioner Miller seconded. Motion carried (4-0-1). Commissioner Goodman abstained.

Planning Commission meeting – February 17, 2014

Cluster Development Regulations –

- **Location within the Municipal Code and Purpose** - Discussion occurred as to the location and purpose of the cluster development regulation. Positions expressed regarding these regulations were: 1) These regulations should be included as part of the specific standards for adult active communities. 2) These regulations should have their own section in order to include any other types of future cluster developments within the town. 3. Putting the regulations in an overlay district. The Commission members decided to review the draft regulation which would help clarify this point.
- **Draft Regulation Section Review** – The Planning Commission discussed the draft regulation and reviewed it section by section. After review of the draft regulations, the Planning Commission reached consensus that these cluster development regulations should be included as part of the specific standards for active adult communities. The Staff Planner was tasked with making the changes and to send the draft to the text amendment applicant and Planning Commission members. It will also be added as an agenda item for the March Planning Commission Meeting.

Action: None

Town Board Meeting – January 27, 2014

Discussion of Active Adult Text Amendments – Burgess stated that the Planning Commission has forwarded us proposed language for the proposed Active Adult text amendment submitted by Memar Corporation. The proposed language refers to "cluster development regulations," which at this time there is no definition for. The Board stated that they would like to see the definition for "cluster development" before we are able to proceed any further.

Planning Commission meeting – January 20, 2014

Active Adult Text Amendment - Cindy reviewed the text amendment changes submitted by the applicant. The proposed text amendment change request now states that on parcels less than 100 acres but more than 30 acres, entire parcel can be used for active adult community using the cluster development concept as long as total density remains below 2 units per acre and complies with any other requirement of the cluster development regulations.

- Discussion ensued regarding whether the wording should remain "total density remains below two units per acre" or be changed to "total density should remain at or below 2 units per acre". Commissioner Lake stated that the regulation should state at or below 2 units per acre. Mr. Memarsadeghi (Admar Custom Homes, Inc.) stated that this point should actually be reflected in the cluster development regulations and not in this section. Cindy stated that the Planning Commission needs to make a recommendation to the Town Board before its' next meeting on January 27, 2014, and that the Planning Commission in that recommendation can state that the cluster development regulations will be forthcoming.
- **Cluster Development Regulation:** The Planning Commission has tasked Cindy with developing starting points on cluster development regulations. The Planning Commission will then take those and complete the cluster development regulations within the month.

Action: Commissioner Lake motioned to approve text amendment section 17.48.015 Active Adult Community with changes as noted for submittal to the Town Board for modification. Commissioner Smart seconded. Motion carried (4-0-1). Commissioner Goodman abstained.

Town Board Meeting – December 9, 2013

Active Adult Text Amendment-Planning Commission Response – Burgess Miller introduced the proposed Active Adult text amendment submitted by the Memar Corporation. The Board will hold a public hearing on this in January. Burgess Miller stated that the Planning Commission has reviewed this and made no recommendation at this time; they feel more information is needed. Burgess Miller stated that this will be on the joint Town Board and Planning Commission meeting in January.

BURGESS AND COMMISSIONERS
OF MIDDLETOWN MARYLAND

TOWN MEETING MINUTES

REGULAR MEETING **July 14, 2014**

The first monthly meeting of the Burgess and Commissioners of Middletown was called to order on July 14, 2014, by Burgess Miller at 7:00 p.m. in the Middletown Municipal Center, 31 W. Main Street, Middletown, Maryland. Present were: Commissioners Larry Bussard, Rick Dietrick, Jennifer Falcinell, Tony Ventre and Christopher Goodman.

CONSENT AGENDA
Town Minutes – June 23, 2014 Public Hearing and Regular meeting
Request for Community Parks and Playground projects
Schedule Public Hearings: CIP Budget – Aug. 11, 2014 at 7pm. and Water & Sewer Rate Increase – Aug. 11, 2014 at 7:15pm.
Commissioner Bussard motioned to accept this consent agenda, seconded by Commissioner Falcinelli and passed unanimously.

Unfinished Business:
Power Purchase Agreement – RER & Empower – Burgess Miller stated that at last month's meeting we went through the Purchase Agreement line by line answering questions or concerns the Commissioners had. In front of us tonight are spreadsheets/graphs showing actual consumption vs. estimated production tables and analysis. RER stated that they cannot design a system that generates more than 110%. RER & Empower together will create a new entity that will become licensed in the State of Maryland.

Motion by Commissioner Ventre to approve the PPA (Power Purchase Agreement) from RER and Empower Energies with the condition that the provider be licensed to do business in the State of Maryland, seconded by Commissioner Goodman. Motion approved (6-0).

Cross Stone Commons – Traffic Entrance Plan – Burgess Miller stated that Cross Stone Commons will have 2 entrances off of Middletown Parkway opposed to 1. Burgess Miller stated that he, Drew and Bruce have met with representatives from Cross Stone Commons in regards to the Parkway and entrances off of the Parkway. Bruce Carbaugh stated that the first entrance off of the Parkway will be a full entrance. There will be a left turn lane, accel/decal lane, it was also agreed up by the developers to pledge a bond (whatever the amount that the Town deems necessary) for 5 years that if that intersection becomes unsafe during that time, the Town will use that money to make the necessary repairs to the intersection. It was noted that SHA has granted the right turn lane off of 40A.
Barbara Fine, 105 S. Jefferson Street – asked if sidewalks would be on both sides? Burgess Miller stated yes sidewalks would be on both sides of the parkway.
Commissioner Dietrick motioned to move forward with the design as presented with the condition that the developer put up a bond based on what our Town Engineers feels necessary and the stipulations approved by the Board, seconded by Commissioner Goodman. Motion approved 5-1 (Bussard voted against).

Introduction of Ordinance - Adult Entertainment Business – Burgess Miller stated that this is to amend the Ordinance currently in place to put restrictions on where a business of this nature can go. Burgess Miller stated that with the current ordinance an Adult Entertainment business could go in any commercially zoned district. The amended ordinance states that "Adult Entertainment Business" cannot be located within 1,500 feet of other property used as a school, park, child day care center, church or house of worship, or another adult entertainment business.
Tawn Oconner, 101 S. Jefferson Street – asked if we could increase 1,500 feet to 5,280 feet? Burgess Miller stated that we researched this and we cannot deny this type of business but we can be very restrictive with our rules. Burgess Miller stated that the case law shows 1,500 feet as a reasonable amount of feet away from other property like parks, child day care center, schools, and house of worship.

REPORTS OF COMMITTEES –
WATER & SEWER – Commissioner Falcinelli reported:
Spring flow: 136,000 gal., East WWTP 230,000 gal., and WWTP 261,000 gal.
Lead and Copper – initial letters have been mailed
MDE DMR & MOR – developed new with new permit required updates on both and resubmittal of corrected DMR's
Well 15 Manganese – Bruce stated that he has not been able to get back to work on it but once the MDE forms are finished that is the next on his list.
PUBLIC WORKS – Commissioner Bussard reported:
With all the storms we've had recently the guys have had to clean up the downed trees in the streets.
Crack sealing is complete.
Bulk Trash pick-up scheduled for Oct. 25, 2014.
Patching contract – work should start late July. Eastern Circle mill & overlay to occur at that time, will update once a date is confirmed.
PLANNING COMMISSION – Commissioner Goodman reported:
Verizon- small cell install – Planning Commission denied their request to put on ground they are coming back this month to have it installed on a light pole.
PARKS & RECREATION – Commissioner Ventre reported:
POS meeting we were granted $40,500 to complete our 1st project (completion of the Remsberg Park trail and install bridge).
Next Meeting is July 22 at 7pm.
FINANCE – Drew stated that the Auditor will be here the 2nd week of August.
PUBLIC INFORMATION – Commissioner Falcinelli reported:
Once the water & sewer rate increase has been approved we will add that to the community directory and go to print. Hopefully have copies for Heritage Festival.

NEW BUSINESS:
Discussion of Design Manual Proposed Changes – Burgess Miller stated that Cindy has come across some changes that need to be made to the Design Manual. With things changing throughout the years, we need to update the Design Manual to reflect.

Discussion of Mobile App for Town Website – Burgess Miller stated that he asked Annette to contact our current website administrator to see if they offer a "mobile app" for all the smartphone users. After some discussion it was agreed that this really wasn't worth the money.

Survey Bids for Walking Trail Subdivision – Drew stated that he obtained 3 bids for the survey subdivision for the Schoonover Property. Drew stated that Mr. Edelman has agreed to sell his out lot but Mr. Schoonover would like to keep part of their land, therefore we need to do a subdivision plat for that lot to allow the Town to purchase the lot. Drew stated that once we receive these two parcels of land we

can complete the walking trail from Linden to East Main Street. Drew stated that this project is paid for from the POS Grant. Bids received by Daft, McCune & Walker - $5,0000, Frederick, Seibert & Assoc. - $2,850 and Lavelle & Assoc. - $3,000.
Motion by Commissioner Falcinelli to approve the bid from Frederick, Seibert & Associates, Inc. for $2,850, seconded by Commissioner Goodman. Motion carried (6-0).

Draft Proposal for On-Call Procedures – The Burgess and Commissioners briefly discussed this draft on-call policy. This will be discussed further at next month's meeting with the staff providing additional alternatives.

Amendment to Personnel Policy – Burgess Miller stated that it came to his attention that we need to make a minor amendment to the Personnel Policy. Burgess Miller stated that with the event that was held this past week per the personnel policy a few of our employees violated the policy. Under the section *the following offenses shall result in immediate termination of employment:*
C. Use, sale, or possession of illegal drugs and/or alcohol on the job, on Town property, or in Town vehicles.....It was noted that the Maintenance staff helped to set up and clean up for the Sesquicentennial Events last week that included picking up alcohol in a town vehicle and also placing the left over alcohol in the refrigerators on town property. Burgess Miller is suggesting that we amend letter C to read *Use, sale, or possession of illegal drugs on the job, on Town property, or in Town vehicles. Add letter F to read Use, sale, or possession of alcohol on the job, on Town property, or in Town vehicles unless at a Town function authorized by the Burgess and Commissioners.*

PUBLIC COMMENT:
Bob Smart, 7525 Coblentz Road – publicly thanked the Town staff and Becky Reich the Main Street Manager for a great event last week.

ADJOURNMENT
With no further business to come before the Board, the regular meeting adjourned at 8:55p.m. with the Burgess and Commissioners entering into Executive Session to discuss employee evaluations.

Respectfully submitted,

Ann Griffin
Office Manager

ORDINANCE NO. 14-08-01

AN ORDINANCE TO AMEND CHAPTER 2.04 OF THE MIDDLETOWN MUNICIAL CODE TO INCREASE THE SALARIES OF THE BURGESS AND THE COMMISSIONERS TO BE EFFECTIVE FOR THE TERMS OF OFFICE FOLLOWING THE MUNICIPAL ELECTION IN APRIL 2016; TO PROVIDE FOR THE PAYMENT OF SALARIES IN PRO RATED MONTHLY INSTALLMENTS; TO PROVIDE FOR THE CONTINUATION OF THE PAYMENT OF SALARIES IN THE CURRENT AMOUNTS UNTIL SUCH TIME AS THE INCREASE BECOMES EFFECTIVE.

SECTION I. BE IT RESOLVED, ORDAINED AND ENACTED by the Burgess and Commissioners of Middletown, pursuant to Article III, Section 303 of the Town Charter, that Title 2, Chapter 2.04, Section 2.04.010 of the Middletown Municipal Code be, and hereby is, amended as follows. Language being deleted is designated by being in ~~[brackets and stricken through.]~~ New language is designated by being in **BOLD CAPITAL LETTERS OR NUMBERS.**

Title 2 Administration and Personnel

Chapter 2.04 The Burgess and Commissioners

2.04.010 Burgess' salary.

The salary of the burgess shall be increased from ~~[three thousand six hundred dollars ($3,600.00) per year to]~~ six thousand dollars ($6,000.00) per year **TO TEN THOUSAND TWO HUNDRED DOLLARS ($10,200) PER YEAR, SUCH INCREASE TO TAKE EFFECT FOR THE THOSE TERMS OF OFFICE FOR THE BURGESS FOLLOWING THE MUNICIPAL ELECTION IN APRIL 2016.** ~~[beginning after the municipal election in April 1996.]~~ **THE ANNUAL SALARY SHALL BE PAID IN PRO RATED MONTHLY INSTALLMENTS. UNTIL SUCH TIME AS THE NEW SALARY SHALL TAKE**

EFFECT, THE BURGESS SHALL CONTINUE TO RECEIVE THE SALARY IN EFFECT ON THE DATE OF THE ENACTMENT OF THE ORDINANCE ESTABLISHING THE INCREASE.

SECTION II. BE IT RESOLVED, ORDAINED AND ENACTED by the Burgess and Commissioners of Middletown, pursuant to Article III, Section 303 of the Town Charter, that Title 2, Chapter 2.04, Section 2.04.020 of the Middletown Municipal Code be, and hereby is, amended as follows. Language being deleted is designated by being in ~~[brackets and stricken through.]~~ New language is designated by being in **BOLD CAPITAL LETTERS OR NUMBERS.**

Title 2 Administration and Personnel

Chapter 2.04 The Burgess and Commissioners

2.04.010 Commissioners' salary.

The salary of the commissioners shall be increased from ~~[one thousand two hundred dollars ($1,200.00) per year to]~~ two thousand four hundred dollars ($2,400.00) per year **TO FOUR THOUSAND TWO HUNDRED DOLLARS PER YEAR.** ~~[beginning after the municipal election in April 1996. The increased salaries will become effective in April 1996 and will be paid monthly to the newly elected officials.]~~ **SUCH INCREASE SHALL TAKE EFFECT ONLY AS TO THOSE COMMISSIONERS ELECTED TO A TERM OF OFFICE AFTER THE MUNICIPAL ELECTION IN APRIL 2016 OR SUBSEQUENT ELECTION THERETO. THE ANNUAL SALARY SHALL BE PAID IN PRO RATED MONTHLY**

INSTALLMENTS. UNTIL SUCH TIME AS THE NEW SALARY SHALL TAKE EFFECT AS TO A COMMISSIONER, A COMMISSIONER SHALL CONTINUE TO RECEIVE THE SALARY IN EFFECT ON THE DATE OF THE ENACTMENT OF THE ORDINANCE ESTABLISHING THE INCREASE.

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 _____, 2014

PASSED ON THE _____ DAY OF _____, 2014

EFFECTIVE DATE: _____, 2014

ATTEST:

_____
Andrew J. Bowen, Town Administrator

BURGESS AND COMMISSIONERS OF MIDDLETOWN

By:_____
John Miller, Burgess

MEMORANDUM

DATE: August 11, 2014

TO: Burgess and Commissioners

FROM: Andrew J. Bowen, Town Administrator

SUBJECT: Rotational On-Call Program Policy

ISSUE:
Staff is recommending a formal policy for On-Call for emergency response. The policy would provide specific behavior, scheduling, and compensation for employees.

BACKGROUND:
The Burgess and Commissioners reviewed a draft of this proposed policy at the July 14, 2014 Town Meeting and asked staff to review direct monetary compensation rather that compensation via comp-time.

After a review of surrounding industries such as hospitals, water plants, and emergency responders, that provide 24 hour on-call services the average monetary compensation varies between $3.00/hour – $3.75/hour for on-call service. Many organization use compensatory time, and other organizations require it as part of their position but these organization are FLSA exempt position, which is not the case with Middletown public works employees.

FISCAL IMPACT
The fiscal impact of using monetary compensation is outlined on the attached spreadsheet.

Burgess and Commissioners
Middletown, Maryland

On-Call Fiscal Impact

Hour of Call/Week	On-Call Rate/Hour	Number of Weeks	Number of Personnel	Yearly Cost
128	$ 3.75	52	2	$ 49,920.00
128	$ 3.00	52	2	$ 39,936.00
128	$ 2.50	52	2	$ 33,280.00
128	$ 2.00	52	2	$ 26,624.00
128	$ 1.50	52	2	$ 19,968.00

Budget Amendments To Fund On- Call Policy

Salary Increase Surplus $ 5,179.00

Rotational On-Call Program Policy

Purpose

The Town of Middletown is responsible for insuring continuous uninterrupted operation of the town's water, waste water, collection and distribution systems as well as maintaining streets, parks and building structures. The rotational on-call program insures that after-hour emergencies involving any of these operations, which could impact the residents and businesses of the Town of Middletown, are addressed in a reliable and timely manner.

Definitions

After Hours Emergencies – is defined as those calls which require a response from an on-call employee outside of their normal work day hours for issues of public safety. Calls can include but are not limited to: water leaks, sewer clogs, pump station failure, mechanical equipment failure, electrical systems failure, street maintenance, distribution, collection infrastructure failure, public safety concerns, snow removal, buildings and parks maintenance.

Total Response Time to the Emergency Call – is calculated as the time an employee leaves their location to respond to an after-hours emergency call until their return once the call is completed, to include travel time to and from Middletown. If the after-hours emergency continues into normal work day hours, the total response time for that after-hours emergency call will not include any time worked during normal work day hours.

Staffing

The following sections are required to participate in the rotational on-call program:

-Water & Sewer
-Streets & Utilities
-Facilities Superintendent

The Director of Public Works and the Assistant Director of Public Works will not be scheduled in the rotation, but will assist during after hour emergencies if they deem it necessary.

Scope

After normal work hours and on weekends, the Town of Middletown shall maintain a weekly rotating on-call program to respond to after-hour emergencies.

Staffing for the weekly rotating on-call program will consist of two (2) employees; one (1) from Water & Sewer and one (1) from Street & Utilities (The Facilities Superintendent is included in this group's rotation.). They will respond to any after-hour emergencies for one week. The on-call rotation week begins Monday at 7AM and continues until 6:59 AM the following Monday.

All after-hour emergencies are received through an answering service; All-Ways Communication. All-Ways Communication will then call the appropriate on-call employee; depending on the nature of the emergency. The Director of Public Works and the Assistant Director of Public Works will be notified of each after hour emergency via text. Water and sewer emergency calls will go to the Water and Sewer employee and other emergencies will go to the Streets and Utilities employee as determined by All-Ways Communication staffing. After receiving the emergency notification, on-call employees will address and rectify the emergency. Additional section staff can be contacted to help mitigate the emergency if necessary.

On-Call Response and Employee Behavior

On-call Employees must be at the emergency location within 90 minutes of receiving the initial phone call. The on-call employee must be prepared to drive town equipment, operate equipment, and perform public relations as needed for each emergency. On-call employees must abstain from alcohol use while on call. Failure to respond and comply with these stipulations can result in disciplinary action.

On-Call Scheduling

The weekly on-call schedule is determined at the beginning of the year. This allows on-call employees to schedule leave and other appointments as needed without conflict. Every effort will be made to insure the same employee is not on-call the same holiday on consecutive years.

On-call employees can exchange scheduled dates with other employees within their section as long as the Director of Public Works, the Assistant Director of Public Works and All-Ways Communication are notified of such changes in advance. Currently, Water & Sewer staff will be in rotation every 3 weeks, while Streets and Utilities staff (to include the Facilities Superintendent) will be in rotation every 4 weeks.

Compensation for On-Call Employees

On-Call employees will be permitted to drive a Town vehicle to their residence to use for after hours emergency call response. If the Employee chooses not to drive the Town vehicle they will be compensated at the rate of (the current Federal Mileage rate x the round trip distance (in miles) from their residence to the Town

garage and back). Employees will be compensated for responding to the emergency calls as either

1.) Earned comp time at the rate of (1.5 x the total response time to the emergency call), or
2.) Paid at the monetary rate of (1.5 x their normal hourly wage x the total response time to the emergency call). This choice is determined by the employee and reflected on their time sheet for that pay week. In addition, for every week an employee is on-call, that employee is given a day off with pay that must be taken either the following Friday or Monday of the next pay week.

OR

1. $3.00/hour for every hour they are on call.

DRAFT

Burgess and Commissioners of Middletown, Maryland

Town Personnel Policy
Employee Handbook

Approved by the Burgess and Commissioners
February 24, 2014

coming and when termination of benefits will occur. Employees are expected to turn in all property assigned to them at the time of termination.

Progressive Discipline

We believe it is important that all employees are treated fairly and that disciplinary actions are prompt, consistent, and impartial. The purpose of a disciplinary action is to correct the problem, prevent it from happening again, and prepare the employee for satisfactory performance in the future.

Progressive discipline means that we will take these steps in the following order:

1. The first offense will call for a verbal warning;
2. The next offense will be followed by a written warning;
3. Another offense will lead to a suspension; and,
4. Repeated offenses will lead to termination of employment.

If more than 12 months have passed since the last disciplinary action, the process will start over. Listed below are some of the reasons which may be causes for disciplinary action, but disciplinary action is not limited to the offenses listed below.

A. Failure to perform assigned duties properly
B. Insubordination (disobedience or refusal to perform assignments/duties)
C. Chronic or habitual absenteeism or lateness
D. Being absent without leave
E. Inefficiency
F. Violation of Town Ordinances, administrative regulations or department rules, policies, or procedures
G. Conviction of violation of law bearing on job performance
H. Inability to perform assigned duties properly
I. Refusal to be examined by a Town appointed medical professional when so directed
J. Conduct which is unbecoming of a Town employee
K. Violation of a posted safety, fire prevention, health, or security rule
L. Abuse of sick leave
M. Unsatisfactory performance evaluation

The following offenses shall result in immediate termination of employment:

A. Unauthorized use of, removal of, theft, or intentional damage to the property of the Town or another employee, independent contractor, or customer
B. Giving false statements to any Town official or employee, or the public
C. Use, sale, or possession of illegal drugs on the job, on Town property, or in Town vehicles
D. Use, sale, or possession of alcohol on the job, on Town property, or in Town vehicles unless at a Town function authorized by the Burgess and Commissioners.
E. Accepting an inducement to perform or fail to perform

Deleted: and/or alcohol

F. Falsification of Town records (e.g. hours worked)
G. A false statement in an employee's application for employment
H. Under the influence of an illegal drug, a controlled dangerous substance, or alcohol while on the job
I. Dishonesty or theft
J. Endangering the safety of or causing injury to other personnel or the public
K. Weapons or firearms

By using progressive discipline, we hope that most employee problems can be corrected at an early stage, benefiting both the employee and Town of Middletown.

Discipline and/or discharge may result for many reasons including, but not limited to, inappropriate behavior and/or unsatisfactory performance. Inappropriate behavior is defined as including, but not limited to, misbehavior on the job, refusal to do work reasonably expected, wrongful use of or taking of agency property, conviction of a felony, and violation of any policies or practices of the Town.

Unsatisfactory performance means failure of an employee to meet performance standards, to complete tasks in a timely, competent way, or to maintain an adequate attendance record. Uncooperative behavior or negative attitudes that affect the work or morale of others may result in termination. At the discretion of the Burgess, any staff member facing termination for unsatisfactory performance may be given the option to resign as described in the above section under "Resignation."

XII. Employee Appeals

Town employees have the ability to appeal the following items to the Burgess and Commissioners for their consideration:

- Termination

The decision of the Burgess and Commissioners shall be final.

XIII. Ethics

Code of Ethics for Public Officials and Employees

It is the policy of the Town that no official or employee shall have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest. Outside employment must be disclosed and submitted to the Town for determination if a conflict exists.

To implement this policy and strengthen the faith and confidence of the people of the Town in