



## **AGENDA FOR THE TOWN MEETING**

**January 10, 2011**

**7:00 p.m.**

### **PLEDGE TO THE FLAG**

### **CALL TO ORDER**

### **CONSENT AGENDA**

- Town Minutes
  - December 13, 2010

### **PERSONAL REQUESTS FOR AGENDA:**

#### **STAFF REPORTS (*From Workshop*):**

Community Deputy Report  
Staff Planner  
Zoning Administrator  
Engineer's Report  
Main Street Manager

### **UNFINISHED BUSINESS:**

- Hollow Creek Request for Permit for Outdoor Music Events for 2011 (*Action Item #1*)
- Discussion of Restricted Vehicles Definition

### **REPORT OF COMMITTEES:**

Water/Sewer	Commissioner Falcinelli
Public Works	Commissioner Bussard
Planning & Zoning Liaison	Commissioner Dietrick
Parks & Recreation	Commissioner Ventre
Finance	Commissioner O'Reilly
Public Information Committee	Commissioner Falcinelli
Revitalization Committee	<i>Currently Suspended</i>

**NEW BUSINESS:**

- Design Cost Amendment – West Green Street Improvements
- 2011 – Joint Meeting Dates for the Town Board and Planning Commission
- 2011 – Neighborhood Meeting Dates & Locations
- Request for Tax Refund – Coblenz Farm LLC

**PUBLIC COMMENTS:**

*Please state Name and Address for the Record*

**ANNOUNCEMENTS:**

**ADJOURNMENT**

**EXECUTIVE SESSION:** *(If Needed)*

**Meetings for the month of January 2011**

- |                                      |                                    |               |
|--------------------------------------|------------------------------------|---------------|
| • <i>Planning &amp; Zoning</i>       | <i>Monday, January 17, 2011</i>    | <i>7:00PM</i> |
| • <i>Parks &amp; Recreation</i>      | <i>Tuesday, January 18, 2011</i>   | <i>7:00PM</i> |
| • <i>Water &amp; Sewer Committee</i> | <i>Wednesday, January 19, 2011</i> | <i>7:00PM</i> |
| • <i>Main Street Board</i>           | <i>Thursday, January 27, 2011</i>  | <i>7:00PM</i> |



**DRAFT**

## Permit for Outdoor Music Events

**Application Date:** September 8, 2010

**Applicant:** Hollow Creek Golf Club

**Address:** 50 Glenbrook Drive  
Middletown, MD 21769

**Address of Events:** 50 Glenbrook Drive  
Middletown, MD 21769

**Dates of Events:** Friday Evening from May 6, 2011 – October 28, 2011  
26 Events

**Time of Events:** 8:00PM – 10:00PM

**Permit Conditions:** *Conditions of the permit are determined by the Burgess and Commissioners.*

- Maximum noise level allowed: 55 decibels (dba) at the nearest property line (3 Tobias Run) during nighttime hours from 10:00PM-7:00AM and 65 decibels (dba) at the property line during daytime hours from 7:00AM-10:00PM.
- Noise level will be measured with the Town's decibel meter by a Town Deputy or designated Town Official.
- A complaint will not be investigated unless two (2) complaints are received for the same outdoor event from two different property owners.
- If the complaint is found to be in violation of the decibels limits, the music must be stopped.
- In the event of multiple violations, the following procedures will be followed:
  - 1<sup>st</sup> valid complaint – Warning Issued;
  - 2<sup>nd</sup> valid complaint - \$100 Fine Issued;
  - 3<sup>rd</sup> valid complaint – Permit for Outdoor Music will be revoked for all remaining events.

**Permit Approved by Burgess and Commissioners:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
John D. Miller, Burgess

\_\_\_\_\_  
Cindy Unangst, Zoning Administrator

December 7, 2010

**RECEIVED**

DEC 13 2010

TOWN OF MIDDLETOWN, MD.

Andrew J. Bowen, Town Manager  
Town of Middletown  
31 West Main Street  
Middletown, MD 21769

Hagerstown Office  
1101 Opal Court  
Suite 312  
Hagerstown, MD 21740  
T 301.791.1100  
F 301.791.5020

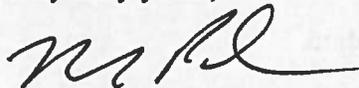
RE: West Green Street  
Middletown, Maryland  
ARRO Proposal No. 013-PT04  
ARRO Project No. 5589.02, Amendment No. 1

Dear Drew:

Enclosed are two originals of Amendment No. 1 relative to the additional work associated with the above-referenced project. Our preliminary estimate reveals that by implementing the bumpout scenario as discussed with the Commissioners, the Town will realize a savings of at least \$70,000 or as much as \$100,000.

In order to formalize this agreement, please sign the enclosed Amendment and return one original to our office. If you have any questions, please contact me at 301-791-1100.

Very truly yours,



Richard D. Parks, P.E.  
Senior Vice President

- BURGESS
- COMMISSIONERS
- ADMINISTRATOR
- PLANNING & ZONING

RDP/ss

Enclosure

HOLD FOR APPROVAL @ JANUARY 2011 MTC

# PROFESSIONAL SERVICES AGREEMENT

AMENDMENT NO. 1

to

ARRO Job No. 5589.02

Professional Services Agreement 013-PT04

Town of Middletown  
31 West Main Street  
Middletown, MD 21769

and ARRO Consulting, Inc.  
1101 Opal Court, Suite 312  
Hagerstown, MD 21740  
301-791-1100

December 8, 2010

The purpose of this Amendment No. 1 is to amend Professional Services Agreement 013-PT04 dated January 16, 2003 between ARRO Consulting, Inc. (ARRO) and Town of Middletown (Client) for design services to widen and improve approximately 1,800 LF of West Green Street between Route 17 and Koogle Drive in Middletown, Maryland. ARRO will provide professional engineering services to modify and update the previously prepared contract drawings, specifications and cost opinion to reflect the latest concept and adapt to recent changes in property improvements and power/telephone pole locations. Professional Services Agreement 013-PT04 dated January 16, 2003 and amended by change order no. 1 on May 26, 2006 is amended as follows.

**1. ADD the following to the SCOPE OF SERVICES:**

Modify the West Green Street contract drawings, specifications, and cost opinion to reflect the following changes.

- Relocate fire hydrant behind sidewalk in front of church.
- Relocate Ifert Street intersection to avoid power pole relocation.
- Modify handicapped sidewalk at driveway just west of Ifert Street to avoid power pole.
- Design water quality inlets (Filtera or comparable) and coordinate SWM permit approval with Frederick County/Town. Meet with the County and Town, if necessary, to discuss and agree upon the stormwater management concept.
- Additional field reconnaissance to edit any changes to adjacent properties since the time of the original survey and modify plans accordingly.
- Revise power pole locations to the new locations as installed by the utility after the original topography was obtained for design.
- Design underdrain system in front of church for spring control.
- Investigate existing storm drain system at connection point in Willow Avenue and modify storm drain design accordingly.

December 8, 2010

- Perform storm drain calculations for all proposed storm drains and downstream to determine if the capacity of the existing downstream system is adequate and if not, recommend any upgrades.
  - Update specifications and cost opinion.
  - Revise contract documents as necessary based on review comments by the Town Engineer, County, and other permitting agencies.
  - Relocate driveway access at 309 East Main Street to the east to avoid the tree.
  - Revise the curb line on the north side to include projections (bump outs) to allow for maintaining driveways, parking and provide opportunities for landscaping and stormwater management in general conformance with the concept plan presented to and approved by the Burgess and Commissioners on December 2, 2010. Amend the contract documents as required to reflect this change in concept.
  - Add landscaping to the contract documents.
  - Submit permit applications to Soil Conservation District and Frederick County Development Review.
- 
- Modify the right of way/easement plats as required based on the changes above for acquisition by the Town.
  - Provide the Town with original mylars of the plans after permit approval, and hard copies of the specifications and cost opinion.
  - Provide contract documents in electronic form to the Town.
2. **MODIFY SCHEDULE Section as noted:**

ARRO will commence work associated with Amendment No. 1 services upon receipt of written notice to proceed from the Client, and will complete work and be ready to submit for permits within 6 weeks thereafter.

3. **MODIFY COMPENSATION Section as noted:**

Amendment No. 1 services shall be provided for a lump sum fee of **Twenty-Eight Thousand Five Hundred Dollars (\$28,500.00)**.

Town of Middletown  
ARRO Job No. 5589.02 (Amendment No. 1)  
Professional Services Agreement 013-PT04

December 8, 2010

**Town of Middletown**

**ARRO Consulting, Inc.**

**BY:** \_\_\_\_\_

**BY:**  \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

**Richard D. Parks, P.E.**

**TITLE:** \_\_\_\_\_

**TITLE:** Senior Vice President

**DATE:** \_\_\_\_\_

**DATE:** December 8, 2010

**Client's Designated Representative:** \_\_\_\_\_



## MEMORANDUM

**DATE:** January 3, 2011  
**TO:** Burgess and Commissioners & Planning Commission  
**FROM:** Cindy Unangst, Staff Planner & Zoning Administrator  
**CC:** Andrew J. Bowen, Town Administrator  
**SUBJECT:** 2011 Joint Meeting Workshop Dates

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Attached are the dates for the Joint Meetings between the Town Board and Planning Commission for 2011; dinners are included at these meetings:

<b>Monday, March 7, 2011</b>	<b>6:30PM</b>
<b>Monday, June 6, 2011</b>	<b>6:30PM</b>
<b>Monday, November 7, 2011</b>	<b>6:30PM</b>
<b>Monday, December 5, 2011</b>	<b>6:30PM</b>

If you should have any questions, please do not hesitate to contact me or Drew at 301.371.6171 or e-mail me at [cunangst@ci.middletown.md.us](mailto:cunangst@ci.middletown.md.us) or Drew at [abowen@ci.middletown.md.us](mailto:abowen@ci.middletown.md.us).

# Middletown Neighborhood Meetings 2011

Date	Neighborhood	Location
Tuesday, May 17	North Pointe	North Pointe Park
Tuesday, June 14	Glenbrook	Tobias Run Park
Tuesday, July 12	Historic District/Downtown	Elm Street Parking Lot
Tuesday, August 9	East Main Street	Library
Tuesday, September 13	Boileau Court/Washington Street	Jefferson Village Park

- Meetings will begin at 7:00 pm
- An agenda will be provided
- Question and Answer time will be available

*Meetings will be cancelled in case of inclement weather*

# MILES & STOCKBRIDGE P.C.

December 10, 2010

Andrew J. Bowen  
Town Administrator  
Town of Middletown  
31 West Main Street  
Middletown, Maryland 21769

**RECEIVED**

DEC 13 2010

TOWN OF MIDDLETOWN, MD.

Re: Claim for Refund of Taxes Erroneously Paid

Dear Drew:

As you know, this firm represents Farhad Memarsadeghi and Coblentz Farm Limited Partnership ("Coblentz Farm"), the former owner of that certain 16.26 acres, more or less, parcel of unimproved land located in the Town of Middletown, and designated as Tax Account Number 11-03-128644 (the "Property"). As you also are aware based on your experience with the long development approval process for the Property, the Property was the remainder parcel of the Foxfield subdivision and designated as "open space" for forest conservation purposes and for ultimate dedication to the Town of Middletown, as subsequently confirmed by a Deed to the Town of Middletown, dated May 17, 2010, and recorded among the Land Records of Frederick County, Maryland in Liber 7845, folio 143.

As we discussed at our meeting on December 8, during the time that Coblentz Farm owned the Property, and was in the process of developing the Foxfield subdivision, Coblentz Farm was paying real estate taxes on the Property. It was recently discovered that there was an apparent error in the tax billing and, as a result, the Property was being taxed as R3 residential zoned land when, in fact, the Property was always intended to be used as open space.

Because of the zoning designation error and resulting tax billing error, Coblentz Farm erroneously paid taxes on the Property in the total amount of \$106,624.58, as follows:

2004	\$10,606.62	Check # 1414
2005	\$14,885.63	Check # 1524
2006	\$21,198.87	Check # 1620
2007	\$18,101.90	Check # 1734
2008	\$19,349.40	Check # 1815
2009	\$22,482.16	Check # 1865
Total=\$106,624.58		

BURGESS  
 COMMISSIONERS  
 ADMINISTRATOR  
 PLANNING & ZONING

Copies of the front and back of each of the above referenced checks are enclosed, along with an itemization of the tax payments included as part of each check, since each of the referenced checks included tax payments for multiple properties owned by Coblentz Farm.

On September 10, 2010, my client filed with the Treasurer for Frederick County a Claim for Refund of Tax Erroneously Paid in the amount of \$106,624.58, claiming a refund of the taxes erroneously paid on the Property, pursuant to the Annotated Code of Maryland, Tax-Property Article, Sections 14-905 and 14-914. The County is still in the process of reviewing the claim, pending submittal of additional documentation of the intended "open space" use of the Property. At the suggestion of the County Treasurer and Assistant County Attorney, we also plan to file a concurrent appeal of the taxes erroneously paid pursuant to the additional authority under Section 8-419(a)(2), which permits an appeal after the date of finality in order to "prevent an injustice" for the payment of taxes paid in error. I am enclosing copies of the statutes for your reference.

The purpose of this letter is to request consideration by the Town of Middletown to grant a refund of the portion of the above itemized taxes previously paid on the Property which were allocated and paid to the Town. In light of the fact that the Property was always intended to be used as "open space" and would ultimately be owned by the Town, my client feels that a refund of the taxes would "prevent an injustice" for the payment of erroneously charged taxes at higher and improperly classified "residential" zoned rates for a Property which was designated and always intended to be used as "open space".

Thank you for your assistance and consideration of this request for refund. If there is any additional information which you or the Burgess and Commissioners may require, or if you have any questions, please feel free to contact me.

Sincerely,



Anne-Herbert Rollins

Enclosures

Cc: Coblentz Farm Limited Partnership