

BURGESS AND COMMISSIONERS OF MIDDLETOWN MARYLAND

TOWN MEETING MINUTES

TOWN MEETING

November 13, 2023

The meeting of the Burgess and Commissioners of Middletown was called to order on November 13, 2023 by Burgess Miller at 7:00 p.m. Present were Commissioners Jennifer Falcinelli, Rick Dietrick, Kevin Stottlemeyer and Chris Goodman. Commissioner LaPadula arrived late to the meeting.

PUBLIC COMMENTS:

Becky Myers, 2 Woodmere Circle, asked what is the role that the Town is taking regarding the school campus construction. She is not impressed with the new design and FCPS is not engaging with the town and community. Burgess Miller recommended that she attend the December 13th Planning Commission meeting as that is when the design team for the school complex will be presenting their concept plan. It will provide her with the opportunity to voice her concerns and propose ideas.

CONSENT AGENDA:

- **Town Meeting Minutes**
 - *October 5, 2023 – Town Workshop*
 - *October 9, 2023 – Town Meeting* – Commissioner stated that a correction was needed for the date that is stated under the report from the Planning Commission. It says September and should be October.
 - *November 2, 2023 – Town Workshop*

Motion: Commissioner LaPadula motioned to approve the consent agenda with the correction to the October 9th minutes as presented. Seconded by Commissioner Falcinelli. Motion passed (6-0).

REPORT OF COMMITTEES:

WATER & SEWER – Commissioner Falcinelli reported:

For October water use was – 311,354 gal., spring flow was – 41,232 gal., East WWTP treated 172,000 gals. and the West WWTP treated 112,000 gals. The Town received 1.05 inches of rain in October. Middletown is currently in Code Yellow in its water conservation public alert system. The reservoir is close to full, and the springs are running at 26 gpm. The website has been updated to reflect the town code regarding violations if the Town goes to a Code Red water conservation status. If a resident or business is in violation of the water usage during a Code Red status, they will receive one warning. If they violate a second time, they will be fined \$100 and their water will be immediately disconnected, and they will have to pay \$50 to have it turned back on. However, filling or topping off pools or outdoor hot tubs during a Code Red will immediately result in a \$500 fine and immediate disconnection of water service. Commissioner Falcinelli stated that during code red level 1 gardens may be watered using watering cans/buckets or handheld hoses with automatic shutoff nozzles. She asked the other board members for their definition of a garden in this instance. After discussion it was recommended that the water sewer committee review the code red portion of the water conservation public alert system policy and draft any changes they would make to that section of the policy and have it ready for the November 27th town board meeting. If the town is not in a Code Red status at that time, the town board will review and vote on the proposed policy changes.

In other news, town hydrants were not flushed due to the dry conditions. The EPA ruling on PFOA and PFOS is that each level is to be under 4, not their combine levels having to be under 4.

PUBLIC WORKS – Commissioner Dietrick reported:

Town crews assisted with both the scarecrow and Halloween parade. The bathrooms at Memorial Park and Wiles Branch Park have been closed for the season. The Bathroom at Remsburg Park is still open since it does not use water. Replaced a battery for the Brookridge generator and replaced a battery terminal at the WWTP. A fountain at the softball field was vandalized and town crews repaired it. The town fleet has been prepared for winter with plows attached. Crews underwent safety harness training; a sewer cap was replaced at 15 Walnut Street and a PRV was adjusted at the high school.

SUSTAINABILITY – Commissioner Stottlemeyer reported:

The drop off event was a success. There will be no talks at the Middletown Library in November or December. The plastic bag collection is still ongoing at the elementary school. The committee is looking at mosquito control options and sustainable laundry practices. Frederick County is discussing the creation of a municipal green team forum for municipalities in the county.

PLANNING COMMISSION – Commissioner LaPadula reported:

The workshop will be held on November 15th this month. There will be no meeting this month as there is little to review except the resident generated alternative concepts for the school complex concept plan, and the Comp Plan comments provided by residents. If anyone still wants to send comments on the Comp Plan, please send them to the staff planner.

PARKS AND REC. COMMITTEE – Commissioner Goodman reported:

There was a ribbon cutting ceremony at the new pickleball courts this past Saturday. There is no committee meeting this month. The committee will be looking at creating a natural trail around Remsburg Park. They will be gathering information and costs for such a project. There was an informal meeting with MVAA with a discussion of several items. It was suggested that the town board review the current master plan and determine how the partnership works going forward. MVAA did install new signs at Remsburg Park this past weekend. It was suggested that when there is a change in MVAA leadership the MOU should be reviewed. The Memorial Park batting cage is as complete as it will be until Spring. The concrete and plantings are in place. It was suggested to invite the MVAA leadership to the December workshop for a discussion.

PUBLIC INFORMATION – Commissioner Falcinelli reported:

In October, the top five town website pages visited were 1. Community Events, 2 Community Calendar, 3. Trash News, 4. Business Directory, and 5. News & Announcements. A Code Red banner was created to be used if the Town changes its water status to Code Red.

UNFINISHED BUSINESS:

WWTP ENR Upgrade Update – MDE provided the Town with a letter that provides explicit information as to why the upgrade needs to occur. MDE will not issue a new permit for the WWTP as it will not meet the ammonia treatment requirements. The permit 2026 cycle will include a climate change resiliency component that the town lagoon will not meet. MDE has stated repeatedly that it is not making the town do anything, but by not approving the permit they are forcing the upgrade. The town lobbyist met with Senator McRae, the vice chair of the capital budget subcommittee. Senator McRae is now fully versed in the town's situation. There is a meeting with Senator Feldman regarding potential legislation directing MDE to pay 100% of the costs for the WWTP upgrade. This proposed law may be the catalyst for MDE to pay 100%. FEMA is aware that the lagoon is in a floodplain. The Maryland Creating Resilient Water Utilities Program (CRWUP) would like to group Middletown's ENR WWTP upgrade,

Emmitsburg's significant ongoing water loss, and Boonsboro's reservoir together. Each municipality is completing modules and submitting them to CRWUP. Once completed, a report will be generated and submitted to the EPA for grant funding. The report generated can be used for future funding opportunities as well. It was noted later in the meeting that expansion was not included in the costs projected for this project. The town will be responsible for those costs.

Drought Warning & Status Update – The Town is currently in Code Yellow which asks for voluntary water conservation by residents and town businesses. The Director of Public Works (DPW) reported that currently the springs are running at 25 gpm/36000gpd, the reservoir is full, and the town has only run 3 wells. All wells have been measured, but he has not had the opportunity to review the data.

Miss Utility Marking Fee Implementation & Draft Notification Letter – Letters have been mailed to contractors informing them that the town will begin charging for marking miss utility tickets, \$35 for initial marking and \$15 for any remarking of properties. Beginning December 1, 2023 town staff will be logging the tickets, and contractors will be billed monthly. The process is in place and should be seamless.

Spring Lines – Previously - The costs of replacing the spring lines were discussed. 40% of the Town's water is supplied by the spring lines. This would be a 3-phase project with an estimated cost of \$8 million. Currently the Town has secured \$400,000 in grant monies to use towards the spring line replacement. Phase 1 of the project (from the Town to I-70) would cost \$1.2 million.

Tonight - Discussion occurred on whether to sign the Rural Maryland Council grant agreement for the \$150,000 grant. It requires the design and construction of Phase 1. It has a 25/75 match requirement with the Town required to fund not only the 75% match but the remaining costs for the completion of Phase 1. The town can use the bond bill as part of the match. The question was raised as whether the town should increase its debt service by applying for a loan for the waterline when it does not know if it will have to cover \$12 million for the WWTP upgrade. Would applying for the loan endanger the funding for the WWTP upgrade? The pros and cons of applying for the loan and the best way to utilize the MRC grant money if accepted were discussed at length. The town has until June 30, 2024 to spend the grant monies but the deadline can be extended as long as the project is meeting progression. The town can apply for the loan while still securing other monies to complete the 75% match. If a loan is needed for the WWTP upgrade the possibility of combining the two loans is unlikely to happen.

Motion: Commissioner LaPadula motioned to accept the Rural Maryland grant of \$150,000 and move forward with the intention of completing Phase 1 of the spring line including survey, design, and construction for an estimated cost of \$1.29 million leaving a project balance of \$890,000 which would result in approximately \$21.50 per household per year if the town had to take out a loan. There was no second. Motion failed.

Motion: Commissioner Falcinelli motioned to design Phase 1 of the spring line using \$90,000 from the bond bill. Seconded by Commissioner Stottlemeyer. Motion failed (2-4). Burgess Miller and Commissioners Dietrick, Goodman and LaPadula voted against it.

Bob Smart, 7525 Coblenz Road, asked if it was possible to either accept the grant for a lesser amount or accept and spend up to a certain portion of the full grant so that the town's matching requirement is covered by the bond bill, and any future funding secured through grants. This would not force the town to secure a loan to cover the matching costs.

Motion: Commissioner Falcinelli motioned to accept the Rural Maryland grant of \$150,000 as long as the staff actively manages the grant, so the matching requirement is met with funds the town currently has, so the town does not incur any debt associated with this project. Seconded by Commissioner LaPadula. Motion passed (6-0).

NEW BUSINESS:

Foxfield Section 6 Architectural Floor Plans Review and Discussion – The developer has provided 4 dwelling designs: a 4-bedroom design, two 5-bedroom designs and a 6-bedroom design with the primary bedroom on the second floor. In section 8 of the annexation agreement, it states “*A maximum of one hundred forty-eight residential units will be permitted on the subject property all of which shall be adult active units as defined in Section 17.04.030 of the Middletown Municipal Code, as may be amended from time to time.*”. That section of the Town Code references “*an attractive environment for older active adults which is suitable for their special needs, including smaller dwelling units which are more appropriate for older adults without children, and smaller yards...*”. The house designs proposed are sized like other family dwellings in town. There is concern that the MDE water allocations for active adult homes will not support these large dwellings. The Staff Planner has contacted the developer about this and is waiting for a reply.

DHS Cybersecurity & Infrastructure Security Agency SAFE Assessment –DHS has been asked to complete assessments of all town facilities. Results will be brought to the Town Board for review. Funding options for implementation of prioritized recommendations, once identified, will be researched.

Virtual Meeting Policy Draft Review & Discussion – The town attorney will review the draft policy and search for other precedents across the state. It was suggested that the final sentence in the third paragraph be rephrased for clarity.

Memorial Park Parking Lot Fence & Parking Space Chocks – The Town received an email from a concerned parent who requested the construction of a fence between the playground and the parking lot at Memorial Park citing child safety concerns. At the town workshop the board considered the use of parking chocks. Tonight, it was suggested that an estimate for the cost of fencing surrounding the children’s play be obtained. It could possibly be a POS item for next year. After further discussion the town board agreed by consensus to place chocks in the parking spaces nearest to the playground area.

Capital Improvement Fee Survey & Next Steps – Town staff have finished a survey of the town concerning those properties within town that have apartments, multiple businesses, or a combination of the two. This means there is one meter serving several households and or businesses. The town code will have to be amended specifically to define more specifically what a user is. The Town Administrator will draft a letter regarding the new fees to be charged beginning FY2025.

TOWN ADMINISTRATOR’S REPORT:

Heritage Park Acquisition – Bowers Appraisal reassessed the property for \$25,000 which is more in line with the Valley Appraisal amount of \$8,700. The cost for the purchase of the property is \$16,800. Middletown Valley Bank has agreed to the price. The information has been submitted to DNR for review. Frederick Seibert & Associates will be contacted to complete the subdivision of the property.

Personnel Committee Members & Meeting Dates/Times – Members of the committee have been identified. The first meeting is November 29th at 5:30PM. The meeting packet will be sent out as soon as it is available.

Food Bank – There is a \$100,000 bond bill to be used for the construction of a new Food Bank building if approved by Zion Church.

Legal Services Discussion – The Town Administrator has the name of 2 attorneys to contact regarding interest in providing legal services to the town. The current attorney is working to have the town removed from the current lawsuits between two neighbors. There is no grievance with the town in these lawsuits.

Potomac Edison EV Charging Station at Town Hall – The EV charging station is nearing completion in the back of the municipal center parking lot.

Mains Alley Mill & Overlay – Washington Gas has completed the natural gas line running to the Main Cup and the Fordham Lee Distillery. The cost for mill and overlay to Main’s Alley is approximately \$38,225. Washington Gas will pay \$31,350 of the cost. This will leave the town with the balance of \$6,875. The project is expected to begin next week.

Motion: Commissioner Falcinelli motioned to approve the town paying \$6,875 for the mill and overlay of Mains Alley as presented. Seconded by Commissioner Goodman. Motion passed (6-0).

Harris Property – The town is still waiting for the appraisal from Mrs. Harris. There is a meeting Friday, November 17th with DNR to discuss funding options using the Land & Water Conservation Fund. There is no information on the well to that property.

PUBLIC COMMENTS: None.

ANNOUNCEMENTS:

- *Small Business Saturday – Saturday, November 25, 2023*
- *Christmas in the Valley – Saturday, December 2, 2023*

The meeting adjourned at 9:10 PM.

Respectfully submitted,

Annette Alberghini,
Office Manager