COMMON COUNCIL MEETING
CITY OF MIDDLETOWN
January 16, 2024 Minutes
City Hall
16 James Street
Middletown, New York 10940

P R E S E N T

Miguel Rodrigues, President of Common Council
Ald. Gerald Kleiner
Ald. Paul Johnson
Ald. Kevin Witt
Ald. Jude Jean-Francois
Ald. Sparrow Tobin
Ald. Andrew Green
Ald. Kate Wray
Ald. Joseph Masi

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1. Pledge of Allegiance

(Pledge of Allegiance)

2. Roll Call

PRESIDENT RODRIGUES: Roll.

Roll Call: Tobin, Jean-Francois, Johnson, Wray, Kleiner, Green, Witt, Masi, President Rodrigues.

3. Approval of Minutes

PRESIDENT RODRIGUES: Approval of minutes.

RICHARD MCCORMACK, CITY CLERK: We have December 5th and December 19th.

ALD. MASI: So moved.

RICHARD MCCORMACK, CITY CLERK: Masi, seconded by Alderman Witt.

All in favor?

ALDERMANS: Aye.

4. Correspondence, Communications and Reports

PRESIDENT RODRIGUES: Okay. Correspondence.

RICHARD MCCORMACK, CITY CLERK: Nothing this evening.

5. For the Good of the City

PRESIDENT RODRIGUES: For the Good of the City, anyone would like to address the council please step forward.

Leilani Lockett: Hello, good evening. I am a City of Middletown resident. I'm a parent here. And I

also work for POWR Against Tobacco. I work with you on the TFO or Tobacco Free Outdoors for the parks and playgrounds and municipally owned properties around the city. And I'm here tonight to thank you for your progression and progress on retailers.

Young people are accessing tobacco products and all kinds of products that they should not have. And POWR Against Tobacco is here to support your work.

Please reach out to us, but thank you again for keeping these products out of the hands of our young people because it's very important that they don't start smoking or using cannabis before they are of age of to, like, really legal age and age to really make that decision. So please reach out to us. Thank you.

PRESIDENT RODRIGUES: Thank you.

STEVE MONTSERRAT: My name is Steve Montserrat (phonetic). I am a Middletown resident. I also am the coordinator for Middletown Cares Committee Coalition. And I just wanted to come up and say thank you for the -- the -- your code and your amendments that you're doing for the marijuana and everything that was going on.

I was really proud to be a Middletown resident back in October when we had that big -- big bust of everything that was going on. As far as the kids are concerned as a prevention, educator for Catholic

Charities, I always talk to the kids about having opportunity and not starting drugs and alcohol until they're of age to make proper decisions. And the ability of it is so prominent all over the place that that bust actually made it a lot harder for our kids to get their hands on those products. So it is very important to continue this work because studies show that the -- later they start doing any kind of substances, the more successful they'll be and the better they'll be a productive community member.

So thank you for this opportunity. If you need anything from Middletown Cares, we are more than willing and able to help you guys. And please thank you again.

PRESIDENT RODRIGUES: Thank you.

ALD. MASI: Thank you.

PRESIDENT RODRIGUES: Anyone would like to address the counsel?

6. Remark of Mayor

PRESIDENT RODRIGUES: Okay. Remarks of the Mayor.

JOSEPH DESTEFANO, MAYOR: Good evening. First I'd like to open with thanking the DPW Department and the men and women who work in the DPW for the great job they did with the snow. I know that we had a full salt mine and we don't have it anymore, but --

PRESIDENT RODRIGUES: You might be calling Sam's Club.

JOSEPH DESTEFANO, MAYOR: Right. We're gonna go out to Sam's Club, right.

But the streets were really cleared and they were cleared early. And -- and, you know, if it was just a matter of driving on the streets, probably could have gone to school, but it's the sidewalks and the intersections and the danger and then, of course, snowing later. And so I agree with the decision to close school. And but the DPW did a great job.

Yesterday a group of us, myself, I know Alderman Masi, Witt, Kleiner, Tobin, Jean-Francois, we were all at the MLK Day at the YMCA. One, I want to thank the YMCA for the great job they did, the program. It was about a two-hour program. A lot of performances by the kids in our community. And as I said yesterday, if you see the group of kids that were performing, you know the future is bright for our city because these were kids that are really dedicated, talented, and willing to speak out on -- on important issues.

So the -- so Bishop Rollins ran the event and did a fine job emceeing. And Jacob Tawil, Maria Bruni, and Raelynn and I believe maybe one or two other department heads were there. And it was a good showing

by the city.

We had well over 100 people in attendance, by far, since I've been going, the biggest crowd that I've seen at the MLK event. So, hopefully, it's indicative of the national times where people are waking up and seeing that their rights and -- are in jeopardy and people will be interested in voting this -- this coming November.

One discussion that we've had at the Board of Estimate and formally Ms. -- we've did some fire interviews this past week. We have three vacancies in the -- in the paid department. One is not really vacancy, but it's a deployment which it's a three-year deployment for one of our members who is in his 17th year. So he's all but gonna finish his career being deployed with the military. So there's still some costs that we have to assume with that deployment, not direct salary, but benefits, pension and all that.

And we have two others and possibly a third vacancy. So the list, the current list was expiring. They just gave a test on this past Saturday, Mr. Masi, through Civil Service. So after consultation with the Board and the fact that I believe only 40 or 45 took the test -- am I correct, Mr. Masi?

ALDERMAN MASI: I think 47.

JOSEPH DESTEFANO, MAYOR: Forty-seven. So in

that are took -- took the upcoming test. That doesn't mean they all passed the test. We're concerned about having a viable list and filling some vacancy because potentially next year we have another four of our paid staff that could be -- are eligible, not could be, are eligible for retirement. So we felt it was prudent to hire four at this time. We may need a budget adjustment during the year to cover because now we have training. We'll have some duplicative -- duplicative health benefits.

One of the people retiring was our fire inspector, Theron Adkins. So we need to have at least at least a two plus month overlap with the new fire inspector going into his position. So it's gonna create a little added expense in the fire department. So at some point we'll be coming back to you for some additional funds.

So we did, we did hire four or made offers of four. Three of them accepted the position, one declined. And we're interviewing the -- an alternate tomorrow hopefully filling the fourth position.

The academy starts in March and that's why it's important that we -- that we make a decision and -- and fill the -- we did -- Chief Brady did reserve four spots in the -- in the fire academy at Westchester.

So, again, don't be surprised when you get a request in the near future. If you have any concerns about it, we'd appreciate you sharing it with us prior to that. And we'll see if we can address some of your issues.

I'm hoping to do the State of the City in mid-February. I was hoping to do it in mid-January, but, unfortunately, all of the department head reports are not in yet.

MR. MASI: Whose aren't in?

JOSEPH DESTEFANO, MAYOR: Well, when Mr. Tawil gets up I think you can ask him and I think he will let you know if -- if his is in or not.

So it does take a little time to put them all together and -- and put the words together, so we need to -- the target date will be mid-February, the second meeting in the February schedule.

I want to thank POWR Against Tobacco and Mr. Montserrat for their kind words. You know, when the legislation came out from the state, we -- we took a very strong stance against the -- the whole cannabis issue for a variety of reasons. We all had our individual reasons. But I think we were all unanimous in the fact that we knew the State of New York would screw it up and they did. And they continue to screw it up and it's getting

worse and worse.

If you've been to New York City in Times Square, it's -- it's a disgrace. And the problems with street retailers, with people opening tobacco shops and using them as fronts for selling illegal marijuana. Still, still illegal to sell unless you have a license. This legislation will allow us to control that a lot better.

So we're gonna continue pushing that agenda. The State will have to get it right at some point. As I said, I don't have any personal grind against medical or someone over the age of 21 or whatever the age is making those decisions. But I -- I do have a big problem with it publicly because, you know, when you're drinking a beer out in front of a restaurant, your neighbor there doesn't smell the beer. So when you're smoking marijuana it affects everybody in the area, whether it's a bus stop or a park or just on our downtown streets, so.

But those are some of the reasons that we gave it the time. But the big reason was the State of New York and how they bundled -- bungled this. And I think they continue to bungle it. And we're trying to make some corrections on the local level that we can. So I would hope that you'd be supportive of the legislation tonight.

And that's all I have this evening other than the MVP health insurance optional benefits to all eligible city employees, I think Leonora has touched on this before. It is optional. I think the unions are in agreement. We can't offer it to any of the bargaining units unless they agree. And I believe CSCA and maybe police have already agreed. Fire might -- might have and might have or is close to agreeing. But it's not something we're forcing down someone. With medical co-pay so high, this is an opportunity for employees to bring that -- their co-pay from 15 percent in some cases of a $40,000 plan which is $6,000 a year down to zero. And the City also saves some money.

So it's a good plan. At any time people can opt back into the NYSHIP Plan. And anytime that it flips where it becomes more expensive then the NYSHIP Plan if it comes that way, we have the opportunity at some point with proper notice to void the plan also. So I think it's a good opportunity for both the City and the employees to save some money. And that would be the -- the only issue I wanted to touch on tonight.

Any questions?

PRESIDENT RODRIGUES: Any questions for the Mayor?

Alderman Witt.

ALD. WITT: Yeah. Thank you, Mayor.

Just -- just to be clear with the -- the fire hirings. So the anticipated up to four for next year are gonna come off of the list of the test that was just taken on Saturday?

JOSEPH DESTEFANO, MAYOR: That's correct.

ALD. WITT: All right. Thank --

JOSEPH DESTEFANO, MAYOR: That list will be out probably few months I think it takes to score them.

ALD. WITT: Yes.

JOSEPH DESTEFANO, MAYOR: If that, yeah.

ALD. WITT: Okay. Thank you.

PRESIDENT RODRIGUES: Anyone else?

JOSEPH DESTEFANO, MAYOR: Okay. Thank you.

PRESIDENT RODRIGUES: Thank you.

7. Remarks of the Department Heads

PRESIDENT RODRIGUES: Department Heads, Economic Development.

MARIA BRUNI, ECONOMIC DEVELOPMENT: Good evening. This evening we had our reorganizational meeting for the Community Development Agency. We're working on the annual meeting for the IDA at the end of the month and we had our annual meeting for the business improvement district.

Also, this past weekend we had a ribbon

cutting, House of Birria Tacos & Cantina at 125 Dolson Avenue. And we wish them a lot of luck and I think they're gonna do great.

And that's about it. We're taking small business loan applications and housing rehab apps.

And that's all I have for tonight.

PRESIDENT RODRIGUES: Questions for Maria?

Alderman Kleiner.

ALD. KLEINER: I don't know if this would be for you or Raelynn. Winter Festival, do you know what -- when that is and what will be involved?

MARIA BRUNI, ECONOMIC DEVELOPMENT: That -- that would be Raelynn or -- yeah.

ALD. KLEINER: Okay.

MARIA BRUNI, ECONOMIC DEVELOPMENT: Sorry.

ALD. KLEINER: I'll wait. Thank you.

PRESIDENT RODRIGUES: All right. Thank you, Maria.

Fire Chief.

ROBERT BRADY, FIRE CHIEF: Good evening. To go along with what the Mayor said with the hiring of the four, since the last council meeting, I don't know if everybody has been aware, but we also did lieutenant interviews off of the civil service list. We promoted John Bianchi, Jr. as our lieutenant on our Group 1 on the

fire station. I'm looking forward to working with him.

We are going to start ramping up our recruitment committee again for the -- for the volunteer service. If anyone has anyone that's -- or knows anyone that's 16, please send them to the firehouse any Monday night. We're always there on Monday nights. You know, we're looking for active members.

We just graduated four from the Firefighter 1 down at the Orange County. I'm not sure if everyone saw. You know, they did a -- they do a nice graduation now for the candidates because it's 140 something hours I believe that -- that a new fireman in New York State has to go through as a volunteer. So it definitely is some commitment. And so if anyone knows anybody that's 16, send them down Monday night and we'll try to, you know, work with them and get them in.

And that's all I have my first meeting, so take it easy on me.

PRESIDENT RODRIGUES: Any questions for the fire chief? Thank you, Chief.

Police Chief.

JOHN EWANCIW, POLICE CHIEF: Good evening. Alderman Kleiner, in regard to the Winter Fest, I do have the details. So the Winter Fest is going to be February 3rd with a snow date of February 17th. The time is from

12 p.m. to 3 p.m. It's gonna be at the Union -- 1-31 Union Street at the ice rink. It says music, outdoor activities, ice skating, bon fire with Middletown Fire Department, treats, et cetera. Sounds like it will be a good time.

ALD. KLEINER: Thank you.

JOHN EWANCIW, POLICE CHIEF: I have nothing unless anyone has anything for me.

PRESIDENT RODRIGUES: Any questions for the police chief? Thank you, Chief.

JOHN EWANCIW, POLICE CHIEF: Thank you.

PRESIDENT RODRIGUES: DPW Commissioner.

JACOB TAWIL, DPW COMMISSIONER: Good evening. We'll start with the reservoir levels. Obviously, they're full, Alderman Masi, so no worries there.

The guys, obviously, the Mayor thanked them for -- thanked DPW for the good work they're doing in plowing our roads. And also with the water main breaks, you know, it's -- it's been going on and, you know, they're there for us and they're taking care of the situation and dealing with the problem and we sincerely appreciate their effort, both in the street and the Water Department as well.

With that, with the snow plowing, I want to call out the police department. They've been extremely

helpful to us. Not in this storm, but the previous one, it was a bigger storm where they had to go around at night, get cars to get moved or to be towed away and go after people who would throw the snow back in the street and so on and so forth. So our sincere thanks for the police department. They were very helpful and they were -- the minute we called -- our guys called them, they come out and they help and it's tremendous.

The demolition projects, some people could see it, 99 East Avenue is completed and it's finished. That -- that house is gone. Now they're working on 404 North -- 404 North Street. And next before you you're gonna have a resolution for I believe it's 25 1/2 Smith Street to reverse the previous Resolution awarding the bid to a certain contractor and give it to somebody else because the low bidder could not deliver on the insurance. That's the reason why we're just reversing that Resolution and awarding it to the third bidder. The second bidder has not been responsive to our phone calls, so we're not commending him, so we're going to the third -- third bidder, low bidder. And he's responsible. We worked with him before and I'm sure he will do a great job with that Smith Street house.

Highland Avenue tank about the insurance, we -- we continue to have lapse of insurance for the contractor

who's doing the painting for Highland Avenue tank and that's causing problems. We have to issue stop work order every time his insurance -- his insurance lapses and it's causing problems. So hopefully will be the last one. We're almost there. It will take, like, one more week to finish the entire job, but we had to put another stop work on him on Friday.

The traffic operations, as you can see, many of the traffic lights had been installed while, not many, a couple of them had been installed and are functioning -- functioning, not the pedestrian crossing, just the traffic lights on Orchard and -- and, as an example, North and Railroad. You can see them in there, they're very nice. The old ones have not been totally taken down yet. The wires and the poles and everything it will be a very nice intersection, appealing intersection once -- once it's fully functional.

Again, with the freezing weather and the temperature dropping tonight, please be careful walking whether it's a sidewalk or in the street. Everything is freezing up again. Like the Mayor said, we're gonna have a special crew going out 3:00 in the morning in order to salt the roads in certain areas, not throughout the city, but to try to touch up any areas that may have been frozen. So just be careful and good luck travelling

tomorrow or tonight.

Any questions?

PRESIDENT RODRIGUES: Questions? Alderman Witt.

ALD. WITT: Yeah, thank you. Just to help you out tonight until tomorrow, Middletown Schools are on a two-hour delay --

JACOB TAWIL, DPW COMMISSIONER: Good.

ALD. WITT: -- for tomorrow. Okay.

JACOB TAWIL, DPW COMMISSIONER: That's always (inaudible).

PRESIDENT RODRIGUES: Alderman Green.

ALD. GREEN: Thank you. Commissioner, I just had a question from a few residents about picking up recyclables on the weekends with the holidays. They've noticed that when it's supposed to be on a Saturday because of a holiday, sometimes they see trucks going out on Friday. Is that just done as, like, a courtesy in case people forget to put them out or they've noticed trucks out Friday and Saturday.

JACOB TAWIL, DPW COMMISSIONER: Yeah. Some people they're not aware of the --

ALD. GREEN: Right.

JACOB TAWIL, DPW COMMISSIONER: -- extended holiday. So what we do is we usually have some time

left. If we have time left in the trucks, they go and pick up the recyclables that are already out --

ALD. GREEN: Sure.

JACOB TAWIL, DPW COMMISSIONER: -- so that will lessen our overtime on Saturday.

ALD. GREEN: I appreciate it.

JACOB TAWIL, DPW COMMISSIONER: That's -- that's -- that's the reason. If -- if we see them out and we have time, we're done picking up garbage, we go pick them up. It will make our life easier for Saturday.

ALD. GREEN: Sure. Thank you.

PRESIDENT RODRIGUES: Alderman Kleiner.

ALD. KLEINER: Yes, Commissioner. We had a couple issues with we weren't sure about plowing. And I just wanted to thank you very much because people responded right away and took care of that in the 2nd Ward. So much, very much appreciated.

JACOB TAWIL, DPW COMMISSIONER: Absolutely. Thank you.

ALD. KLEINER: Thank you.

JACOB TAWIL, DPW COMMISSIONER: Thank you.

PRESIDENT RODRIGUES: All right. Anyone else? Thank you, Jacob.

JACOB TAWIL, DPW COMMISSIONER: Yep.

PRESIDENT RODRIGUES: City Clerk.

RICHARD MCCORMACK, CITY CLERK: Nothing this evening.

PRESIDENT RODRIGUES: Any questions for the City Clerk? All right.

8. Public Hearings and Grievances

PRESIDENT RODRIGUES: Public hearings and grievances.

RICHARD MCCORMACK, CITY CLERK: Nothing this evening.

PRESIDENT RODRIGUES: This evening -- all right.

9. **Petitions and Complaints**

(None this evening)

10. Remarks of Alderman

PRESIDENT RODRIGUES: All right. Remarks of Alderman, Alderman Masi.

ALD. MASI: Nothing this evening. Thank you.

PRESIDENT RODRIGUES: Alderman Witt.

ALD. WITT: Other than just for anyone who might have just missed that, Middletown Schools for Wednesday are on a two-hour delay. So I just heard that from the superintendent. So forgive me for looking at my phone, but that was part of my day job.

Also, I -- I think that's it. Thank you very much.

PRESIDENT RODRIGUES: All right.

Alderman Green.

ALD. GREEN: Thank you. Yeah, just remind everyone, you know, be safe. Allow a little extra time for braking and stuff in the ice. And also, sorry, there was a noise. I see people shuffling around.

And, also, you know, please clean off your cars as best as you can in the morning because it's never nice to be behind someone whose car is flailing snow all over your windshield. It kind of refreezes everything, just as to the danger, so just be a little careful.

And just a reminder that we won't be having our February constituents meeting. We will hold off until March. Hopefully, you know, the weather will be a little better for us then. But if you have any questions, always reach out. Thank you.

PRESIDENT RODRIGUES: Alderman Kleiner.

ALD. KLEINER: Thank you. Also, wanted to mention the Martin Luther King celebration yesterday at the YM -- YMCA and thank the Interphase Council and the YMCA for their presentation. Martin Luther King Day actually happened to fall on his birthday this year, so that -- that was a point of note.

I also recommend if you've never read it, read his letter from Birmingham Jail and read his beyond Vietnam speech because it was a great program, but we

don't want to get too comfortable because he was about looking at injustice and making trouble to try and end it. So you get a little better understanding if you read those two things of what he was up against and what he faced. And I lived in Washington, DC from 1964 going to school until 1968, so I -- I saw a lot of that in person.

Town of Wallkill Community Center tomorrow, the Department of Transportation has a informational presentation from 2 to 4 and from 6 to 8. And it's about the project and to expand Route 17 to three lanes. So they're doing a presentation and taking comments on that. It -- it should be interesting.

I want to thank Jaycee and congratulate her. She was sworn in at the last -- last Wednesday at the Parks and Rec Committee meeting and I think she's gonna be a great addition to the commission.

And, you know, also wanted to mention that there is -- I saw this story on *Mid Hudson News* today. There will be a blood drive in the Galleria. That's at the end of the month on January 31st. But blood banks, if you followed it, are very low in New York and around the country. So that's gonna be January 31st from 11 p.m. to 5 p.m. at the lower level of -- of JC Penny. And we don't have another meeting before then, so I thought I would mention it tonight.

That's it. Thank you.

PRESIDENT RODRIGUES: All right. Alderman Wray.

ALD. WRAY: Good evening. I wanted to say thank you to our friends from POWR Against Tobacco and Middletown Cares for speaking tonight. And, you know, I definitely agree with their statements. I know Sergeant Welch had my girls go out and try to make some buys for them the summer before last and they did and they were able to. And so even with the laws, kids are able to get their hands on things they should not. And I think that anything we can do to protect our kids is important in what we do here and especially when it comes to these vapes which are finding are like genetically damaging to people. It's just scary stuff that our kids are exposed to. So everything you're doing I appreciate. And our police department, and our city legislation I think we're doing good work there to keep our kids safe.

And, obviously, rec always keeps them healthy and happy to, so great work there. That's all I have.

PRESIDENT RODRIGUES: Alderman Johnson.

ALD. JOHNSON: Nothing this evening.

PRESIDENT RODRIGUES: Alderman Jean-Francois.

ALD. JEAN-FRANCOIS: Good evening. MLK event was a great event. I had a great time. And so many

talented folks, young kids. And we had this one girl that was singing *Amazing Grace*. I could have sworn it was at Carnegie Hall when she started singing. I had to take a double look. So if you weren't there you miss a good show.

Hopefully we have this show at the Paramount next year because there was so many people there I think it was overflowing. So the Paramount would be a good place to have that.

Also, DPW, Street Department, these guys did a great job and to clean our street. And I tip my hat at these guys. They did a wonderful job. Thank you.

PRESIDENT RODRIGUES: Alderman Tobin.

ALD. TOBIN: I'd also like to thank POWR Against Tobacco. I mean, I know they've done studies of the brain that your brain isn't fully developed until your early 20s, so, I mean, starting any kind of vaping or substance abuse at a young age is horrible. And it's so prevalent around here. They're making, like, Doritos and all different things are obviously marketing to children, so thank you.

To echo the sediments of Alderman Francois, Jean-Francois and the Mayor, MLK tribute was touching and a touching tribute to one of our nation's heroes. Martin Luther King, Jr. if he was alive today I think would have

a lot today about our current Supreme Court and decisions they've been making especially about overturning affirmative action.

There's much work yet to be done. I think that was a message from the meeting was also about community. Simply passing laws is not like the easy button that changes things. Otherwise after they've made slavery legal in 1860 everything would have been fine. But 400 years or hundreds of years of legalized slavery, there's a deep wound that needs to be healed in America. And -- and so I think after this weekend and seeing the youth that were at the -- the ceremony, I think the -- the next generation is up to the challenge. And, you know, it was nice to see all the young people there. And the music was spectacular. So definitely was a great time. Thank you.

PRESIDENT RODRIGUES: Thank you.

11. Unfinished Business

(None this evening)

12. New Business.

PRESIDENT RODRIGUES: New business.

RICHARD MCCORMACK, CITY CLERK: Good evening. We have a Resolution sponsored by Alderman Johnson amending the City Code by creating a new Chapter 438 for tobacco, hookah, and vaping establishment licenses.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Johnson, seconded by Alderman Green. Any discussion? Roll.

Roll Call: Aye: Tobin, Jean-Francois, Johnson, Wray, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Johnson to amend City Code to allow health and fitness in the C3 general business zoning district.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Johnson, seconded by Alderman Kleiner. Any discussion? Roll.

Roll Call: Aye: Tobin, Jean-Francois, Johnson, Wray, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Witt to offer MVP health insurance as an optional benefit to all eligible city employees.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Witt, seconded by Alderman Johnson. Any discussion? Roll.

Roll Call: Aye: Tobin, Jean-Francois, Johnson, Wray, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Masi to make a $518 budget transfer to cover the cost of ARPA Consultant Don Paris.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Joe -- Alderman Masi, I'm sorry, seconded by Alderman Kleiner. Any discussion? Roll.

Roll Call: Aye: Tobin, Jean-Francois, Johnson, Wray, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Jean-Francois to amend Resolution 248-23 awarding bids for the demolition of properties at 27 1/2 Smith Street, 99 East Avenue, and 404 North Street.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Jean-Francois, seconded by Alderman Johnson. Any discussion? Roll.

Roll Call: Aye: Tobin, Jean-Francois, Johnson, Wray, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Green to enter into an agreement with RBT's CPAs LLC.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Green, seconded by Alderman Kleiner. Any

discussion? Roll.

Roll Call: Aye: Tobin, Jean-Francois, Johnson, Wray, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Masi to adopt a fund balance policy.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Masi, seconded by Alderman Green. Any discussion? Is the Jacob Tawil fund balance? Oh. Roll.

Roll Call: Aye: Tobin, Jean-Francois, Johnson, Wray, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderwoman Wray appointing Qazi Hussain and Jose Munoz as volunteer firefighters.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Wray, seconded by Alderman Jean-Francois. Any discussion? Roll.

Roll Call: Aye: Tobin, Jean-Francois, Johnson, Wray, Kleiner, Witt, Masi, President Rodrigues. Abstain: Green. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Tobin appointing Emily Green Pacella to the Board of Assessment Review.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Tobin, seconded by Alderman Jean-Francois. Any discussion?

Alderman Green.

ALD. GREEN: I will be abstaining from this one as well because it is my sister. Thank you.

PRESIDENT RODRIGUES: Duly noted. Anyone else? Roll.

Roll Call: Aye: Tobin, Jean-Francois, Johnson, Wray, Kleiner, Witt, Masi, President Rodrigues. Abstain: Green. Carries.

RICHARD MCCORMACK, CITY CLERK: Resolution sponsored by Alderman Kleiner reappointing Richard Croughan as Assistant Corporation Counsel.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Kleiner. Do I have a second? Alderman Green. Any discussion? Roll.

Roll Call: Aye: Tobin, Jean-Francois, Johnson, Wray, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

RICHARD MCCORMACK, CITY CLERK: And that's it for New Business.

13. Local Laws

(None this evening)

14. Audit of Claims and Accounts

PRESIDENT RODRIGUES: Audit.

ALD. MASI: Mr. President, I move the accounts be audited, the claims be adjusted and the City Treasurer be authorized to issue warrants for their payments.

PRESIDENT RODRIGUES: Resolution sponsored by Alderman Masi, seconded by Alderman Johnson. Roll.

Roll Call: Ayes: Tobin, Jean-Francois, Johnson, Wray, Kleiner, Green, Witt, Masi, President Rodrigues. Carries.

15. Adjournment

PRESIDENT RODRIGUES: Move for adjournment.

ALD. MASI: So moved.

(PROCEEDING CONCLUDED)

CERTIFICATION

I, LISA KANE, certify the foregoing transcript of proceedings of the January 16, 2024 Middletown City Council meeting was prepared using the required electronic equipment and is a true and accurate record of the proceedings.

Signature: *LISA KANE*

Date: February 12, 2024

Agency: American Legal Transcription

11 Market Street, Suite 215

Poughkeepsie, New York 12601

CITY OF MIDDLETOWN
COMMON COUNCIL MEETING AGENDA
JANUARY 16, 2024

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. APPROVAL OF MINUTES
   - 3.1. Accept the Minutes of December 5 and December 19, 2023
4. CORRESPONDENCE, COMMUNICATION AND REPORTS
5. FOR THE GOOD OF THE CITY
6. REMARKS OF THE MAYOR
7. REMARKS OF THE DEPARTMENT HEADS
8. PUBLIC HEARINGS AND GRIEVANCES
9. PETITIONS AND COMPLAINTS
10. REMARKS OF THE ALDERMAN AND REPORTS OF THE COMMITTEES
11. UNFINISHED BUSINESS
12. NEW BUSINESS

    Authorization to Amend City Code by creating a new Chapter 438, Tobacco/Hookah/Vaping Establishment Licenses

    Authorization to Amend City Code to Allow Health and Fitness in the C-3 General Business Zoning District

    Authorization to offer MVP Health Insurance as an Optional Benefit to all Eligible City Employees

    Authorization to make a $518 Budget Transfer to Cover the Cost ARPA Consultant

Don Paris

Authorization to Amend Resolution 248-23 Awarding Bids for Demolition of Properties at 27 ½ Smith Street, 99 East Avenue and
404 North Street

Authorization to Enter into an Agreement with RBT CPAs LLC

Adoption of a Fund Balance Policy

Appointment of Qazi Hussain and Jose Munoz as Volunteer Firefighters

Appointment Emily Green Pacella to the Board of Assessment Review

Reappointment of Richard Croughan as Assistant Corporation Counsel

13. LOCAL LAWS

14. AUDIT OF CLAIMS AND ACCOUNTS

    14.1. Resolution Authorizing the Accounts be Audited, Claims Adjusted, and the Treasurer be Authorized to Issue Warrants for their Payment

15. ADJOURNMENT

TO: THE HONORABLE MAYOR AND CITY COUNCIL
AGENDA: Common Council Meeting
DATE: January 16, 2024
ITEM #:
SUBJECT: Accept the Minutes of December 5 and December 19, 2023

Recommendation for Action: Accept the Minutes of December 5 and December 19, 2023

Prepared by:

Attachments:
1. 12.05.23 CC Minutes
2. 12.19.23 CC Minutes

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By: Alderman Johnson
Seconded by: Alderman Green
Date of Adoption: January 16, 2024
Index No: 13-24

I hereby certify that the attached is a true copy of a Resolution and/or Local Law adopted by the City of Middletown Common Council.

Richard P. McCormack
Clerk to the Common Council

Names	Ayes	Noes	Abstain	Absent
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Wray	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
Total	9			

I hereby approve the attached Resolution/Local Law.

Joseph M. DeStefano, Mayor

Date

Authorization to Amend City Code by creating a new Chapter 438, Tobacco/Hookah/Vaping Establishment Licenses

WHEREAS, the Mayor, Police Chief and Corporation Counsel have recommended the creation of licenses for smoke shops, as well as providing guidelines for obtaining and retaining such licenses.

NOW THEREFORE BE IT Resolved, and be it Ordained, by the Common Council of the City of Middletown, New York, as follows:

Section 1 - The Code of the City of Middletown, N.Y., is hereby amended by creating a new Chapter 438, Tobacco/Hookah/Vaping Establishment Licenses, to read as follows:

Chapter 438. Tobacco/Hookah/Vaping Establishment Licenses.

Section 438-1. Tobacco/Hookah/Vaping Establishment License Required.

A. Effective immediately, no person shall own or operate a Tobacco/Hookah/Vaping establishment, unless a license is first obtained from the City of Middletown Commissioner of Public Works ("Commissioner").

B. Within fifteen (15) days of the effective date of this Ordinance, the Commissioner of Public Works shall send a copy of this Ordinance by regular and certified mail to all current owners and operators of Tobacco/Hookah/Vaping establishments in this City. Within sixty (60) days of the effective date of this Ordinance, all current owners and operators of Tobacco/Hookah/Vaping establishments in this City must apply for a valid Tobacco/Hookah/Vaping license to continue operation.

C. The application cost for this license shall be Two Hundred Dollars ($200.00).

D. This Chapter in no way repeals nor contradicts zoning regulations or special use permit requirements in any zoning district in this City. However, this Chapter adds a second requirement to zoning regulations in the form of a license, and therefore all special use permit approvals must be conditioned on obtaining a license pursuant to this Chapter.

Section 438-2. Application. Every applicant for a license issued pursuant to this Chapter shall submit the following information:

A. The name, address, and telephone number of the individual or entity applying for a license, together with the name and location of the business to receive the license. If the applicant is a corporation or limited liability company, the applicant must list an individual who resides within the City of Middletown or within fifteen (15) miles of the City limits for purposes of service and notice.

B. The applicant's driver's license as proof of residency.

C. Proof of registration with the New York State Department of Taxation as a tobacco and/or vape retail dealer is required.

D. Any other reasonable information requested by the Commissioner.

E. All applications for a license shall be referred by the Commissioner to the Middletown Police Chief, who shall promptly cause an investigation to be made into the criminal background and prior bad acts or code violations of the applicant. The applicant must provide fingerprints to support this investigation. The Chief must report the findings to the Commissioner, and make a recommendation as to whether or not approval of the license is recommended. If approval is not recommended, the report shall state the reasons therefor.

Section 438-3. License.

A. Within sixty (60) days of receipt of a complete application, unless extended by the Commissioner's request for additional information, the Commissioner shall issue a written determination on the application.

B. All licenses issued pursuant to this Chapter shall contain the following:

(1). The license is valid for one (1) year only, measured from the date of its issuance;

(2). The license is for the subject establishment only, and is nontransferable;

(3). There shall be no dispensing, processing, cultivation, sale, handling, distributing, or gifting of cannabis, cannabinoids, cannabinoid hemp, cannabis flower, cannabis products, cannabis-infused products, hemp and hemp extract, as those terms are defined in Section 3 of the New York Cannabis Law, within, upon, or in relation to the subject establishment.

Section 438-4. Grounds for Denial. An application for a license may be denied by the Commissioner, following a public hearing, based on any one of the following:

A. The Report of the Police Chief.

B. Any past or present demonstration by the applicant of an unwillingness to comply with the Middletown City Codes.

C. The lack of a current tobacco and/or vapor product registration from the New York State Department of Taxation.

D. An indication that the location of the proposed establishment is more likely than not to negatively impact the neighborhood based upon its proximity to a school, or other form of educational facility, place of worship or assembly, or public park.

E. If the applicant is not satisfied with the final determination of the Commissioner, he/she/it may file an Article 78 proceeding pursuant to the provisions of the New York Civil Practice Law and Rules.

Section 438-5. Conditions For Operation.

A. Hours of operation. Store hours operation shall be between 7:00 a.m. and 11:00 p.m. from Sunday to Thursday, and 7:00 a.m. to 12:00 a.m. on Friday and Saturday. The specific hours of operation for each store shall be set by the Planning Board.

B. Signage.

(1). Store hours shall be posted in a conspicuous place within public view.

(2). There shall be no public display of advertisements for electronic cigarettes, vapor products, smoking paraphernalia, or tobacco products, within 1,500 feet of a school or place of worship, in accordance with NY Public Health Law Article 13-F, Section 1399-DD-1.

(3). Windows shall be unobstructed by advertisements and/or any other materials.

C. Equipment.

(1). Each store shall have working surveillance cameras in the interior and exterior of the building. Footage from said cameras shall be stored for thirty (30) days.

(2). All broken windows must be replaced within three (3) days.

(3). Smoking or vaping of any kind is prohibited within the store unless expressly authorized in the license.

(4). All graffiti must be removed within three (3) business days following verbal or written notice from the Department of Public Works or Fire Inspector.

D. Inspection. All Tobacco/Hookah/Vaping establishments shall be inspected annually by the Department of Public Works or Fire Inspector.

E. Compliance with codes. The owner, operator, agents or employees of any Tobacco/Hookah/Vaping establishment shall comply with all provisions of applicable Federal, State, and City statutes, ordinances and codes.

Section 438-6. Suspension and Revocation of License.

A. Any owner, operator, agent or employee of any Tobacco/Hookah/Vaping establishment found to violate any of the provisions of this Chapter may be liable for the penalties prescribed in Section 438-8 of this Chapter and other applicable provisions of the City Code, and may in addition subject the license of the establishment to immediate suspension in the discretion of the Commissioner.

B. The owner, operator, agent or employee of any establishment whose license is suspended shall be entitled to a public hearing before the Middletown Common Council within fifteen (15) days of such suspension. Such owner, operator, agent or employee may be represented at such hearing by counsel of his/her/its choosing and at his/her/its expense. Such owner, operator, agent or employee shall also be entitled to call witnesses to testify on his/her/its behalf at such hearing. Within fifteen (15) days of such hearing, the Common Council shall issue a written final determination and provide a copy thereof to violating establishment. Pending such final determination, there shall be no sale, distribution, or dispensing of goods or merchandise at the violating establishment.

C. If the Common Council determines that there has been a violation of this Chapter, it may in its discretion revoke the license of the subject establishment for a period of one (1) year. If the subject owner, operator, agent or employee is not satisfied with the final determination, he/she/it may file an Article 78 proceeding pursuant to the provisions of the New York Civil Practice Law and Rules.

Section 438-7. License Renewal.

A. An application to renew any license issued under this Chapter shall be filed with the Department of Public Works no more than ninety (90) days and no less than sixty (60) days prior to the expiration of the current license. An application to renew a license which has been revoked pursuant to the provisions of Section 438-6 may be made no more than ninety (90)

days prior to the expiration of the revocation period and may be made at any time subsequent to such expiration.

B. Every day of operation without a license renewal shall constitute a separate violation punishable as provided in Section 438-8 of this Chapter.

C. Renewal applications shall be accompanied by a non-refundable fee of Two Hundred Dollars ($200.00).

D. The application must include the information required in Subsections A, B, C, and D of Section 438-2.

E. The Commissioner may, but is not required to, submit a renewal application to the Police Chief for the investigation described in Subsection E of Section 438-2.

F. The Commissioner may consider the licensed establishment's compliance with all applicable laws, codes, rules and regulations governing the activities of the establishment, including but not limited to, building codes, noise ordinances, and any other information deemed applicable when considering a renewal application.

G. Within thirty (30) days of receipt of a complete application, unless extended by the Commissioner's request for additional information, the Commissioner shall issue a written determination on the renewal application. The Commissioner shall not deny the renewal application without first affording the applicant a public hearing before the Commissioner.

H. If the applicant is not satisfied with the final determination of the Commissioner, he/she/it may file an Article 78 proceeding pursuant to the provisions of the New York Civil Practice Law and Rules.

Section 438-8. Penalties. In addition to the penalties proscribed by Section 438-6, a person who shall violate any provision of this Chapter shall be guilty, upon conviction, of an offense punishable by a fine not less than $250 nor more than $1,000 or by imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment.

Section 2. Severability. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional or illegal by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

Section 3. This Ordinance shall take effect immediately.

Prepared by:

Attachments:

1. Tobacco Licenses
2. PH Affidavit
3. PH Minutes Tobacco Licenses

CITY OF MIDDLETOWN
NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Middletown will hold a public hearing on Tuesday, December 19, 2023, on or as near to 7:30 p.m. as possible, Common Council Chambers, 2nd floor, 16 James Street, to hear any and all persons wishing to be heard on the proposed creation of licenses for smoke shops, as well as providing guidelines for obtaining and retaining such licenses.

Any and all persons wishing to be heard will be given an opportunity to speak either for or against the proposed changes to the parking regulations.

The proposed legislation is available in the office of the Common Council Clerk, City Hall, 16 James Street, room 12, and on the City Website.

For any person unable to participate at the time of the public hearing, email comments may be submitted in advance to rmccormack@middletownny.gov

By the order of the Common Council.

Richard P. McCormack
Clerk of the Common Council

Publish: 12/14/23
City Website

LOCALiQ

Observer-Dispatch | Daily Messenger
Times Telegram | New Jersey Herald
Times Herald-Record

PO Box 631202 Cincinnati, OH 45263-1202

PROOF OF PUBLICATION

Martina Tu
Kelly C
Middletown, City
16 James ST
Middletown NY 10940-5724

STATE OF NEW YORK, COUNTY OF ORANGE

The Times Herald-Record, a daily newspaper distributed in the Orange, Ulster, Pike, PA and Sullivan Counties, published in the English language in the City of Middletown, County of Orange, State of New York printed and published and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issues dated on:

12/14/2023

and that the fees charged are legal.
Sworn to and subscribed before on 12/14/2023

Legal Clerk

Notary, State of WI, County of Brown

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By the order of the Common Council.
Richard P. McCormack
Clerk of the Common Council
Publish: 12/14/23
City Website

CITY OF MIDDLETOWN, NEW YORK
PUBLIC HEARING
December 19, 2023

Acting Council President Johnson opened the public hearing.
The City Clerk read the following notice:

CITY OF MIDDLETOWN
NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Middletown will hold a public hearing on Tuesday, December 19, 2023, on or as near to 7:30 p.m. as possible, Common Council Chambers, 2nd floor, 16 James Street, to hear any and all persons wishing to be heard on the proposed creation of licenses for smoke shops, as well as providing guidelines for obtaining and retaining such licenses.

Any and all persons wishing to be heard will be given an opportunity to speak either for or against the proposed changes.

The proposed legislation is available in the office of the Common Council Clerk, City Hall, 16 James Street, room 12, and on the City Website.

For any person unable to participate at the time of the public hearing, email comments may be submitted in advance to rmccormack@middletownny.gov

By the order of the Common Council.

Richard P. McCormack
Clerk of the Common Council
Publish: 12/14/23
City Website

Attendance: Mayor DeStefano, Acting Common Council President Johnson, City Aldermen, Richard P. McCormack, City Clerk & Various Department Heads.

There were no speakers.

Mayor DeStefano recommended the Council leave the public hearing open for an additional two weeks to receive further written comments.

No additional comments were received.

On January 2, 2024 on a motion by Alderman Johnson, seconded by Alderman Witt and approved unanimously by the Common Council the public hearing was closed.
Respectfully submitted,

Richard P. McCormack
City Clerk

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By: Alderman Johnson
Seconded by: Alderman Kleiner
Date of Adoption: January 16, 2024
Index No: 14-24

I hereby certify that the attached is a true copy of a Resolution and/or Local Law adopted by the City of Middletown Common Council.

Richard P. McCormack
Clerk to the Common Council

Names	Ayes	Noes	Abstain	Absent
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Wray	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
Total	9			

I hereby approve the attached Resolution/Local Law.

Joseph M. DeStefano, Mayor

Date

Authorization to Amend City Code to Allow Health and Fitness in the C-3 General Business Zoning District

WHEREAS, the City of Middletown has been presented with a proposal for a health and fitness facility in the C-3 General Business zoning district, and

WHEREAS, this particular use is currently allowed in the DMU, Limited General Business, Light Industrial, and Light Industrial/General Business zoning districts.

NOW, THEREFORE, BE IT RESOLVED, AND BE IT ORDAINED, by the Common Council of the City of Middletown, as follows:

Section 1. The Code of the City of Middletown, N.Y., Chapter 123, Zoning, as adopted March 27, 1967 and amended, be and is hereby further amended by adding a new Paragraph (26) to Subsection B, Uses requiring issuance of both a special use permit and site plan approval by the

Planning Board, to read as follows:

(26) Health club or fitness facility which may include such facilities as weight-lifting equipment; indoor running tracks; swimming pools; tennis, squash or racquetball courts; exercise machines, such as treadmills and rowers; skating, roller or boxer rinks; and accessory facilities such as saunas, showers and locker rooms, but excluding any facility involving the use or discharge of firearms.

Section 2. This Ordinance shall take effect immediately.

Prepared by:

Attachments:

1. PH Notice Health and Fitness
2. PH Minutes Health and Fitness Zoning Amendment
3. PH Affidavit Zoning - Health and Fitness - C3
4. OC Planning Sign Off Health and Fitness

CITY OF MIDDLETOWN
NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Middletown will hold a public hearing on Wednesday, January 3, 2024, on or as near to 4:30 p.m. as possible, Common Council Chambers, 2nd floor, 16 James Street, to hear any and all persons wishing to be heard on a proposed zoning amendment to read as follows:

Section 1. The Code of the City of Middletown, N.Y., Chapter 123, Zoning, as adopted March 27, 1967 and amended, be and is hereby further amended by adding a new Paragraph (26) to Subsection B, Uses requiring issuance of both a special use permit and site plan approval by the Planning Board, to read as follows:

(26) Health club or fitness facility which may include such facilities as weight-lifting equipment; indoor running tracks; swimming pools; tennis, squash or racquetball courts; exercise machines, such as treadmills and rowers; skating, roller or boxer rinks; and accessory facilities such as saunas, showers and locker rooms, but excluding any facility involving the use or discharge of firearms.

Section 2. This Ordinance shall take effect immediately.

The complete proposed zoning amendment is available in the office of the Common Council Clerk, City Hall, 16 James Street, room 12, and on the City Website.

Any and all persons wishing to be heard will be given an opportunity to speak either for or against the proposed zoning amendment.

For any person unable to participate at the time of the public hearing, email comments may be submitted in advance to rmccormack@middletownny.gom

By the order of the Common Council.

Richard P. McCormack
Clerk of the Common Council

Publish: 12/29/23 & 12/30/23
City Website

CITY OF MIDDLETOWN, NEW YORK
PUBLIC HEARING
January 3, 2024

The City Clerk opened the public hearing and read the following notice.

CITY OF MIDDLETOWN
NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Middletown will hold a public hearing on Wednesday, January 3, 2024, on or as near to 4:30 p.m. as possible, Common Council Chambers, 2nd floor, 16 James Street, to hear any and all persons wishing to be heard on a proposed zoning amendment to read as follows:

Section 1. The Code of the City of Middletown, N.Y., Chapter 123, Zoning, as adopted March 27, 1967 and amended, be and is hereby further amended by adding a new Paragraph (26) to Subsection B, Uses requiring issuance of both a special use permit and site plan approval by the Planning Board, to read as follows:

(26) Health club or fitness facility which may include such facilities as weightlifting equipment; indoor running tracks; swimming pools; tennis, squash or racquetball courts; exercise machines, such as treadmills and rowers; skating, roller or boxer rinks; and accessory facilities such as saunas, showers and locker rooms, but excluding any facility involving the use or discharge of firearms.

Section 2. This Ordinance shall take effect immediately.

The complete proposed zoning amendment is available in the office of the Common Council Clerk, City Hall, 16 James Street, room 12, and on the City Website.

Any and all persons wishing to be heard will be given an opportunity to speak either for or against the proposed zoning amendment.

For any person unable to participate at the time of the public hearing, email comments may be submitted in advance to rmccormack@middletownny.gom

By the order of the Common Council.
Richard P. McCormack
Clerk of the Common Council
Publish: 12/29/23 & 12/30/23
City Website

Attendance: Richard P. McCormack, City Clerk & Alderman Gerald Kleiner

Ald. Kleiner spoke in support of the change, noting that a fitness center used to exist in the same vicinity but on the Town of Wallkill, side and he saw no problem with expanding the zoning on the Middletown side to include such use.

Following Ald. Kleiner' s comments, Mr. McCormack left the hearing open for ten minutes, with no additional speakers, the hearing was closed at 4:11 PM.
Respectfully submitted,

Richard P. McCormack
City Clerk

LOCALiQ

Observer-Dispatch | Daily Messenger
Times Telegram | New Jersey Herald
Times Herald-Record

PO Box 631202 Cincinnati, OH 45263-1202

PROOF OF PUBLICATION

Richard McCormack
Kelly C
Middletown, City
16 James ST
Middletown NY 10940-5724

STATE OF NEW YORK, COUNTY OF ORANGE

The Times Herald-Record, a daily newspaper distributed in the Orange, Ulster, Pike, PA and Sullivan Counties, published in the English language in the City of Middletown, County of Orange, State of New York printed and published and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issues dated on:

12/29/2023, 12/31/2023

and that the fees charged are legal.
Sworn to and subscribed before on 12/31/2023

Legal Clerk

Notary, State of WI, County of Brown

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State of Wisconsin

CITY OF MIDDLETOWN

NOTICE OF
PUBLIC HEARING

Notice is hereby given that the City of Middletown will hold a public hearing on Wednesday, January 3, 2024, on or as near to 4:30 p.m. as possible, Common Council Chambers, 2nd floor, 16 James Street, to hear any and all persons wishing to be heard on a proposed zoning amendment to read as follows:
Section 1. The Code of the City of Middletown, N.Y., Chapter 123, Zoning, as adopted March 27, 1967 and amended, be and is hereby further amended by adding a new Paragraph (26) to Subsection B, Uses requiring issuance of both a special use permit and site plan approval by the Planning Board, to read as follows:
(26) Health club or fitness facility which may include such facilities as weight-lifting equipment; indoor running tracks; swimming pools; tennis, squash or racquetball courts; exercise machines, such as treadmills and rowers; skating, roller or boxer rinks; and accessory facilities such as saunas, showers and locker rooms, but excluding any facility involving the use or discharge of firearms.
Section 2. This Ordinance shall take effect immediately.
The complete proposed zoning amendment is available in the office of the Common Council Clerk, City Hall, 16 James Street, room 12, and on the City Website.
Any and all persons wishing to be heard will be given an opportunity to speak either for or against the proposed zoning amendment.
For any person unable to participate at the time of the public hearing, email comments may be submitted in advance to rmccormack@middletownny.com

By the order of the
Common Council.

Richard P. McCormack
Clerk of the Common Council

Steven M. Neuhaus
County Executive

Orange County Department of Planning

124 Main Street
Goshen, NY 10924-2124
Tel: (845) 615-3840
Fax: (845) 291-2533

Alan J. Sorensen, AICP
Commissioner

www.orangecountygov.com/planning
planning@orangecountygov.com

County Reply – Mandatory Review of Local Planning Action as per NYS General Municipal Law §239-l, m, &n

Local Referring Board: City of Middletown City Council
Applicant: City of Middletown
Project Name: Zoning Change
Referral ID #: MTC 06-23M
Tax Map #: City-wide.
Local File #: None provided.
Proposed Action: Local Law to include health and fitness facilities in the C-3 General Business zoning district.
Reason for County Review: Adoption or amendment of a local law.
Date of Full Statement: December 12, 2023

Comments:

The Department of Planning has received the above referenced Local Law and has found no evidence that significant intermunicipal or countywide impacts would result from its approval.

County Recommendation:

Date: December 13, 2023
Prepared by: Kate Schmidt
Planner

Local Determination

Alan J. Sorensen, AICP
Commissioner of Planning

As per NYS General Municipal Law 239-m & n, within 30 days of municipal final action on the above referred project, the referring board must file a report of the final action taken with the County Planning Department. For such filing, please use the final action report form attached to this review or available on-line at www.orangecountygov.com/planning.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By: Alderman Witt
Seconded by: Alderman Johnson
Date of Adoption: January 16, 2024
Index No: 15-24

I hereby certify that the attached is a true copy of a Resolution and/or Local Law adopted by the City of Middletown Common Council.

Richard P. McCormack
Clerk to the Common Council

Names	Ayes	Noes	Abstain	Absent
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Wray	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
Total	9			

I hereby approve the attached Resolution/Local Law.

Joseph M. DeStefano, Mayor

Date

Authorization to offer MVP Health Insurance as an Optional Benefit to all Eligible City Employees

BE IT RESOLVED; that the Common Council of the City of Middletown, NY, concurs with the Board of Estimate and Apportionment and authorizes offering MVP Health Insurance to serve as an optional benefit plan for all eligible City Employees, including non-union employees beginning February 1, 2024. The plan includes the following: MVP Health Insurance Plan (dual option), MVP Flex Spending Account (FSA) and MVP Health Reimbursement Arrangement (HRA).

BE IT FURTHER RESOLVED; that the Common Council of the City of Middletown, NY, concurs with the Board of Estimate and Apportionment and authorizes the Mayor to sign the agreement.

Prepared by:

Attachments:

1. Q0031144-05_JSD_City of Middletown_Customer Quote_011124 (3)
2. City of Middletown 3.1.24

MVP Health Care
NEW YORK GROUP RATE QUOTE
Stand Alone Offerings

Customer Name: **City of Middletown**

Group Number:	**NEW**	***Contract Period:***	**3/1/2024 - 12/31/2024**
Quote Expires:	**3/1/2024**	***Rate Region:***	**MW**

These rates are Guaranteed provided all contingencies are met and both products and rates are approved as filed

Sold ☐

Product Scenario 1

Option 1

Product	**Integrated Hybrid EPO with OON**	
Base Plan	**NY7EYE065XLHEPN**	
Funding Arrangement	**Prospective**	
Product Status	**Filed**	
	Quoted Rates	Estimated Contracts
Single	$932.61	5
Double	$2,145.01	2
PC	$1,771.97	1
Family	$2,378.17	9
	Estimated Annual Premium	$385,543

Quote Contingencies

- Stand Alone Offerings Only
- Quote assumes MVP is the exclusive carrier
- Quote assumes an out of area % of less than 50% of enrolled subscribers.
- Quote assumes less than 10% of enrolled subscribers are retired.
- Subject to Home Office Approval.
- Group SIC Code: 9111
- Must Provide Current Carrier Renewal Information
- Employer Group Size Attestation must be submitted verifying Large group status prior to implementation
- MVP reserves the right to adjust rates due to changes in federal or state benefit mandates or tax policies.
- MVP reserves the right to revise the rates if actual enrollment varies by 10% from the assumed enrollment above

MVP reserves the right to rerate if any of these change.

Assumed Contracts	**175**
Broker Commissions	**Negotiated 0%**
CIGNA Offering Type	**Non-Affiliation**
Maximum Deductible Funding	**0%**
Pooling Level	**$150,000**

Was an MVP sponsored HSA sold with the HDHP product(s)? **YES or NO**

Marketing Representative: **Date:**

Group Representative/Broker: **Date:**

MVP Health Care
NEW YORK GROUP RATE QUOTE
Stand Alone Offerings

Customer Name:	**City of Middletown**		
Group Number:	**NEW**	***Contract Period:***	**3/1/2024 - 12/31/2024**
Quote Expires:	**3/1/2024**	***Rate Region:***	**MW**

Benefit Summary

Product Scenario 1

	Option 1
Product	**Integrated Hybrid EPO with OON**
Base Plan	**NY7EYE065XLHEPN**
In Network:	
PCP/SPC OV:	$25/$40
Deductible:	$1,500/$3,000/Emb
Coinsurance:	30%
Out of Pocket Max:	$3,500/$7,000/Emb
Inpatient:	Ded.& Coins.
Emergency:	$150
Outpatient Surg:	Ded.& Coins.
Wellness:	WellBeing Rewards
Pharmacy:	Rx-changes $10/$30/$50 to $5/$35/$70
Out of Network:	
Deductible:	$2,000/$4,000
Coinsurance:	40%
Out of Pocket Max:	$6,600/$13,200
Additional:	10 visits Acupuncture Vision Exam 24M-Copay Plan Domestic Partner Coverage WellBeing Rewards OON Rx-changes $10/$30/$50 to $5/$35/$70 Mail Order Rx 2.5x to 2.0x

Additional Information

- All of the benefits noted above are a summary. Please see the plans benefit document for full details.
- Maximum Deductible Funding 0%
- All Plans include the Mandated Benefit changes

- Rider Codes: Option 1 RXNY7EPO616XL MNEPO736L YNEPO208LB GNEPO703L MNEPO771LC PNEPO703L RXNY7EPO616XL RXNY7EPO703L

- Rider Codes: Option

Marketing Representative: **Date:**

Group Representative/Broker: **Date:**

MVP Select Care, Inc.
Health Reimbursement Account and Flexible Spending Account
New York Large Group Administrative Fee Proposal for

City of Middletown

Effective Date:	March 1, 2024	through	December 31, 2024

Per Participant Per Month Administrative Fee	**$4.00**

Other Charges:

Implementation Fee	$350

Summary Plan Document (SPD)

☐	Yes, SPD Requested	Included in Implementation Fee
☐	No, SPD ***Not*** Requested	n/a

Changes/Customized Programming/Corrections/Audit Requests:	$100 per hour
Non-Discrimination Testing *(per test, if requested)* :	$350 per Test

Claims Run Out Service:

Charges for the first three months following the Employer Group termination date are based upon the following percentages of the total administrative fee for the month prior to termination:

Month 1: 100% Month 2: 50% Month 3: 50%

Notes:

Final pricing is subject to Home Office Approval and may be revised based upon plan design. All Comprehensive HRA plan designs require prior approval, plans requiring manual processing will not be implemented.

HRA funding must be equivalent to or less than percentage noted on medical rate quote

ACH Payment Processing for claims funding is required for all services. Pre-funding is required for all debit card enabled accounts.

Administrative Fees will be invoiced separately from claims activity and medical premiums.

☐ Please check here if you would the monthly Administrative Fees deducted via ACH from the bank account indicated on the Spending Account application.

Agreement:

Client Signature: _____

Title: _____ *Date:* _____

MVP Signature: _____

Title: _____ *Date:* _____

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By: None
Seconded by: None
Date of Adoption: January 16, 2024
Index No: 16-24

I hereby certify that the attached is a true copy of a Resolution and/or Local Law adopted by the City of Middletown Common Council.

Richard P. McCormack
Clerk to the Common Council

Names	Ayes	Noes	Abstain	Absent
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Wray	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	9			
Total				

I hereby approve the attached Resolution/Local Law.

Joseph M. DeStefano, Mayor

Date

Authorization to make a $518 Budget Transfer to Cover the Cost ARPA Consultant Don Paris

BE IT RESOLVED; that the Common Council of the City of Middletown, NY, concurs with the Board of Estimate and Apportionment and authorizes the Treasurer to transfer $518, in the following manner, for Don Paris' quarter 4 ARPA reporting:

FROM	AMOUNT	TO
A.4785 ARPA	$518	A.1325.100 Finance Personal Services

Prepared by:

Attachments:
None

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By: Alderman Jean-Francois
Seconded by: Alderman Johnson
Date of Adoption: January 16, 2024
Index No: 17-24

I hereby certify that the attached is a true copy of a Resolution and/or Local Law adopted by the City of Middletown Common Council.

Richard P. McCormack
Clerk to the Common Council

Names	Ayes	Noes	Abstain	Absent
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Wray	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
Total	9			

I hereby approve the attached Resolution/Local Law.

Joseph M. DeStefano, Mayor

Date

Authorization to Amend Resolution 248-23 Awarding Bids for Demolition of Properties at 27 ½ Smith Street, 99 East Avenue and 404 North Street

WHEREAS, Bids were received on November 16, 2023, for asbestos abatement and/or demolition at 27 ½ Smith Street, 99 East Avenue, and 404 North Street; and

WHEREAS, said bids were examined and checked on the contractor's references; and

WHEREAS, on December 5, 2023, the City of Middletown Common Council awarded the Bids as follows

1. 27 ½ Smith Street to be awarded to Gentile Construction of Yonkers, NY in the amount of $48,600 for complete demolition of the structure as asbestos-containing material.

2. 99 East Avenue to be awarded to Zuke's Excavation of Binghamton, NY in the amount of $39,800 for complete demolition of the structure as asbestos-containing material.

3. 404 North Street to be awarded to Zuke's Excavating of Binghamton, NY in the amount of $40,000 for complete demolition of the structure as asbestos-containing material.

WHEREAS the original resolution must be amended to award the demolition of 27 1/2 Smith Street to the third (3rd) lowest bidder, Dan's Hauling,

NOW THEREFORE BE IT RESOLVED that the Common Council of the City of Middletown hereby amends resolution 248-23 and awards the biff for the demolition of 27 1/2 Smith Street to the third (3rd) lowest bidder, Dan's Hauling, in the amount of $51,600*

*Apex Development Inc., the second-lowest bidder, has not been responsive to our communications trying to verify their bid.

Prepared by:

Attachments:

1. 27 1/2 Smith Street Demo
2. 248-23 Demolition Bid Awards

DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

Date: January 9, 2024

To: Honorable Mayor DeStefano, Council President Rodrigues
and Members of the Common Council

Cc: City Clerk Richard McCormack and City Treasurer Leonora Liz

From: Jacob Tawil, Commissioner of Public Works

Re: Withdraw Award of Bid for Demolition of Property at 27 ½ Smith Street

We are respectfully requesting to withdraw the previous council resolution, #248-23, awarding the demolition of only 27 ½ Smith Street to Gentile Construction.

We are respectfully requesting a new council resolution awarding the demolition of 27 ½ Smith Street to the third (3rd) lowest bidder, Dan's Hauling, in the amount of $51,600.
Apex Development Inc., the second lowest bidder, have not been responsive to our communications trying to verify their bid.

The bid tabulation is attached for your review.

Thank you.

JT/kg

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By Ald. Jean-Francois

Sec'd by Ald. Johnson

Date of Adoption: December 5, 2023

Index No: 248-23

Names	Ayes	Noes	Abstain	Absent
Ald. Tobin	X			
Ald Jean-Francois	X			
Ald. Johnson	X			
Ald. Wray	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
Total	9			

Resolution Awarding Bids for Demolition of Properties at 27 ½ Smith Street, 99 East Avenue and 404 North Street

WHEREAS Bids were received for on November 16, 2023 for asbestos abatement and/or demolition at 27 ½ Smith Street, 99 East Avenue and 404 North Street; and

WHEREAS said bids were examined the and checked on the contractors references;

NOW THEREFORE BE IT RESOLVED that the following Bids for the Demoation of Properties be awarded as follows:

1. 27 ½ Smith Street to be awarded to Gentile Construction of Yonkers, NY in the amount of $48,600 for complete demolition of the structure as asbestos containing material.
2. 99 East Avenue to be awarded to Zuke's Excavation of Binghamton, NY in the amount of $39,800 for complete demolition of the structure as asbestos containing material.
3. 404 North Street to be awarded to Zuke's Excavating of Binghamton, NY in the amount of $40,000 for complete demolition of the structure as asbestos containing material. Please note that two bids were received in the same amount of $40,000 for demolition of the structure as asbestos containing material.*

*Both low bidders were contacted and as of the time of typing this memo, Apex Development has not responded to our calls. Our recommendation is to award to Zuke's Excavation in the amount of $40,000 for complete demolition of the structure as asbestos containing material.

These are properly budgeted items.

ATTACHMENTS:
COUNCIL MEMO-AWARD DEMO BIDS.pdf

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By: Alderman Green
Seconded by: Alderman Kleiner
Date of Adoption: January 16, 2024
Index No: 18-24

I hereby certify that the attached is a true copy of a Resolution and/or Local Law adopted by the City of Middletown Common Council.

Richard P. McCormack
Clerk to the Common Council

Names	Ayes	Noes	Abstain	Absent
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Wray	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
Total	9			

I hereby approve the attached Resolution/Local Law.

Joseph M. DeStefano, Mayor

Date

Authorization to Enter into an Agreement with RBT CPAs LLC

BE IT RESOLVED; that the Common Council of the City of Middletown, NY, concurs with the Board of Estimate and Apportionment and authorizes an agreement with RBT CPAs, LLC for Accounting Services for Fiscal Year 2024.

Prepared by:

Attachments:

1. RBT Consulting Engagement Letter 2024

LIMITED LIABILITY PARTNERSHIP
CERTIFIED PUBLIC ACCOUNTANTS BUSINESS DEVELOPMENT CONSULTANTS

December 1, 2023

Joseph DeStefano, Mayor
Members of the City Council
City of Middletown, New York
16 James Street
Middletown, NY 10940

Attention: Joseph DeStefano, Mayor

The Objective and Scope of the Services Provided
You have requested that RBT CPAs, LLP ("RBT", "we", "us", or "our"), provide accounting and/or consulting services for City of Middletown (the "City") as detailed below. We are pleased to confirm our acceptance and our understanding of this engagement by means of this letter ("Engagement Letter").

We will perform the following accounting and/or consulting services, at the specific request of City personnel. Such services may include, but are not limited to, the following:

- Assist City personnel with the annual financial report (the "AFR") for the fiscal year ended December 2023, including, but not limited to:
  - Entering City accounting information as adjusted to the New York State Office of the State Comptroller's ("NYS OSC") AFR software.
  - Assisting with identifying and correcting AFR edits prior to filing.
  - Reviewing draft AFR with City personnel.

- Make recommendations based on observations and inquiries to improve efficiency of recordkeeping and effectiveness of internal controls.

- Respond to questions, whether by phone, email or in person, regarding the proper accounting for transactions on an on-going basis.

This agreement will remain in effect through December 31, 2024.

We will maintain our independence in accordance with the standards of the American Institute of Certified Public Accountants ("AICPA").

Our services under this Engagement Letter do not include services for tax return preparation, tax advice or representation in any tax matter. Nevertheless, we may discuss with you certain tax considerations or provide you with tax information that may be relevant to our services. Any such discussions or information would be based upon limited tax research, limited due diligence and limited analysis regarding the underlying facts. Because additional research or a more complete review of the facts could affect our analysis and conclusions, the information provided during these discussions should not be used as the basis for proceeding with any transaction or any tax return reporting.

The Responsibilities of Management
The financial statements are the responsibility of the City's management. You acknowledge that other management responsibilities include maintaining adequate records and effective internal controls over financial reporting, selecting and applying accounting principles, and safeguarding assets. We will help you adjust the books of account in order to prepare a working trial balance from which financial statements can be prepared. We will not perform any management functions, make management decisions or otherwise perform in a capacity equivalent to that of your employees or officers.

As outlined in this Engagement Letter, we will assist in the preparation of the City's financial statements, and we may advise the City about appropriate accounting principles and their application, but the responsibility for the financial statements remains with the City. As part of our engagement, we may also propose adjusting or correcting journal entries to the City's financial statements. However, management has the final responsibility for reviewing the proposed entries and understanding the nature and impact of the proposed entries to the financial statements. It is our understanding management has designated Leonora Liz, Treasurer to oversee such services; evaluate the adequacy and results of the services performed; accept responsibility for the results of the services; and establish and maintain internal controls, including monitoring ongoing activities.

Records and Assistance
If circumstances relating to the conditions of your records were to arise during the course of our work that, in our professional judgment, prevent us from completing the engagement, we will notify you promptly. In such a situation, we retain the unilateral right to take any course of action permitted by professional standards, including withdrawal from the engagement.

During the course of our engagement, we may accumulate records containing data that should be reflected in the City's books and records. The City will determine that all such data, if necessary, will be so reflected. Accordingly, the City will not expect us to maintain copies of such records in our possession.

Fees and Costs
Our fees for these services will be billed based on time spent at discounted hourly rates for assigned personnel according to the following rate schedule:

Partner	$349/hour
Manager	$315/hour
Supervisor	$286/hour
Senior	$239/hour
In-Charge	$185/hour
Associate	$151/hour

Travel and expenses will be billed directly. The discounted rate schedule above assumes anticipated cooperation from City personnel, timely responses to inquiries, and timely completion and delivery of client assistance requests. If the criteria are not met, the discounted rates will no longer be applicable and services will be billed at standard hourly rates.

Partner	$436/hour
Manager	$394/hour
Supervisor	$357/hour
Senior	$299/hour
In-Charge	$231/hour
Associate	$189/hour

Use of Subcontractors and Third-Party Products
We also may provide services to you using certain third-party hardware, software, equipment, or products (collectively, "Third-Party Products" and each, individually, a "Third-Party Product"). You acknowledge that the use of a Third-Party Product may involve the processing, input, disclosure, movement, transfer, and storage of information provided by or on behalf of you to us, including Confidential Information and Personal Information, within the Third-Party Product's infrastructure and not ours. You further acknowledge that the terms of use and service, including, but not limited to, applicable laws, set forth in the end-user license, end-user subscription agreement, or other end-user agreement for such Third-Party Product (collectively, "EULA(s)") will govern all obligations of such licensor relating to data privacy, storage, recovery, security, and processing within such Third-Party Product's infrastructure, as well as, the service levels associated with such Third-Party Product. You hereby consent to the disclosure of your information, including your Confidential Information and Personal Information, to the licensors of such Third-Party Products for the purpose described herein.

To the extent RBT gives the City access to a Third-Party Product in connection with the services contemplated herein, the City agrees to comply with the terms of any applicable EULA for such Third-Party Product, and the City shall be solely responsible for the improper use of a Third-Party Product or a violation of the applicable EULA for such Third-Party Product, by the City, or any user to whom the City grants access to such Third-Party Product. The City agrees to indemnify and hold RBT harmless from and against any claims, actions, lawsuits, proceedings, judgments, liens, losses, damages, costs, expenses, fees (including reasonable legal fees, expenses, and costs) and other liabilities relating to, or arising from or out of, the improper use of a Third-Party Product, or a violation of the terms of the applicable EULA for such Third-Party Product, by the City, or any user to whom the City grants access to such Third-Party Product.

You acknowledge that the use of Third-Party Products may be subject to limitations, delays, interruptions, errors, and other problems which are beyond our control, including, without limitation, internet outage or lack of availability related to updates, upgrades, patches, fixes, maintenance, or other issues. We will not be liable for any delays, delivery failures, or other losses or damages resulting from such issues. Nor will we be held responsible or liable for any loss, or unauthorized use or disclosure, of any information or data provided by you, including, without limitation, Personal Information provided by you, resulting from the use of a Third-Party Product.

Use and Ownership; Access to Engagement Documentation
The Engagement Documentation for this engagement is the property of RBT. For the purposes of this Engagement Letter, the term "Engagement Documentation" shall mean the confidential and proprietary records of RBT's engagement procedures performed, relevant engagement evidence obtained, other engagement-related workpapers, and conclusions reached. Engagement Documentation shall not include custom-developed documents, data, reports, analyses, recommendations, and deliverables authored or prepared by RBT for the City under this Engagement Letter, or any documents belonging to the City or furnished to RBT by the City.

In the event we are required by government regulation, subpoena or other legal process to produce our documents or our personnel as witnesses with respect to our engagement for the City, the City will, so long as we are not a party to the proceeding in which the information is sought, reimburse us for our professional time and expenses, as well as the fees and expenses of our counsel, incurred in responding to such requests.

Indemnification, Limitation of Liability, and Claim Resolution
Because RBT will rely on the City and its management and City Council to discharge the foregoing responsibilities, the City agrees to indemnify, hold harmless and release RBT and its partners, principals, officers, directors, employees, affiliates, subsidiaries, contractors, Subcontractors, agents, representatives, successors, or assigns from all third-party claims, liabilities, losses and costs arising in circumstances where there has been a knowing misrepresentation by a member of the City's management.

The City and RBT agree that no claim arising out, from, or relating to the services rendered pursuant to this Engagement Letter shall be filed more than two years after the date of the deliverables issued by RBT or the date of this Engagement Letter if no deliverable has been issued. In no event shall RBT or the City, or any of their respective partners, principals, officers, directors, employees, affiliates, subsidiaries, contractors, subcontractors, agents, representatives, successors, or assigns (collectively the "Covered Parties" and each individually, a "Covered Party"), be liable for the interruption or loss of business, any lost profits, savings, revenue, goodwill, software, hardware, or data, or the loss of use thereof (regardless of whether such losses are deemed direct damages), or incidental, indirect, punitive, consequential, special, exemplary, or similar such damages, even if advised of the probability of such damages. Except for a Covered Party's indemnification obligations under this engagement letter, to the fullest extent permitted by law, the total aggregate liability of the Covered Parties arising out of, from, or relating to this Engagement Letter, or the report issued or services provided hereunder, regardless of the circumstances or nature or type of claim, including, without limitation, claims arising from a Covered Party's negligence or breach of contract or warranty, or relating to or arising from a government, regulatory or enforcement action, investigation, proceeding, or fine, will not exceed the total amount of the fees paid by the City to RBT under this Engagement Letter. Notwithstanding the foregoing, nothing in this limitation of liability provision shall, or shall be interpreted or construed to, relieve the City and City Council of their payment obligations to RBT under this Engagement Letter.

Confidentiality
RBT and the City may, from time to time, disclose Confidential Information (as defined below) to one another. Accordingly, RBT and the City agree as the recipient of such Confidential Information (the "Receiving Party") to keep strictly confidential all Confidential Information provided to it by the disclosing party (the "Disclosing Party") and use, modify, store, and copy such Confidential Information only as necessary to perform its obligations and exercise its rights under this Engagement Letter. Except as otherwise set forth herein, the Receiving Party may only disclose the Confidential Information of the Disclosing Party to its personnel, agents, and representatives who are subject to obligations of confidentiality at least as restrictive as those set forth herein and only for the purpose of exercising its rights and fulfilling its obligations hereunder. To avoid any doubt, RBT is permitted to disclose the City's Confidential Information to RBT's personnel, agents, and representatives to provide the services or exercise its rights under this Engagement Letter or for the purpose of maintaining compliance with applicable laws and professional, regulatory, and/or ethical standards.

As used herein, "Confidential Information" means, information in any form, oral, graphic, written, electronic, machine-readable or hard copy consisting of: (i) any nonpublic information provided by the Disclosing Party, including, but not limited to, all of its inventions, designs, data, source and object code, programs, program interfaces, know-how, trade secrets, techniques, ideas, discoveries, marketing and business plans, pricing, profit margins and/or similar information; (ii) any information that the Disclosing Party identifies as confidential; or (iii) any information that, by its very nature, a person in the same or similar circumstances would understand should be treated as confidential, including, but not limited to, this Engagement Letter.

As used herein, the term "Confidential Information" will not include information that: (i) is publicly available at the time of disclosure by the Disclosing Party; (ii) becomes publicly available by publication or otherwise after disclosure by the Disclosing Party, other than by breach of the confidentiality obligations set forth herein by the Receiving Party; (iii) was lawfully in the Receiving Party's possession, without restriction as to confidentiality or use, at the time of disclosure by the Disclosing Party; (iv) is provided to the Receiving Party without restriction as to confidentiality or use by a third party without violation of any obligation to the Disclosing Party; or (v) is independently developed by employees or agents of the Receiving Party who did not access or use the Disclosing Party's Confidential Information.

The Receiving Party will treat the Disclosing Party's Confidential Information with the same degree of care as the Receiving Party treats its own confidential and proprietary information, but in no event will such standard of care be less than a reasonable standard of care. The Receiving Party will promptly notify the Disclosing Party if it becomes aware that any of the Confidential Information of the Disclosing Party has been used or disclosed in violation of this Engagement Letter.

Preexisting Nondisclosure Agreements
In the event that the parties have executed a separate nondisclosure agreement, such agreement shall be terminated as of the effective date of this Engagement Letter and the terms of this Engagement Letter shall apply to the treatment of information shared by the parties hereto.

Personal Information
As used herein, the term "Personal Information" means any personal information, as may be defined by applicable privacy, data protection, or cybersecurity laws, that directly or indirectly identifies a natural person, and includes, but is not limited to, nonpublic, personally identifiable information such as Social Security numbers, Social Insurance numbers, driver's license numbers or government-issued identification card numbers, and health information.

Each party agrees to transmit Personal Information consistent with applicable laws and any other obligations the respective party may have. We are permitted to use all such Personal Information to perform our obligations and exercise our rights under this Engagement Letter.

You represent and warrant that you have provided all notices and obtained all consents required under applicable data protection laws prior to your collection, use and disclosure to us or our Subcontractors of such Personal Information and shall take reasonable steps to ensure that such Personal Information does not include irrelevant or unnecessary information about individuals.

We agree to maintain appropriate security measures to protect such Personal Information in accordance with applicable laws.

If we become aware of an unauthorized acquisition or use of City-provided Personal Information, we will promptly inform you of such unauthorized acquisition or use as required by applicable laws and, upon your written request, reasonably cooperate with you at your sole cost in support of any breach notification requirements as imposed upon you by applicable laws.

Retention of Records
We will return to you all original records you provide to us in connection with this engagement. Further, in addition to providing you with those deliverables set forth in this Engagement Letter, we will provide to you a copy of any records we prepare or accumulate in connection with such deliverables which are not otherwise reflected in your books and records without which your books and records would be incomplete. You have the sole responsibility for retaining and maintaining in your possession or custody all of your financial and nonfinancial records related to this engagement. We will not host, and will not accept responsibility to host, any of your records. We, however, may maintain a copy of any records of yours necessary for us to comply with applicable law and/or professional standards or to exercise our rights under this Engagement Letter. Any such records retained by us will be subject to the confidentiality obligations set forth herein and destroyed in accordance with our record retention policies.

Termination
Your failure to make full payment of any and all undisputed amounts invoiced in a timely manner constitutes a material breach for which we may refuse to provide deliverables and/or, upon written notice, suspend or terminate our services under this Engagement Letter. We will not be liable to you for any resulting loss, damage or expense connected with the suspension or termination of our services due to your failure to make full payment of undisputed amounts invoiced in a timely manner.

You may terminate this Engagement Letter for any reason upon fifteen (15) days' prior written notice to us. In the event you terminate this engagement, you will pay us for all services rendered (including deliverables and products delivered), expenses incurred, and noncancelable commitments made by us on your behalf through the effective date of termination.

Either party may terminate this Engagement Letter upon written notice if: (i) circumstances arise that in its judgment would cause its continued performance to result in a violation of law, a regulatory requirement, applicable professional or ethical standards, or, in the case of RBT, our client acceptance or retention standards; or (ii) if the other party is placed on a Sanctioned List (as defined herein), or if any director or executive of, or other person closely associated with such other party or its affiliate, is placed on a Sanctioned List.

We will not be responsible for any delay or failure in our performance resulting from acts beyond our reasonable control or unforeseen or unexpected circumstances, such as, but not limited to, acts of God, government or war, riots or strikes, disasters, fires, floods, epidemics, pandemics or outbreaks of communicable disease, cyberattacks, and internet or other system or network outages. At your option, you may terminate this Engagement Letter where our services are delayed more than 120 days; however, you are not excused from paying us for all amounts owed for services rendered and deliverables provided prior to the termination of this Engagement Letter.

When an engagement has been suspended at the request of management or those charged with governance and work on that engagement has not recommenced within 120 days of the request to suspend our work, we may, at our sole discretion, terminate this Engagement Letter without further obligation to you. Resumption of our work following termination may be subject to our client acceptance procedures and, if resumed, will require additional procedures not contemplated in this Engagement Letter. Accordingly, the scope, timing and fee arrangement discussed in this Engagement Letter will no longer apply. In order for us to recommence work, the execution of a new Engagement Letter will be required.

The parties agree that those provisions of this Engagement Letter which, by their context, are intended to survive, including, but not limited to, payment, limitations on liability, claim resolution, use and ownership, and confidentiality obligations, shall survive the termination of this Engagement Letter.

Miscellaneous
We may mention your name and provide a general description of the engagement in our client lists and marketing materials.

Notwithstanding anything stated to the contrary in this Engagement Letter, the City acknowledges and consents that we also may utilize Confidential Information and Personal Information to (i) improve the quality of our services and offerings and/or (ii) develop or perform internal data analysis or other insight generation. Information developed in connection with these purposes may be used by us to provide services or offerings. We will not use your Confidential Information or Personal Information in a way that would permit the City or an individual to be identified by third parties without your prior written consent.

Our professional standards require that we perform certain additional procedures, on current and previous years' engagements, whenever a partner or professional employee leaves the firm and is subsequently employed by or associated with a client in a key position. Accordingly, you agree to compensate us for any additional costs incurred as a result of your employment of one of our partners, principals or employees.

Each party hereto affirms it has not been placed on a Sanctioned List (as defined below) and will promptly notify the other party upon becoming aware that it has been placed on a Sanctioned List at any time throughout the duration of this Engagement Letter. The City shall not, and shall not permit third parties to, access or use any of the deliverables provided for hereunder, or Third-Party Products provided hereunder, in violation of any applicable sanctions laws or regulations, including, but not limited to, accessing or using the deliverables provided for hereunder or any Third-Party Products from any territory under embargo by the United States. The City shall not knowingly cause RBT to violate any sanctions applicable to RBT. As used herein "Sanctioned List" means any sanctioned person or entity lists promulgated by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. State Department, the Consolidated Canadian Autonomous Sanctions List, the United Nations Security Council, the European Union, and United Kingdom.

Any term of this Engagement Letter that would be prohibited by or impair our independence under applicable law or regulation shall not apply, to the extent necessary only to avoid such prohibition or impairment.

Notices
Unless otherwise expressly agreed upon by the parties in this Engagement Letter, all notices required to be given hereunder will be in writing and addressed to the party at the business address provided in this Engagement Letter, or such other address as such party may indicate by a notice delivered to the other party. Except as otherwise expressly provided in this Engagement Letter, notices hereunder will be deemed given and effective: (i) if personally delivered, upon delivery; (ii) if sent by registered or certified mail or by overnight courier service with tracking capabilities, upon receipt; and, (iii) if sent by electronic mail (without indication of delivery failure), at such time as the party that sent the notice receives confirmation of receipt, whether by read-receipt confirmation or otherwise.

Governing Law
This Engagement Letter, including, without limitation, its validity, interpretation, construction, and enforceability, and any dispute, litigation, suit, action, claim, or other legal proceeding arising out of, from, or relating in any way to this Engagement Letter, any provisions herein, a report issued or the services provided hereunder, will be governed and construed in accordance with the laws of the State of New York, without regard to its conflict of law principles, and applicable U.S. federal law.

Entire Agreement
This Engagement Letter constitutes the complete and exclusive statement of agreement between RBT and the City and supersedes all prior agreements, understandings, and proposals, whether oral or written, relating to the subject matter of this Engagement Letter.

If any term or provision of this Engagement Letter is determined to be invalid or unenforceable, such term or provision will be deemed stricken, and all other terms and provisions will remain in full force and effect.

This Engagement Letter may be amended or modified only by a written instrument executed by both parties.

Electronic Signatures and Counterparts
Each party hereto agrees that any electronic signature of a party to this Engagement Letter or any electronic signature to a document contemplated hereby (including any representation letter) is intended to authenticate such writing and shall be as valid, and have the same force and effect, as a manual signature. Any such electronically signed document shall be deemed (a) to be "written" or "in writing," (b) to have been signed and (c) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Each party hereto also agrees that electronic delivery of a signature to any such document (via email or otherwise) shall be as effective as manual delivery of a manual signature. For purposes hereof, “electronic signature” includes, but is not limited to, (a) a scanned copy (as a "pdf" (portable document format) or other replicating image) of a manual ink signature, (b) an electronic copy of a traditional signature affixed to a document, (c) a signature incorporated into a document utilizing touchscreen capabilities or (d) a digital signature. This Engagement Letter may be executed in one or more counterparts, each of which shall be considered an original instrument, but all of which shall be considered one and the same agreement. Paper copies or "printouts," of such documents if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule.
Please sign and return a copy of this Engagement Letter to indicate your acknowledgment of, and agreement with, the arrangements for our engagement, including our respective responsibilities.

Acknowledgement and Acceptance
Each party acknowledges that it has read and agrees to all of the terms and conditions contained herein. Each party and its signatory below represent that said signatory is a duly authorized representative of such party and has the requisite power and authority to bind such party to the undertakings and obligations contained herein.

AGREED TO AND ACKNOWLEDGED BY:

RBT CPAs, LLP

Shannon M Mannese, CPA, CFE

Shannon M. Mannese, CPA, CFE
Partner

Confirmed on behalf of the City of Middletown:

_____ _____
Council Member Date

_____ _____
Mayor Joseph DeStefano Date

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By: Alderman Masi
Seconded by: Alderman Green
Date of Adoption: January 16, 2024
Index No: 19-24

I hereby certify that the attached is a true copy of a Resolution and/or Local Law adopted by the City of Middletown Common Council.

Richard P. McCormack
Clerk to the Common Council

Names	Ayes	Noes	Abstain	Absent
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Wray	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
Total	9			

I hereby approve the attached Resolution/Local Law.

Joseph M. DeStefano, Mayor

Date

Adoption of a Fund Balance Policy

BE IT RESOLVED; that the Common Council of the City of Middletown, NY, concurs with the Board of Estimate and Apportionment and adopts the attached Fund Balance Policy.

Prepared by:

Attachments:

1. Fund Balance Policy

DATE OF ADOPTION:

CITY OF
Middletown
NEW YORK

FUND BALANCE POLICY

FINANCE OFFICE

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I. Purpose

City of Middletown, NY (the "City") recognizes the significance of sound financial management and establishes this Fund Balance Policy for the General, Water and Sewer Fund to:

- Ensure financial stability and resilience against economic fluctuations.
- Maintain sufficient reserves for emergencies and unforeseen circumstances.
- Establish guidelines for prudent use of available funds while meeting community needs.
- Provide transparency in financial reporting to stakeholders.
- Protect the City's credit worthiness and provide adequate cash flow needs.
- Protect the City against reducing service levels or raising of taxes due to temporary revenue shortfall, one-time expenditure, emergency and disasters.

The Office of NYS Comptroller recommends local governments establish a policy to maintain reasonable levels of unexpended surplus funds and other principle funds to hedge against unanticipated expenditures and/or revenue shortfalls.

II. Definitions

Fund Balance is the total accumulation of operating surpluses and deficits since the beginning of a local government's existence. The fund balance shall be categorized as follows in accordance with GASB principle 54:

Nonspendable:
Amounts that cannot be spent in the current period either because of their form or because they must be maintained intact*. Classification: prepaid items, inventory*

Restricted:
Amounts that are subject to externally enforceable legal purpose restrictions imposed by creditors, grantors, contributors or law and regulation of other governments or through constitutional provisional or enabling legislation. *Classifications: Capital Reserves, Tax Stabilization Reserves, Debt Reserves, Insurance Reserves, and other reserves allowed by State statutes.*

Committed:
Amounts that are subject to purpose constraints imposed by a formal action of the government's highest level of decision – making authority (the Common Council) before the end of the year. The same level of formal action is required to remove the constraints*. Classification: The Office of State Comptroller recommends most local governments do not have committed funds due to reserves.*

Assigned:
Amounts that are subject to a purpose constrained that represents an intended use established by the government's highest level of decision-making authority or by its designated body or official. The purpose of the assigned fund balance represents the residual amount of fund balance. *Classification: The Office of State Comptroller states that resolutions, ordinance, and*

local laws constitute a constraint of resources and will result in an assignment of resources. Encumbrances will typically be considered an assignment of fund balance.

Unassigned:
Represents the residual amount of fund balance in the General Fund. Use is least constrained in this category. In funds other than General Fund, this classification should only be used to report deficit balances. *Classification: all other unassigned fund balances.*

III. Target Levels for Unassigned Fund Balance

The City recommends to maintain an unassigned fund balances at levels consistent with:

5% -20% of the prior year expenditure made from General, Water and Sewer fund.

The City Treasurer shall annually calculate and verify the compliance with this policy. The formula to calculate the fund balance will be as follows:

- The audited balance available in the unassigned fund balance of the most recent fiscal year, divided by the total expenditures.

Surplus: In the event the unassigned fund balance exceeds the maximum requirement, the excess may be used for any lawful purpose approved by the Common Council.

Deficit: In the event the unassigned fund balance falls below minimum requirement of 5%, the City Treasurer shall prepare and submit a plan to restore balance to minimum target levels in the next budget year.

IV. Use and Allocation

Criteria for Utilization:

- **Unrestricted Unassigned Fund Balance**: Available for unforeseen expenditures, one-time expense emergencies, offsetting economic downturn, covering an unanticipated or excess shortfall in revenues or spike in expenses or other lawful purposes approved by the governing body.
- **Restricted, Committed, and Assigned Fund Balances:** Shall be used for their designated purposes only, as specified by legal or contractual obligations or governing body decisions.

V. Reserves

As financial circumstances may warrant, the City will look to establish funds including but not limited to, retirement contribution, contingencies, tax stabilization and capital; emergencies including repairs.

VI. Reporting and Compliance

Regular Reporting:

- Periodic reporting on fund balance status in financial statements and other relevant documents.
- Ensuring compliance with accounting standards, governmental regulations, and reporting requirements.
- Transparency in communicating fund balance status to stakeholders, including the governing body, citizens, auditors, and regulatory authorities.

VIII. Annual Review and Revision

- The fund balance policy shall be reviewed annually or more frequently if necessary, considering changes in financial conditions, legislative mandates, or organizational needs.
- This policy will be presented for review and adoption annually by the Common Council.

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By: Alderwoman Wray
Seconded by: Alderman Jean-Francois
Date of Adoption: January 16, 2024
Index No: 20-24

I hereby certify that the attached is a true copy of a Resolution and/or Local Law adopted by the City of Middletown Common Council.

Richard P. McCormack
Clerk to the Common Council

Names	Ayes	Noes	Abstain	Absent
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Wray	X			
Ald. Kleiner	X			
Ald. Green			X	
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
Total	9		1	

I hereby approve the attached Resolution/Local Law.

Joseph M. DeStefano, Mayor

Date

Appointment of Qazi Hussain and Jose Munoz as Volunteer Firefighters

Be it resolved that the City of Middletown Common Council conquers with the Mayor's appointments of Qazi Hussain – McQuoid Engine & Ladder Co. #3
Jose Munoz – Ontario Hose Co. #5 as Volunteer Firefighters.

Prepared by:

Attachments:
None

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By: Alderman Tobin
Seconded by: Alderman Johnson
Date of Adoption: January 16, 2024
Index No:

I hereby certify that the attached is a true copy of a Resolution and/or Local Law adopted by the City of Middletown Common Council.

Richard P. McCormack
Clerk to the Common Council

Names	Ayes	Noes	Abstain	Absent
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Wray	X			
Ald. Kleiner	X			
Ald. Green			X	
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
Total	9		1	

I hereby approve the attached Resolution/Local Law.

Joseph M. DeStefano, Mayor

Date

Appointment Emily Green Pacella to the Board of Assessment Review

BE IT RESOLVED that the Common Council of the City of Middletown concurs with the Mayor's reappointment of Emily Green Pacella to the Board of Assessment Review for a term expiring on September 30, 2028.

Prepared by:

Attachments:
None

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By: Alderman Kleiner
Seconded by: Alderman Green
Date of Adoption: January 16, 2024
Index No: 21-24

I hereby certify that the attached is a true copy of a Resolution and/or Local Law adopted by the City of Middletown Common Council.

Richard P. McCormack
Clerk to the Common Council

Names	Ayes	Noes	Abstain	Absent
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Wray	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
Total	9			

I hereby approve the attached Resolution/Local Law.

Joseph M. DeStefano, Mayor

Date

Reappointment of Richard Croughan as Assistant Corporation Counsel

BE IT RESOLVED that the Common Council of the City of Middletown concurs with the Mayor's reappointment of Richard Croughan to serve as Assistant Corporation Counsel for a term expiring on December 31, 2024.

Prepared by:

Attachments:
None

CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE

THE FOLLOWING WAS PRESENTED

By: Alderman Masi
Seconded by: Alderman Johnson
Date of Adoption: January 16, 2024
Index No:

I hereby certify that the attached is a true copy of a Resolution and/or Local Law adopted by the City of Middletown Common Council.

Richard P. McCormack
Clerk to the Common Council

Names	Ayes	Noes	Abstain	Absent
Ald. Tobin	X			
Ald. Jean-Francois	X			
Ald. Johnson	X			
Ald. Wray	X			
Ald. Kleiner	X			
Ald. Green	X			
Ald. Witt	X			
Ald. Masi	X			
Pres. Rodrigues	X			
Total	9			

I hereby approve the attached Resolution/Local Law.

Joseph M. DeStefano, Mayor

Date

Resolution Authorizing the Accounts be Audited, Claims Adjusted, and the Treasurer be Authorized to Issue Warrants for their Payment

Prepared by:

Attachments:
None