

MIDDLETOWN CITY COUNCIL AGENDA

TUESDAY, March 16, 2010

I. BUSINESS MEETING – 6:30 p.m. – COUNCIL CHAMBERS, LOWER LEVEL

1. **MOMENT OF MEDITATION/PLEDGE OF ALLEGIANCE TO THE FLAG ...**
2. **ROLL CALL ...**
3. **PRESENTATION ... 100th Anniversary of the groundbreaking for Armco's East Works**
4. **CITIZEN COMMENTS ...**
5. **CITY MANAGER REPORTS...**

Master Plan Update

Tax Incentive Review Council Update

6. **CONSENT AGENDA.** . . Matters listed under the Consent Agenda are considered to be routine and will be enacted by one motion and one vote of consent. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and considered separately.
 - (a) **Approve:** City Council Minutes March 2, 2010
 - (b) **Receive and File Board/Commission Minutes:**
Board of Health and Environment – January 12, 2010
Council on Landmarks & Historic Districts – Jan. 4, 2010 and Feb.4, 2010
City Planning Commission – February 10, 2010
 - (c) **Receive, File and Confirm** Tax Incentive Review Council Minutes and recommendations from the March 1, 2010 meeting
 - (d) **Receive and File Oath of Office:** Boyce Ray Tolson
 - (e) **Confirm Personnel Transaction:**
Appoint Assistant Prosecutor – Daniel Allnutt
 - (f) **Authorize a contract with Johnson Controls, Inc. for detailed engineering work in an amount not-to-exceed \$79,500**
 - (g) **Proclamation:** Commemorating 100th Anniversary for Armco/AK's East Works
7. **CITY COUNCIL COMMENTS ...**

II. LEGISLATION

1. **Resolution No. R2010-05**, a resolution to make adjustments to appropriations for current expenses and other expenditures of the City of Middletown, Counties of Butler and Warren, State of Ohio, for the period ending December 31, 2010 (Transit Fund) (2nd reading)
2. **Ordinance No. O2010-22**, an ordinance amending Sections 436.071 (driving under suspension or in violation of license restriction) and 436.072 (operating a motor vehicle without a valid license) of the codified ordinances. (2nd reading)
3. **Resolution No. R2010-06**, a resolution authorizing the Director of Economic Development to file an application to the State of Ohio, Department of Development, to support an application for assistance under the Ohio Job Ready Sites Program and declaring an emergency.

4. **Resolution R2010-07**, a resolution authorizing the Director of Economic Development to file an application to the State of Ohio, Department of Development, to support an application for assistance under the Ohio Job Ready Sites Program and declaring an emergency.
 5. **Ordinance No. O2010-23**, an ordinance authorizing the city manager to enter into a contract or contracts to acquire and dispose of certain real property located at 1607 Central Avenue in exchange for the acquisition of 1316 Vail Drive and declaring an emergency.
 6. **Ordinance No. O2010-24**, an ordinance approving a second amendment to an agreement with Aeronca, Inc. for development and expansion of an existing manufacturing facility as a development project and tax exemption pursuant to the State Urban Jobs and Enterprise Zone Program, and making determination in connection therewith. (1st reading)
 7. **Ordinance No. O2010-25**, an ordinance approving an amendment to an agreement with Middletown Coke Company, Inc. providing for the construction of a manufacturing facility as a development project and tax exemption pursuant to the State Urban Jobs and Enterprise Zone Program, and making determination in connection therewith. (1st reading)
 8. **Ordinance No. O2010-26**, an ordinance approving an amendment to an agreement with Neyer East Pointe 200 LLC and Paychex North America, Inc. providing for the construction of a facility as a development project and tax exemption pursuant to the State Urban Jobs and Enterprise Zone Program, and making determination in connection therewith. (1st reading)
 9. **Ordinance No. O2010-27**, an ordinance approving an amendment to an agreement with Ventilex USA, Inc. providing for the construction of a manufacturing facility as a development project and tax exemption pursuant to the State Urban Jobs and Enterprise Zone Program, and making determination in connection therewith. (1st reading)
 10. **Ordinance No. O2010-28**, an ordinance terminating an agreement with Clayton, LLC providing for the construction of a new facility as a development project and tax exemption pursuant to the State Urban Jobs and Enterprise Zone Program. (1st reading)
 11. **Ordinance No. O2010-29**, an ordinance terminating an agreement with Interscope Manufacturing, Inc. providing for expansion of a manufacturing facility as a development project and tax exemption pursuant to the State Urban Jobs and Enterprise Zone Program. (1st reading)
- III. **EXECUTIVE SESSION** under the authority of O.R.C. 121.22(G) (2) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding.

It is the policy of the City of Middletown to make all public hearings and meetings accessible to all persons, in accordance with state and/or federal laws. If you have a disability which requires accommodation in order for you to attend and/or participate in this meeting, please contact us at 425-7831 at least forty-eight hours prior to the time of the meeting to advise us of the need for accommodation, and reasonable efforts shall be made to provide the same. This agenda may be accessed on the City of Middletown website @ <http://www.cityofmiddletown.org>

BUSINESS MEETING

PRESENTATION

PROCLAMATION

WHEREAS, *The American Rolling Mill Company, Armco and AK Steel have been valuable corporate citizens of our City, County and State for over one hundred eleven years; and*

WHEREAS, *the East Side Works was envisioned after only ten years of operation of Central Works to meet increasing demand from automotive companies and other customers, and*

WHEREAS, *the East Side Works', now known as Middletown Works, groundbreaking was held on March 7, 1910; and*

WHEREAS, *the East Side Works tapped its first heat of steel on September 11, 1911; and*

WHEREAS, *the Middletown Works continues to be the longest operating and largest plant within the company's history; and*

WHEREAS, *the minds and hands of labor, through the Armco Employees Independent Federation and International Association of Machinists, have contributed significantly to the safety, quality, productivity and longevity of the Middletown Works.*

NOW, THEREFORE, I, *Lawrence P. Mulligan, Jr., Mayor of the City of Middletown, Counties of Butler and Warren, State of Ohio do commemorate the*

100th Anniversary of the East Works Groundbreaking

IN WITNESS WHEREOF, I *have hereunto set my hand and affixed the seal of the City of Middletown this 16th day of March, 2010.*

Lawrence P. Mulligan, Jr., Mayor

Attest: Clerk of Council

CITIZEN COMMENTS

**CITY
MANAGER
REPORTS**



MEMORANDUM

Planning Director's Office

Ref: a-1980

TO: Mike Robinette, Economic Development Director

FROM: Marty Kohler, Planning Director

DATE: February 19, 2010

RE: 2010 Master Plan Update

The Middletown Master Plan was adopted by City Council in May of 2005. This was the first city-wide plan for Middletown since 1973. The 2005 Plan was broader in scope than the 1973 Plan in that it focused on the economic revitalization of the city in addition to the physical development of the City.

The 2005 Plan contained an implementation strategy and action plan (Chapter 10) which included a recommendation for an update of the plan to be undertaken five years from the adoption of the Plan. The fifth year anniversary of the plan will be in May 2010.

Many things can change in a five year period. Plans needs to also change to reflect current conditions and new opportunities that were not foreseen when the original plan was adopted. An update of a previous plan is much less rigorous of a process than the full preparation of a plan. Updates generally follow the same format as the original plan and re-iterates the priorities and goals that are still valid, eliminates things that have already been achieved, and adds new priorities and goals that are deemed to be of local importance. The update of the plan consists of several key components and questions to be answered:

- Review the underlying data and assumptions under which the plan was prepared. (community survey, market study, development suitability of land, etc) Has anything changed that would affect the validity of the plan? Have our basic community values and priorities changed over the last five years?
- Review activities and accomplishments achieved since the adoption of the plan. Have the activities produced the expected results? If not, what needs to be changed to get the correct results? For goals not achieved, are they still realistic or desirable?

- Review external factors or regional trends that affect local development (if any). Do any of these external factors affect our expectations for implementation of our local plan? Are there new opportunities for Middletown that did not exist five years ago? Have we undertaken any local activities that were counterproductive to achieving the goals of the plan? Have there been any additional plans or studies undertaken in the last five years that need to be integrated into the updated plan?

Since the format of the original plan starts with general data and gravitates into vision and goals and on to specific development opportunity areas and action steps, the update could easily be done in the same order as the plan. I would think this could be accomplished in about five Steering Committee meetings averaging two chapters per meeting.

I am not expecting a major deviation from the original goals and objectives of the plan. If the Steering Committee determines that we need to take substantially new directions with the plan, additional research time may be needed to validate the change. I do believe that the market research data is flawed due to the slowing economy, however I believe that the main impact will be on the timing of goals rather than the direction of the market. We do not have a budget to prepare a new market study, but may be able to rely on other resources to make necessary adjustments to the market expectations.

As with the adoption of the 2005 Plan, I would recommend that a Steering Committee be involved with the update of the Plan. Ideally the committee should consist of about 15 people with a variety of perspectives. Since the plan update should be adopted by Planning Commission and City Council, a representative from each board should be included. In addition representatives of the Board of Education, business community, resident, developer/real estate, neighborhood groups, social services, etc. should be on the committee.

The committee should be diverse in all respects and represent an accurate cross section of the community. We have a few names from the Master Plan Implementation Committee that could be asked to continue with the Plan Update Committee. These were Rev. Bob Stacy, Cathy Newkirk, Dane Donham, Doug Bean, Sam Ashworth, Sandra Pearce, and Valerie Griffin. I would suggest that I contact these people to see if they would be interested in continuing on the Update Committee. To fill the remainder of the Committee, we could ask city Council to each nominate one person for the Committee.

We should also set an internal committee of key City Departments to make sure that plans for the provision of City services are coordinated with the efforts of the Master Plan. This group only needs to provide information regarding long range plans to the Planning Department for integration into the Master Plan as appropriate. They would also need to review the final product of the planning effort to determine if the Master Plan Update is consistent with their long range plans, therefore no formal meetings are needed for the internal group unless interdepartmental issues need to be resolved.

The first step is to establish the Steering Committee. Could you coordinate this with the City Manager to have City Council appoint the committee membership?

CONSENT AGENDA

MIDDLETOWN, OHIO

March 2, 2010

ROLL CALL	Mayor Larry Mulligan called the City Council Meeting to order at 5:30 P.M. in the City Council Chambers on the Lower Level of the City Building, One Donham Plaza, Middletown, with a moment of meditation followed by the Pledge of Allegiance to the Flag. Members present: Armbruster, Becker, Scott Jones, Laubach, Mulligan, and Picard. Staff Present: City Manager Gilleland, Law Director Landen, Clerk Parr, C. Strayer, N. Begley, M. Edwards, D. Adkins, D. Duritsch, S. Botts, D. Hamet, R. Dalton, D. Burke and N. Wilson.
CITIZEN COMMENTS	There were no citizen comments.
PRESENTATION	American Red Cross Proclamation – Mayor Mulligan announced an upcoming Haiti disaster relief effort, proceeds of which will be divided between the local American Red Cross and Red Cross for Haiti efforts. If you have any questions, call Miracle Hurston the contact person. Mr. Mulligan read and presented a proclamation for American Red Cross Month to Kristen Bruhanzel, Red Cross representative who thanked the Mayor for the proclamation explaining they are proud of their Butler County efforts and thanked all of Middletown’s first responders.
Mr. Smith arrives	At 5:33 p.m. Mr. Smith arrived.
MANAGER REPORTS	<p>City Manager Judy Gilleland highlighted one of the City’s Brownfield redevelopment projects, Midwest Services/Vail Rubber on Clark Street. She said the City received a \$750,000 Brownfield Grant to demo and rehabilitate a portion of this property. Along with the cleanup, Midwest Services is improving the facility. She explained that construction is on target and should be completed by April 1st.</p> <ul style="list-style-type: none"> • City Manager Gilleland reported that Butler County Dep. Auditor Joe Statzer was also in attendance. He did not have a presentation, but was available for any questions or comments during or after the meeting. • She explained legislation on the agenda regarding the development agreement with the schools for construction of the new Health Center. This is an opportunity for nearly a 7 million dollar facility to be built in our community. It will provide health care opportunities for all the City residents. The after-hours care will alleviate some of the burden on the Atrium Medical center by decreasing visits to the E.R. for illnesses that can be treated at the new facility. It will also assist our fire division with unnecessary runs to the E.R. • Governor Ted Strickland visited the county last week and attended Biz Tech Small Business Development Center who hosted the event. She announced the phone number of Matt Eisenbraun of the Small Business Development Director and thanked him and Marilyn Coomer for hosting the event. Chris Bailey, the City’s Cheesecake Chef was part of the discussion.
CONSENT AGENDA	<p>Prior to Clerk Parr presenting the Consent Agenda issues, Mayor Mulligan recognized the Clerk for her nomination by her peers as the Clerk of the Year. He stated this was the second time Ms. Parr had been nominated and he wished her success stating she is the City’s Clerk of the Year. The following issues under the Consent Agenda were presented:</p> <ul style="list-style-type: none"> (a) Approve: City Council Minutes February 16, 2010 (b) Receive and File Board/Commission Minutes: Middletown Public Housing Agency – February 16, 2010 (c) Confirm Board and Commission Appointments: City Planning Commission – Joanne Mejias-Yancey Landmarks and Historic Districts – Gilbert Frederick Sauer Board of Zoning Appeals - David Kash, Atty. (d) Confirm Personnel Appointments: Squadperson - Adam J. Morgan (f) Proclamations: Purchasing Month – March Red Cross Month – March Census Awareness Month – March

MOTION	<p>Ms. Scott Jones moved to approve the issues and actions as listed on the consent agenda. Mr. Smith seconded and the motion carried. Ayes: Armbruster, Becker, Scott Jones, Laubach, Picard, Mulligan, and Smith.</p> <p>Mr. Mulligan asked Purchasing Agent, Cindy Strayer to the podium and read and presented the Purchasing Month Proclamation to Ms. Strayer for her many years of service. He stated Ms. Strayer's years of services date back to 1975. He recognized the work she has done locally and regionally. Ms. Strayer expressed her thanks.</p>
MOTION AGENDA	<p>Award a contract to KOI Auto Parts for a Portable Column Lift in the amount of \$29,500.00</p> <p>Purchasing Agent Strayer presented the motion agenda item for the portable column lift. She explained the Transit Division recently received funding from the American Recovery Act for the purchase. The lift is a fully functional, battery-operated lift that can be moved off-site as needed. Six bids were received. The low bid was not hydraulic nor battery powered as the specifications had required. The second lowest bid met the specifications and award to KOI was requested as the lowest and best bid.</p> <p>Mr. A.J. Smith asked if we were replacing current equipment.</p> <p>Ms. Strayer responded this is additional equipment being purchased.</p>
MOTION CARRIED	<p>Ms. Scott Jones moved for approval of the purchase from KOI. Mr. Smith seconded and the motion carried. Ayes: Armbruster, Becker, Scott Jones, Laubach, Picard, Mulligan, and Smith.</p>
MOTION AGENDA	<p>Award a contract to C.G. Construction & Utilities, Inc. for installation of storm sewer on University Boulevard from Richardson Drive to Aberdeen Drive in the amount of \$320,786.00.</p> <p>Public Works and Utilities Director, David Duritsch, presented the request for the award of contract for the storm sewer construction on University Boulevard. He explained this section of storm sewer is undersized and serves about 54 acres. It was identified as a high-profile project. Some drainage issues are being addressed with this improvement project and prior to another paving project on University this spring. There is another phase of the project that will start after this work is complete. Bids were received from twelve contractors. Staff is recommending award to the lowest bidder. The work is funded through the storm water capital fund.</p> <p>Mr. Smith asked about the second phase of the storm sewer project from University to Rusmar Drive will be done at a later date and if that would be done after we build our new streets.</p> <p>Mr. Duritsch explained this work will be done from Rusmar down to University and to Richardson to alleviate some of the drainage coming down the hill. They are supposed to be out of University prior to that paving. That second phase is not programmed at this time.</p> <p>Mr. Smith asked about the separation of combined and storm sewers and if this project was part of that.</p> <p>Mr. Duritsch responded this is in the combined sewer location, but this is a storm sewer only pipe and not the combined system. The combined system is not being separated. Part of our long-term plan is to put in another interceptor sewer system down by the river.</p>
MOTION CARRIED	<p>Ms. Scott Jones moved for approval of the contract with C.G. Construction for installation of the sewer project. Mr. Smith seconded and the motion carried. Ayes: Armbruster, Becker, Scott Jones, Laubach, Picard, Mulligan, and Smith.</p>
COUNCIL COMMENTS J. Laubach	<p>Mr. Laubach announced a series of Town Hall meetings that he is setting this year. He stated he feels it's the most important part of his job, to stay in touch with the citizens and give them an opportunity to bring their concerns to him. The first is scheduled for Tuesday, April 13th from 5:30 to 7 p.m. at the Middletown Senior Center. He asked if those attending would email him and he gave his email address. The meeting will be an informal set-up, scheduled for open discussion.</p>

Anita Scott Jones	<p>Ms. Scott Jones announced she too is having round table discussions this year with the public. She said she doesn't feel council can have too many of these meetings. The first is scheduled for March 20th on a Saturday. She plans to attend any of these meetings that her colleagues schedule. She recognized Dep. Auditor Statzer in the audience. She recognized Marilyn Coomer and Matt Eisenbraun for their small businesses efforts and for arranging Governor Strickland's visit. She commended Chris Bailey of Bailey's cheesecakes. She also thanked Mr. Triick for arranging Mr. Boehner's visit. She acknowledged Clerk Parr for being nominated for Clerk of the Year. She announced an open house for the retirement of Mr. Thomas Wheeler of Abilities First.</p>
A.J. Smith	<p>Mr. Smith recognized the MHS Purple Pizzazz for placing fourth in a recent competition. It was a tough competition and they are making very good progress. Secondly, he wished Mr. Mike Tanner farewell. He is a firefighter-paramedic here in Middletown and is leaving to continue his career in Oakwood as a Public Safety Officer, where he will be able to be a police officer and paramedic as well. He thanked him personally.</p>
L. Mulligan	<p>Mr. Mulligan reiterated thoughts on the demolition at Midwest. There is also demolition ongoing at Sorg and AK Steel. He highlighted the public private partnership at Midwest and the cooperate responsibility of Wausau and AK for clearing underutilized facilities. People are noticing a big difference. The City is trying to make a difference with our limited funds. Also, through our Community Revitalization efforts, the City has demolished over a dozen blighted properties. He announced the First Friday Concerts of the month at noon at the First Methodist Church on Broad Street, encouraging all to attend. He again announced the Red Cross and Haiti event as well as the Middletown Symphony event this Saturday evening. He recognized all volunteers and the efforts of these volunteer groups. He thanked council for working through the last Housing Agency meeting. The next sub-committee meeting is Friday, March 12th. Council continues to stay focused and moving forward on these housing issues. He announced he will be presenting the State of the City address on March 18th at 6 p.m. in Council Chambers. Please RSVP your attendance so preparations can be made. He asked Mr. Landen to present legislation.</p>
A.S. Jones	<p>Ms. Scott Jones asked to please excuse her, but she wanted to take advantage of Mr. Joe Statzer's attendance. She asked the Deputy Auditor to speak regarding the reevaluation efforts.</p>
L. Mulligan	<p>Mr. Mulligan stated he had talked to Mr. Statzer who did not have a prepared presentation, but said he was available for any comments or questions.</p>
J. Statzer	<p>Mr. Statzer came to the podium and stated he attended a council meeting a few months ago. There was a re-evaluation throughout the county on property taxes and they have had some positive feedback from the re-evaluations. Most residents did see a reduction. He mentioned that for any one uncomfortable and wanting to challenge their tax, they can call 887-3154 or go to the county's website at butlercountyauditor.org where they can file to get a board of revision packet. That objection or appeal has to be received by a March 31st deadline. To appeal the current designation, you have to have some evidence and comps of properties around you on your street and neighborhood.</p> <p>Ms. Scott Jones asked if there would be periodic re-evaluations or just as the market dictates.</p> <p>Mr. Statzer stated the State mandates a six-year re-evaluation. When Auditor Roger Reynolds took office he took an unprecedented step and ordered a re-evaluation of more realistic and fair values of housing. The evaluations will probably not be done again until 2011.</p> <p>Ms. Scott Jones asked if there was correlation between reduction in property valuation and taxes and what happens to people who have their taxes in escrow, how does that work.</p> <p>Mr. Statzer said there is a correlation. There are reductions. Some don't see as much of a reduction because there are levies on the ballot such as police, fire and school levies, etc. The Treasurer's office will notify homeowners on their tax bills.</p>

<p>Res. No. R2010-03 MCSD Tax Levy Support</p>	<p>Resolution No. R2010-03, a resolution endorsing the substitute school tax levy issue for the Middletown City School District was presented and read for the second time.</p> <p>Ms. Scott Jones moved for the adoption of Resolution No. R2010-03. Mr. Smith seconded and the motion carried. Ayes: Armbruster, Becker, Scott Jones, Mulligan, Picard, and Smith. Abstained: Mr. Laubach.</p>
<p>Ord. No. O2010-18 Crime Lab Services</p>	<p>Ordinance No. O2010-18, an ordinance establishing a procedure for and authorizing a contract with Miami Valley Regional Crime Lab for crime lab services for the Division of Police for the 2010 year was presented and read for the second time.</p> <p>Ms. Scott Jones moved for the adoption of Ordinance No. O2010-18. Mr. Smith seconded.</p> <p>Ms. Scott Jones asked Chief Schwarber if we had done business with this crime lab and if they were the only lab in the area.</p> <p>Chief Schwarber stated the City has done business with this crime lab as long as he has been with the City. The only other crime lab is BCI and they are located in London, a longer drive and longer turn-around time for evidence.</p> <p>Motion carried. Ayes: Armbruster, Becker, Scott Jones, Laubach, Mulligan, Picard, and Smith.</p>
<p>Ord. No. O2010-19 Mowing Contracts</p>	<p>Ordinance No. O2010-19, an ordinance establishing a procedure for and authorizing contracts with Western & Company and M&M Lawncare for grounds maintenance for the three year period from 2010 through 2012 was presented and read for the second time.</p> <p>Ms. Scott Jones moved for the adoption of Ordinance No. O2010-19. Mr. Smith seconded.</p> <p>Mr. Laubach said he had questions regarding the Auto and Gas Tax Funds and approved or specific uses for those funds. Is it mandated for strictly road repairs? He asked what percentage of that funding goes to street repair.</p> <p>Ms. Gilleland answered the funds are typically for road repair, paving, patching, maintenance, striping, and work in the right-of-ways, etc.</p> <p>Mr. Duritsch said part of the tax goes to work in the right-of-ways. The full amount goes to electronics maintenance, street maintenance and some grounds maintenance.</p> <p>Ms. Scott Jones asked if both companies were mowing contractors and if those went out to bids.</p> <p>Mr. Duritsch said yes, these were bid three years ago.</p> <p>Ms. Strayer added they were the low bidders three years ago. They are extending their contract at the same pricing and adding additional duties such as spraying for weeds.</p> <p>Mr. Smith also asked about the expenditure of the Auto and Gas Funds being spent on mowing contracts.</p> <p>There was further discussion about the expenditure of these funds for mowing.</p> <p>Mr. Mulligan explained there is over \$500,000 transferred from the General Fund to the Auto and Gas Tax Funds for all these expenditures. The Auto and Gas Tax Funds do not generate enough to complete all these projects.</p> <p>Mr. Laubach asked if the City had ever looked at getting companies to sponsor construction, maintenance or redevelopment to put their name on a street or park.</p> <p>Ms. Gilleland stated it is permissible. It is something that could be talked about through Park Board.</p>

**Ord. No. O2010-20
Consolidated Plan**

Mr. Laubach said it was food for thought. Mr. Smith and Ms. Scott Jones both agreed.

Mr. Armbruster stated Park Board would be more than willing to look at those issues.

Motion carried. Ayes: Armbruster, Becker, Scott Jones, Laubach, Mulligan, Picard, and Smith.

Ordinance No. O2010-20, an ordinance authorizing the submission of an application for Federal assistance, a Consolidated Plan and a Projected Use of Funds under Title I of the Housing and Community Development Act of 1974, as amended, for program year 2010 and declaring an emergency was presented.

Ms. Scott Jones moved that the Charter provision requiring reading on two separate days be suspended and the ordinance be declared an emergency measure and read one time only. Mr. Smith seconded and the motion carried. Ayes: Armbruster, Becker, Scott Jones, Laubach, Mulligan, Picard and Smith.

The ordinance was read and was the subject of a public hearing on February 16th. It was presented and read again on this date as an emergency.

Ms. Scott Jones moved for the adoption of Ordinance No. O2010-20 as an emergency measure. Mr. Smith seconded.

Mr. Laubach stated his support for the ideas laid out in the plan. He asked if for whatever reason we may not receive this funding, is there an alternative plan to complete goals as outlined in the plan.

Mr. Adkins stated the plan wouldn't fall on its face but it would surely slow down the progress being made. There is a budget in place and without these funds, it would slow or stop the progress in many areas. They continually look for additional funding.

Motion carried. Ayes: Armbruster, Becker, Scott Jones, Laubach, Mulligan, Picard and Smith.

**Res. No. R2010-04
Transit Resolution**

Resolution No. R2010-04, a resolution amending Resolution Number R2009-40, authorizing the filing of applications with the Federal Transit Administration, an operating administration of the United States Department of Transportation, for federal transportation assistance authorized by 49 U.S.C. Chapter 53; Title 23 United States Code; and other federal statutes administered by the Federal Transit Administration, and declaring an emergency was presented.

**Ms. Scott Jones recused
herself from discussion**

At 6:26 p.m. Ms. Scott Jones recused herself from the discussion.

Mr. Doug Adkins, the Community Revitalization Department director apologized for bringing this back to council. He explained the wording in the original Resolution was presented with old language. The FTA contacted staff and asked for corrections. They felt their old language might limit the types of grants available and amended the language to broaden the scope of grants available.

Mr. Laubach asked if he knew the windfall or deficit of the Transit System.

Mr. Mulligan said thought the City used to subsidize the program at a cost of about \$300,000, but that is down to \$100,000 out of a million dollar program.

**Ms. Scott Jones rejoins
the meeting**

Ms. Scott Jones moved that the Charter provision requiring reading on two separate days be suspended and the resolution be declared an emergency measure and read one time only. Mr. Smith seconded and the motion carried. Ayes: Armbruster, Becker, Scott Jones, Laubach, Mulligan, Picard and Smith.

The resolution was read one time only.

Mr. Picard moved for the adoption of Resolution No. R2010-04 as an emergency measure. Mr. Smith seconded and the motion carried. Ayes: Armbruster, Becker, Laubach, Mulligan, Picard and Smith. Abstained: Ms. Scott Jones.

**Ord. No. O2010-21
Development Agrmnt.
Butler County Health**

Ordinance No. O2010-21, an ordinance authorizing a development agreement with Butler County Health Center and declaring an emergency was presented.

Ms. Scott Jones moved that the Charter provision requiring reading on two separate days be suspended and the ordinance be declared an emergency measure and read one time only. Mr. Smith seconded and the motion carried. Ayes: Armbruster, Becker, Scott Jones, Laubach, Mulligan, Picard and Smith.

The ordinance was read one time only.

Ms. Scott Jones moved for the adoption of Ordinance No. O2010-21 as an emergency measure. Mr. Smith seconded.

Mr. Landen presented the legislation and explained the contract contains a reverter clause and demolition language regarding the old building. There is an agreement that all parties will support the re-zone of that property. The city, school district and health center all agree that the parties will support the rezone, it's currently zoned residential.

There was additional discussion regarding rezoning, the current zoning and what the proposed zoning would be. It was explained that the rezoning issue will go to the Planning Commission and back to Council for approval. Also, the limited number of uses for the old building was discussed. The old building was built with CDBG funding and there are limited uses that can go into the building. Those limitations have to be followed, if they choose to no longer use it and the City doesn't want it back, it would be demolished. All parties are working toward the same goal. Architectural elements of construction were discussed as were expanded services being provided at the new Health Center.

Mr. Bellisario, Executive Director of the Health Center said the current facility has about 7,000 sq. feet. The new facility will add additional providers, additional family practice, a pediatrician and the dental center size will double. They are looking at some type of after-hours care maybe to around 10 p.m., but not an urgent care facility.

Mr. Smith talked about the after hour care and transportation by paramedics to the center instead of the hospital. He asked what type of services would be provided at the center. He said the City Manager mentioned that the squad might be transporting to the health center, he wondered about those services.

Mr. Bellisario stated that many use the E.R. for conditions that are not acute. They will not be specifically asking the squad to bring people to the center. The squad will be evaluating clients. They will also be working with the hospital to set up a program in the hospital to identify people that use emergency services inappropriately and those will be referred to the Health Center.

Mr. Smith said he was hoping we were not using the Health Center to supplement the E.D. The Health Center will not be able to treat someone in cardiac arrest.

Mr. Bellisario said for cardiac arrest they would call the squad for transport to the hospital. There will be an educational effort to help persons understand services provided at the Health Center.

Mr. Laubach asked if there were statistics or numbers about the savings if the person that might use health center over hospital.

Mr. Landen said there was some statistical info given several years ago when the health center first started. The savings is taking those from using the emergency room for flu or cold to go to a primary care provider, they can go to the community health center. No statistics are available where it sits now.

Ms. Scott Jones said there is some recent national data showing the staggering numbers on those coming into an ER that were not emergencies. Recent data shows over 58% were non emergencies that are why there were two and three hour waits in the ER.

Mr. Laubach said he had the unfortunate occasion to spend a lot of time this past week at the ER and has spoke to many ER nurses about the number of non-emergency clients at the emergency room.

Mr. Smith asked Ms. Gilleland for data and statistics on the number of clients that could be served at the Health Center versus the E.R. He stated the Fire Department has those kinds of stats that she could request, they keep that type of data.

Ms. Gilleland said if the majority of council wants additional information, she'll be glad to request and provide that information.

Mr. Mulligan added maybe that's something the Public Safety Sub-Committee could look at.

There was additional discussion regarding the benefits of the Health Center Project. It being a no-cost to the city project and the land swap details. Statistics were discussed and whether or not council wanted additional data.

Mr. Armbruster asked after we get this information, what are we going to do with it. He felt the stats afterwards would be more beneficial, we weren't going to hold up the land swap to gather statistics.

Ms. Gilleland stated she would make a few phone calls and include the information in the next update. If it takes more staff time, she will come back to council.

**Res. No. R2010-05
Appropriations (Transit)**

Resolution No. R2010-05, a resolution to make adjustments to appropriations for current expenses and other expenditures of the City of Middletown, Counties of Butler and Warren, State of Ohio, for the period ending December 31, 2010 (Transit Fund) was presented and read for the first time.

Mr. Adkins explained this resolution will give authorization to spend funds as the grant money comes in.

**Ord. No. O2010-22
Amend 436.071**

Ordinance No. O2010-22, an ordinance amending Sections 436.071 (driving under suspension or in violation of license restriction) and 436.072 (operating a motor vehicle without a valid license) of the codified ordinances was presented and read for the first time.

Mr. Landen explained that there were changes in the ORC and is being incorporated into the City's Codified Ordinances. If fined under city ordinances, the fines are sent off to the State. With the state amendments, which were specific types of misdemeanors, they have now taken several and changed them into unclassified misdemeanors with a range of penalties. They have also changed the nature of the penalties. We are charging under our local ordinances and applying our local penalties, staff thinks the charges and penalties should be the same. It gives the judge a little more flexibility in the charges and penalties applied to those charges.

EXEC. SESSION

At 7:00 p.m., Ms. Scott Jones moved for an executive session under the authority of ORC 121.22(G) (1) To consider the appointment of a public employee or official, specifically board and commission vacancies. Mr. Smith seconded and the motion carried. Ayes: Armbruster, Becker, Scott Jones, Laubach, Mulligan, Picard and Smith.

ADJOURNMENT

At 7:18 p.m. the Mayor declared the meeting adjourned until March 16, 2010 at 6:30 p.m.

Lawrence P. Mulligan, Jr., Mayor

Attest: _____
Clerk of Council

**BOARD OF HEALTH AND ENVIRONMENT
MINUTES
January 12, 2010**

The Middletown City Board of Health & Environment met in regular session at 7:30 a.m. on January 12, 2010

Members Present

Lawrence Mulligan, Jr., President
Margie M. Davis, R.N., President Pro tem
Sally Kash, M.S., R.N.
Ken Patrick D.V.M.
David Schul
Mark Spaulding
Leslie Ford
Charlene Kurtz, BSN,R.N.

Staff Present

Dave Winfough, R.S
Jackie Phillips, MPH, BSN, R.N.
Melissa Grooms

Absent and Excused

Visitors

ROLL CALL

Meeting was called to order by President, Lawrence Mulligan Jr. at 7:31am

CITIZENS COMMENTS

None

APPROVAL OF MINUTES –December 8, 2009

David Schul noted a correction to be made to the December minutes on page 3, the next meeting date should read January 12, 2010.

Motion: Spaulding moved, seconded by Kash to approve the minutes of December 8, 2009.

Roll call vote: Yes-7; (Davis, Spaulding, Patrick, Kash, Schul, Ford, Kurtz); No-0. **Motion passed.**

RECEIVE AND FILE FINANCIAL REPORT –December 2009

Motion: Schul moved, seconded by Spaulding to receive and file the December 2009 financial report.

Roll call vote: Yes-7; (Davis, Spaulding, Patrick, Kash, Schul, Ford, Kurtz); No-0. **Motion passed.**

At the end of 2009 the financial report shows a balance of \$24,000 or 4.8%. \$40,000 was appropriated in December in case we didn't receive the PHER Grant money for H1N1 by the end of the year. As of January 4, 2010 we have received all the money that was invoiced to Butler County Health Department, \$97,000.

The CFHS Grant shows an unexpected balance of \$65,000. This reflects the cuts that ODH made in the program in the state's biennial budget in July. More money was budgeted than what was received. This budget was cut in the biannual budget in the 2nd half of the year.

There was a timing issue with 2 bills from the Atrium that were received after January 1st for the CFHS and the Immunization Grant. We will need to go to council for an appropriation to move the money from last year's budget.

OLD BUSINESS

1. Smoking Enforcement Monthly Report

The number of complaints are picking up. We have received complaints on FOE Oxford State Road, American Legion and Carol's Speakeasy.

These have not been investigated yet.

NEW BUSINESS

1. 2010 Election of President Pro Tem

Motion: Patrick moved, seconded by Kurtz to nominate Margie Davis remain the President Pro Tem.

Roll call vote: Yes-7; (Davis, Spaulding, Patrick, Kash, Schul, Ford, Kurtz); No-0. **Motion passed.**

2. 2010 Board of Health Committees

In the past only the finance committee used to get the financial report in their packet. But everyone used to have questions, so we decided to include it in everyone's packet. The committee members are as follows:

Finance Committee: Margie Davis, David Schul, Sally Kash, Leslie Ford, Mayor Mulligan

Personnel Committee: Margie Davis, Ken Patrick, Mark Spaulding, Charlene Kurtz, Mayor Mulligan

3. Approval of Travel Authorizations

Motion: Patrick moved, seconded by Kurtz to approve the travel requests.

Roll call vote: Yes-7; (Davis, Spaulding, Patrick, Kash, Schul, Ford, Kurtz); No-0. **Motion passed.**

- a) Authorization for Jackie Phillips to attend the Health Commissioner University in Columbus, Ohio January 20-22, 2010.
- b) Authorization for Melissa Grooms to attend the Local District Advisory Council meeting in Columbus, Ohio January 26, 2010.

4. Third and Fourth Quarter Reports

The 2008 3rd and 4th quarter reports are included for comparison.

Dave Schul was concerned about the teen STD stats. Jackie Phillips responded by stating that the only steady STD reporting comes from the ER at Atrium Medical Center. We really don't have the resources like Cincinnati City does. They have a federal grant to reach out to the community.

Planned Parenthood and the Community Pregnancy Center do educational outreach in the community. Phillips stated that she goes out a few times during the school year to speak with different schools.

Winfough stated that the increase in the number of visits for BCMH over 2008 were because Delores gave the H1N1 vaccine to her clients.

5. H1N1 Discussion

We are on the downside of the vaccination program. The pharmacies now have the vaccine, and everyone can get it anytime they want it.

There was a recent Cincinnati Enquirer article regarding the national surplus of vaccine and there is concern over what to do with it.

In packet is a document that shows number of doses that we gave. There have been about 10,000 people vaccinated.

At the health center, Irene provides childhood immunizations from 9-12:30pm and is also vaccinating anyone for H1N1.

December 19 was our last mass clinic, 550 people were vaccinated.

Jackie continues vaccinating at schools, the homeless shelters and a few businesses have contacted her for their employees.

There have been two vaccine recalls, information is included in packet. The recalls were due to issues of efficacy, however, anyone who got the vaccine is still protected.

Janay has completed the after action report that is mandatory for several grants. There was a clarification regarding how soon we fill the syringes for the mass clinics. Since the syringe is not a vehicle to store the vaccine we do not want to have many filled syringes remaining otherwise they would need to be wasted.

Another safety issue is the potential confusion over which vaccine is in the syringe and what lot number. We were fine, but ODH stated that it can be a concern.

We now have a vaccine refrigerator and another refrigerator that is completely full of vaccine.

We have received several thank you letters for Jackie and the staff about the clinics.

The sanitarians are behind on their inspections. ODA, wanted to do a survey of the Retail Food Establishment Program at the end of January but we were able to reschedule for March.

Kudos to the staff with everything they did this fall. We have the best staff.

Sally received calls in her office. Some who had called the Butler County Health Department were very confused so she recommended they call our office. And she received calls back about how nice and informative that our staff were.

We vaccinated 28.2% of our at risk population, which is above average for the region.

Winfough has kept council up to date with attending council meetings, and through the weekly newsletters.

Sally submitted a Stay Healthy article; we would like to submit this article to the Middletown Journal.

REPORTS

HEALTH COMMISSIONER

Butler County 211 help line may not close after all. Jackie went to a meeting yesterday where the Butler County United Way is looking at funding it. They are now handing out pocket resource guides for agencies to pass out.

The health improvement standards for the State Subsidy have been completed. We will only be receiving \$8700 this year.

At the next meeting we will have our annual report. We have already sent a separate report to the Ohio Department of Health with statistics.

Thursday, Jackie and I will be meeting with the City Manager to go over our goals and objectives.

NURSING DIRECTOR

Gonorrhea	7	Salmonella	1
Chlamydia	19	Strep	1
Hepatitis B	2		
Hepatitis C	1		

The vaccine Gardasil that is given to young females for the HPV virus and to prevent cervical cancer can now be given to young men to help prevent the spread of the HPV virus. The vaccine is given for ages 8-25.

We will be finishing up the schools this week and will be doing clinics at area churches and businesses when requested for H1N1. Will also be trying to reach the Hispanic community to provide them vaccinations.

January is not too late to vaccinate.

Last year when we met with Wendy Parks from Premier Community Health at Atrium she said that they will still have clinics in the community 3 times a year. We are scheduled for Health Fairs on February 20, June 19th and October 16.

Without the collaboration in the community we wouldn't have the high percentage of citizens vaccinated. Hilltop did a great job in vaccinating all of our pregnant women. The school clinics have gone very smoothly. We thank everyone for their assistance.

There was a discussion with Board members and Mayor Mulligan regarding Steve Dillman not being reappointed to the Board of Health.

ADJOURNMENT

The meeting was adjourned at 8:22 a.m. until February 9, 2010.

David Winfough, R.S.
Commissioner of Health & Environment
and Board Secretary

Lawrence Mulligan, Jr., President
Board of Health and Environment

MINUTES
COUNCIL ON LANDMARKS AND HISTORIC DISTRICTS
January 14, 2010

TYPE: Regular Meeting

PLACE: City Building, Fourth Floor, Conference Room 4A

PRESIDING OFFICER: Sam Ashworth

MEMBERS PRESENT: Sam Ashworth Bonnie Daniel
Douglas Hayes Jeff Michel
James Sherron Mike Taylor
R. Jack Wolf

MEMBERS ABSENT: Nancy Romero

STAFF PRESENT: Marty Kohler Linda Tong

OTHERS PRESENT: Jim Edwards, Digital Visuals

ADMINISTRATIVE SESSION

The meeting was called to order at 5:30 pm and the roll was called. Seven members were present, constituting a quorum.

WELCOME NEW MEMBERS

Nancy Romero of South Main Street and Jeff Michel of the new Highlands District are our new members this year. We have a representative of the South Main Historic District in Bonnie Daniel and we need a building construction representative. Ms. Romero has been buying, remodeling, and then selling properties in the South Main district for several years and is knowledgeable of building construction processes, techniques and local expertise. If she is willing we would like her to fill that position. Mr. Michel would represent the Highlands District, officially when City Council approves the text amendment to the Historic Preservation regulations. According to the amended text, we will need to appoint an at-large resident or property owner and a resident or property owner of the Urban Core Districts.

APPROVAL OF MINUTES

The minutes for October 29, 2009 were received. No additions or corrections were requested. Mr. Sherron made a motion to approve the minutes as presented. Mr. Wolf seconded the motion and the minutes were unanimously approved.

SELECTION OF CHAIRPERSON AND VICE CHAIRPERSON FOR 2010

Nominations were opened for the Chairmanship and James Sherron nominated Sam Ashworth for the position, seconded by Bonnie Daniel. Mr. Ashworth was unanimously approved as 2010 Chairman. Mr. Michel nominated Mr. Wolf for the position of Vice Chairman, seconded by Mr. Sherron. Mr. Wolf was unanimously approved as 2010 Vice Chairman.

CERTIFICATE OF APPROPRIATENESS
UCC URBAN CORE CENTRAL DISTRICT
WALL SIGN – 1218 CENTRAL AVENUE

Ms. Tong announced that this case has been canceled as of early this week. She explained as follows: In October 2008 this council approved two wall signs for the Jackson Hewitt Tax Service which located in the first floor of the Reed Klopp building. The company moved in and conducted business during the last tax season and also used the space for employee training. In July 2009 a fire damaged the building including the first floor space. The owner has not made any repairs so Jackson Hewitt rented the space at 1218 Central to use for tax preparation for their clients. A decision made by the corporate headquarters last week was to inhabit that space only through the month of February. The applicant withdrew his application for review by this Council of a permanent wall sign. The company plans to display a temporary sign during the months of January and February. This will require a temporary sign permit but no review by this council.

CERTIFICATE OF APPROPRIATENESS
UCC URBAN CORE CENTRAL DISTRICT
WALL SIGN – 1035 CENTRAL AVENUE

This application was submitted to the Planning Office on Monday, January 11, 2010.

The building at 1035 Central Avenue, a mid-20th century structure, has been vacant for many years. The façade consists of a drivit or EIFS veneer and glass windows and doors. The Grace Baptist Church, of Union Road, Middletown, is locating a social service facility in this building, called “Enabled Ministries.” It will offer weekly substance abuse therapy meetings on Friday evenings, distribution of non-perishable foods on Tuesdays, Thursdays and Saturdays, and tutoring of Rosa Parks Elementary School students on Tuesday and Thursday afternoons by Middletown Christian School teachers and Miami University Middletown students. This application is for approval of a wall sign. The applicant is the sign designer/ installer.

The proposed wall sign is to be located above the entrance and display windows facing Central Avenue. Zoning Regulations for the UCC allow one square foot of wall sign surface area per each lineal foot of building front width. The total width of the building frontage is 31 feet, allowing 31 square feet of wall sign surface area. The proposed sign is 17.5” by 164” or 20 square feet. The sign consists of individual gold colored acrylic letters mounted directly on the wall surface. The applicant and the building occupants will be made aware of our regulations which limit temporary window signage coverage to the maximum 25% of glass area.

Jim Edwards of Digital Visuals, the applicant, answered questions about the acrylic letters and other details. With no further discussion, Mr. Sherron moved to approve the sign as presented, and Mr. Wolf seconded the motion. The sign was approved unanimously.

CERTIFICATE OF APPROPRIATENESS
UCC URBAN CORE CENTRAL DISTRICT
WALL SIGN – 1108 CENTRAL AVENUE

This application was submitted to the Planning Office on January 13, 2010.

The building at 1108 Central Avenue, a mid-20th century structure, has been vacant for more than a year. The façade consists of brick, stone and marble tile. It was last occupied by “Iron Images,” a distributor/manufacturer of wrought iron fencing. This application is for approval of a wall sign.

The applicant is the sign designer/ installer.

The proposed sign, similar to the signage for Iron Images, will be white letters and company logo on the front window glass. The building frontage is 22 feet, allowing 22 square feet of wall signage. The proposed sign is 57.25” by 50.5 (approximately 20 square feet). No other permanent sign is proposed. The applicant and the building occupants will be made aware of our regulations which limit temporary window signage coverage to the maximum 25% of glass area.

Jim Edwards provided details about the business to be located in this building and the design of the sign. With no further questions, Mr. Wolf moved to approve the sign as presented and Mr. Taylor seconded the motion. The sign was approved unanimously.

OLD BUSINESS

The first reading of the Historic Preservation regulations amendment will be at the next City Council meeting. The amendment will allow the inclusion of representatives of all Historic Districts and Zoning Districts whose elements of exterior design are reviewed by this council. The Law Director added an at large representative also.

Ms. Tong shared a copy of an Insurance Certificate for the pawn shop, Treasures of the Chest, which shows that the business does have \$1 million in liability insurance that the City requires for private use of the public sidewalk in the UC districts, in this case the display of an A-frame sign. The City is declared to be a co-insured party. Ms. Tong will have the business owner sign the indemnification agreement with the City, witnessed by a notary. This will be the first of this type of agreement for a property in a UC district.

ADJOURNMENT

With no further business, Mr. Wolf made the motion and Mr. Hayes seconded. The motion passed unanimously. The meeting was adjourned at 6:01 pm.

Sam Ashworth,
Chairman

Linda Tong,
Historic Preservation Administrator

MINUTES
COUNCIL ON LANDMARKS AND HISTORIC DISTRICTS
February 4, 2010

TYPE: Regular Meeting

PLACE: City Building, Fourth Floor, Conference Room 4B

PRESIDING OFFICER: Sam Ashworth

MEMBERS PRESENT: Sam Ashworth Bonnie Daniel
 Jeff Michel Nancy Romero
 James Sherron Mike Taylor
 R. Jack Wolf

MEMBERS ABSENT: Douglas Hayes

STAFF PRESENT: Marty Kohler Linda Tong

OTHERS PRESENT: Missy McCall and Bob Hammonds,
Property owners, 104 The Alameda

ADMINISTRATIVE SESSION

The meeting was called to order at 5:35 pm and the roll was called. Seven members were present, constituting a quorum.

APPROVAL OF MINUTES

The minutes for January 14, 2010 were received. No additions or corrections were requested. Mr. Sherron made a motion to approve the minutes as presented. Mr. Wolf seconded the motion and the minutes were unanimously approved.

WELCOME NEW MEMBER

Mr. Ashworth welcomed Nancy Romero as a new member of the Council. She is Familiar with this group, having appeared before it numerous times as a South Main Street property owner. Ms. Tong added that Ms. Romero is the representative of Building Construction because of her experience and expertise in this area.

CERTIFICATE OF APPROPRIATENESS
HIGHLANDS HISTORIC DISTRICT
FENCE – 104 THE ALAMEDA

The home at 104 The Alameda is located on the west side of The Alameda, the first house facing The Alameda south of Alameda Circle. It was built in 1917 in the Georgian Revival style, in brick with wood trim. There is a detached garage in the southwest corner of the rear yard, similar in style to the main building.

The owner wishes to install steel fencing surrounding the rear yard so that her three dogs can be confined. The fencing is designed to resemble wrought iron fencing. It will extend from the

house to the garage and connect with the existing fence at the rear of the yard. The height of the fence will be approximately 4 feet-10 inches. The Zoning Ordinance requires that a rear yard fence be no more than six feet in height.

Staff recommends that materials and style should reflect the period and style of the house. A steel fence in the style of a wrought iron fence appears to be compatible with the existing building and those in the immediate vicinity.

With no questions to the applicant or further discussion, Mr. Sherron moved and Mr. Wolf seconded that the fence be approved as submitted. The motion was unanimously approved.

Ms. McCall said that she is a member of the Dayton Lane Historical Board in Hamilton. She asked about the Highlands District group and meeting times. Mr. Michel stated that the group meets at the Church of the Ascension on the third Wednesday of each month at 7 pm.

Mr. Ashworth said that everyone in the neighborhood is glad to see this house occupied and that it is a great example of fine architecture and meticulous care.

OLD BUSINESS

Mr. Kohler said that when the Highlands District was created, we recorded the ordinance with Butler County so that people buying property in the district would be made aware that the property is in the historic district. He had noticed that this has not been happening in the South Main district. He did some research and found that the lot numbers were not recorded with the ordinances, the references were to street addresses only. But all title work at Butler County is indexed by lot number. So the City Law Director determined that City Council should reenact the ordinances which created the district with lot numbers attached. The district was formed by three separate ordinances: one for the original district, the second which added approximately 10 properties to the south, and the third was for the St. Paul Church on Broad Street as a separate Historic Site. When we readopt with lot numbers we should bring St. Paul into the South Main District. Mr. Taylor asked whether the Methodist Church (a Hannaford designed building) on Broad Street was part of the district; Mr. Kohler said no, but did not know whether it was by the church's choice or not. No action is required on the part of the Council.

A question was asked about the property at the alley between S. Main and First Avenue. Staff will research the question.

ADJOURNMENT

With no further business, Mr. Wolf made the motion and Mr. Taylor seconded. The motion passed unanimously. The meeting was adjourned at 5:54 pm.

Sam Ashworth,
Chairman

Linda Tong,
Historic Preservation Administrator

**CITY PLANNING COMMISSION
MINUTES
February 10, 2010**

TYPE: Regular Meeting

PLACE: City Building, City Council Chamber

TIME: 6:30 P.M.

PRESIDING OFFICER: Tom Brickey, Chair

MEMBERS PRESENT: Chris Amburgey Tony Marconi
Gary Gross R. Jack Wolf
Anita Scott Jones, City Council Representative

MEMBERS ABSENT: Mike Dalton
Joshua Laubach, City Council Alternate Representative

STAFF PRESENT: Marty Kohler Debbie Garitson
Pete Lindsey Linda Tong

Mr. Brickey called the meeting to order and had the roll called.

Moment of Silence
Honoring Perry Thatcher

Before moving ahead with the meeting agenda, Mr. Brickey took a few minutes for a tribute to Mr. Perry Thatcher. Each Planning Commission member took a moment to share their thoughts and appreciation of Mr. Thatcher and his dedication to Middletown. Mr. Thatcher will truly be missed.

MINUTES
January 13, 2009

Mr. Brickey asked for additions or corrections to the minutes of January 13, 2010. He entertained a motion by Mr. Wolf to approve the minutes as presented. Mr. Gross seconded and the motion carried via roll call voting with Mr. Brickey abstaining.

PUBLIC HEARING
Zoning Ordinance Map and Text Amendment 13

Mr. Brickey introduced this case petitioned by City of Middletown Planning Department. This is a request for a recommendation to City Council to approve amending the Zoning Map and Ordinance to create new zoning districts in the East End area of the City.

Mr. Kohler said since the October meeting, he and Economic Director, Mike Robinette, had met with nearly all of the property owners of Commerce Drive and Market Avenue and addressed their concerns. There has been a lot of miscommunication or misunderstanding among the property owners.

Mr. Kohler said this is the third public hearing for this proposed zoning map and text amendment. One was held one year ago, and one in October of 2009. He said Staff had been working with the consultant who had been working on the amendments but had also worked on the East End Master Plan document. Mr. Kohler said staff and Mr. Forschner have been looking at the vision of the East End Master Plan and asked if the changes could be made and still meet that vision. He said this can be done.

Mr. Kohler introduced Brian Forschner who gave a presentation and reiterated the vision of the East End Master Plan. He said the reason to review the vision was to be sure that everyone understands and all are on the same page.

Mr. Forschner said the proposed amendments are to encourage people to move to Middletown, stay in Middletown, and have Middletown grow as time goes on. He said the design principals are directly from the East End Master Plan.

Mr. Forschner showed a slide from the East End Master Plan highlighting the proposed zoning districts. He described in detail each proposed district and reviewed what would be permitted and other design requirements of the proposed zoning. Mr. Brickey said it was apparent the concerns of the property owners were taken very seriously.

With no further discussion, Mr. Brickey opened the public hearing portion of the meeting and invited those in favor to step forward to address Planning Commission.

Mr. Mike Robinette said the proposed implements the vision of the Master Plan. He said there is a good balance between the property owners and the development. Mr. Robinette said with the proposed zoning in place, when businesses come to Middletown, they will know what is planned. Mr. Wolf asked Mr. Robinette where other communities are that are more strict in zoning. Mr. Robinette replied "West Chester, Dublin, and Springboro" to name a few.

Mr. Wolf commented about there being a WalMart next to a multi-million dwelling complex with a drive thru restaurant, etc in Deerfield Township. He added this all fits together and asked how we can get there.

Mr. John McKinney, representing Atrium Medical Center, said they are very supportive of the proposed zoning. They want to see more knowledge based, health care, life sciences, and other well educated workforce in the east end.

With no one else to speak in favor, Mr. Brickey invited those in opposition of the proposed zoning to step forward. Mr. Larry Wood, Capital Real Estate Partners and representing Gary Kaup for the property located at Market and Union. He said the overall concept is great if working on a clean slate. Mr. Wood said this corner lot becomes a real challenge with parking. Mr. Wood said they

have 1.1 acres with one-third being on a hillside and is undevelopable. He requested this property be removed from the HUB proposal and placed in the Industrial Zone.

Mr. Amburgey asked Mr. Brickey for discussion since this property is isolated. Mr. Amburgey asked Mr. Kohler for the history. Mr. Kohler said drawing zoning lines aren't easy but Staff prefers not to see Union Road become a fast food area. He added maintaining continuity on Union Road is important and a drive through is not compatible with what is desired on Union Road.

Mr. Lenny Robinson stepped forward to speak in opposition. He said their preference is to be left alone. He suggested the rezoning and development take place east of Union and North of Market. He added C-2 uses need to continue to serve the interstate.

Mr. Max Fernandez, Associate Pastor Grace Baptist Church, Union Road said they own approximately 32 acres and wish to remain in the C-2 district as they too have plans for the land and wish to see them accomplished.

Mr. Steve Tipton, partner with Bud Huran and developed the CVS at Union and SR122. He said there are good upgrades regarding landscaping, screenings, etc. They request no vote be taken this evening. Mr. Dick Boyea, Ramada Inn, also requested to be left in the C-2 zoning district.

With no one else to speak either in favor or in opposition of the proposed zoning amendments, Mr. Brickey closed the public hearing.

DECISION
Zoning Ordinance Map and Text Amendment 13-09

Mr. Brickey said there has been a lot of information provided this evening and if Planning Commission members do not feel comfortable voting at this time the decision can be postponed to a later date. Mr. Gross said he did not feel comfortable voting. Mr. Marconi agreed and added due diligence should be done. He said the proposed amendments need to be tweaked or do away with it.

Mr. Amburgey said he doesn't mind the three hours spent on the meeting because that means discussion took place. He advised those in attendance that the only constant is change. Mr. Wolf stated there needs to be businesses to support the medical campus and its employees such as restaurants, coffee shops, small convenience shops, etc.

Ms. Scott Jones asked if a table could be created listing the current zoning and the proposed zoning and list each use/ issue so that people can understand. Mr. Kohler this would be possible. Ms. Scott Jones also said due diligence needs to be done in notifying property owners.

Mr. Brickey said he agrees due diligence is needed to get the right balance and best solution. With no further discussion, Mr. Brickey entertained a motion by Mr. Wolf to table the decision. Mr. Marconi seconded and the motion carried.

ADJOURNMENT

With no further discussion, Mr. Brickey asked for a motion to adjourn. Mr. Wolf moved to adjourn. Mr. Gross seconded and the meeting adjourned at 10:15pm.

Tom Brickey
Chair

Martin D. Kohler
Secretary

dg

The next regular session of Planning Commission will be held on Wednesday, March 10, 2010.

TAX INCENTIVE REVIEW COUNCIL
City of Middletown
Annual Review of Enterprise Zone Agreements Granted
and
Tax Increment Financing (TIF) Districts
Period Ending 12/31/2009

MONDAY, MARCH 1, 2010
2:00 P.M.
CITY COUNCIL CHAMBER

MEMBERS PRESENT

JULIE GILLELAND, City of Middletown, CEO designee
RUSS CAROLUS, Finance Director, City of Middletown
BILL BECKER, City Council Representative
JULIE JOYCE SMITH, Butler County Deputy Auditor
NICK NELSON, Warren County Auditor
ED POKORA, CFO, Butler Tech
LISA FAHNKE, Middletown City Schools Treasurer
CHRIS FIORA, Citizen
PETE DOBROZSI, Citizen

MEMBERS ABSENT

ROGER REYNOLDS, Butler County Auditor
ERIC SOTZING, Treasurer, Lebanon City Schools
KAREN ROYER, Warren Co. Career Center
JANA BELLAMY, Treasurer, Franklin City Schools

STAFF:

MIKE ROBINETTE, Economic Development Director
DENISE HAMET, Economic Development Program Manager
DEBBIE GARITSON – Administrative Assistant

GUESTS:

MATT CRANSTON, Quaker Chemical
DAN TENNITY, Paychex
BEN MCNARY, PAC Worldwide representative
JODI LEX, Ventilex 'USA
TIM WOJTOWICZ, VP - Project Development, Middletown Coke
ROBERT HENDRICKS, Evertz Technology
CHRIS DOBROZSI, VP - Development, Al Neyer, Inc.
TOM LEEDS, Manager, Excelsior Steel

CALL TO ORDER

The meeting was called to order by Ms. Hamet. Quorum established.

ANNUAL REVIEW OF ENTERPRISE ZONE AGREEMENTS GRANTED

Ms. Hamet began describing the status of Enterprise Zone tax abatement agreements within the City as of 12/31/09

PAC NATIONAL

Ms. Hamet reported that this new project was completed in 2008. Employment has increased to 227. The total payroll new to Ohio is \$1,915,748. The company has invested \$14.6 million in real property and \$18.6 million in personal property. Ms. Hamet noted that this agreement will expire in 2018. She said the agreement was created for construction for 350,000 square foot facility. Since the creation of agreement, additional division was moved to Middletown at the site. This far exceeds investment and employment commitments. She recommended continuing the agreement.

Mr. Ben McNary, Pac National, said they like the new facility and have created more jobs than expected for the agreement. He said they are optimistic the company will continue to grow further. He added they are hiring an HR person soon and are always looking to hire more employees and have in the past 18 since moving to Middletown. He said it is very hard to fill positions with running three shifts and have been running 24 hours per day/ seven days per week. Mr. McNary said have found it hard to keep running 24/7 with not having enough employees so they cut back to 24/ 6 days per week and trying to keep up with the demand of the customers.

A motion was made by Mr. Nick Nelson seconded by Mr. Russ Carolus to continue the agreement. Motion carried.

EXCELSIOR/MIDD CITIES

Ms. Hamet reported the agreement was established with developer (Midd-Cities) and Excelsior. The agreement is now expired and no action is needed.

INTERSCOPE

Ms. Hamet reported that expansion is not scheduled in near future. She said she and Mike Robinette had met with the company and agreed to cancel the agreement. When the company is ready for an expansion, they will move forward with a new agreement will be considered when Interscope is ready to expand. Ms. Hamet recommended canceling the agreement.

A motion was made by Ms. Judy Gilleland, seconded by Mr. Chris Fiora to continue the agreement. Motion carried.

MIDDLETOWN COKE

Ms. Hamet reported that construction is not yet underway on this project, however a key benchmark of state and federal EPA approval has been achieved. The company has invested in the site and the project is expected to move forward soon. Ms. Hamet recommended modifying the agreement to reflect revised project start and completion dates of October 1, 2010 and September 30, 2012. Change “no exemption shall commence after July 1, 2010” to “July 1, 2013”; change “nor extend beyond December 31, 2020” to “December 31, 2023”

Mr. Tim Wojtowicz, project manager, thanked everyone for their continued support during the lengthy process and waiting period. The new source review has been issued for the new Middletown Coke Plant at the Federal level which has been a very lengthy process. He added the appeal period is now in effect and expires on March 11, 2010. The new substation will be located where the trailers are now parked. A contractor will begin moving dirt in that area next week. They are working on a time line for the construction period. Production is anticipated to begin mid to late 2011 depending upon the construction completion. Employment will begin late this year or early next year. A plant manager will be the first to be hired.

A motion was made by Mr. Bill Becker seconded by Mr. Ed Pokora to modify the agreement. Motion carried.

QUAKER CHEMICAL

Ms. Hamet reported the agreement was established to expand the existing facility. Construction is complete. Exceeded investment projections and is on target for new positions, however, retained dropped in 2009 due to 13 layoffs. The company anticipates bringing many but perhaps not all of the positions back in 2010. Ms. Hamet recommended continuing the agreement.

A motion was made by Mr. Chris Fiora and seconded by Mr. Russ Carolus to continue the agreement. Motion carried.

VENTILEX USA

Ms. Hamet reported the agreement was created to construct 10,000 square foot building for international company to relocate to Middletown. Construction is complete and investment meets expectations. Since jobs have been delayed and company does not forecast hiring in 2011, EZ abatement was evaluated at current employment level and it was determined abatement lever of 40% was appropriate based on investment, payroll, and number of employees. Agreement will be re-evaluated if hiring commences; company forecasts hiring to resume in 2012. Ms. Hamet recommended modify the agreement to require at least the current level of employment for the duration of the agreement and to reduce abatement percent to 40%.

A motion was made by Mr. Russ Carolus, seconded by Mr. Bill Becker to modify the agreement. Motion carried.

CLAYTON LLC

Ms. Hamet said the project had been canceled and recommended to cancel the agreement. Mr. Russ Carolus motioned to cancel. Mr. Becker seconded and the motion carried.

PAYCHEX/AL NEYER, INC.

Ms. Hamet reported that construction is complete and the Paychex has moved in. Investment in real property of \$7,065,000 exceeds committed and presently has 84 employees. The agreement was created jointly with the developer/ builder (Al Neyer, Inc.) and PayChex North America to construct 50,000 square foot building. All PayChex jobs are new to Middletown and regarded as “created” for Middletown classifications; however, for state reporting, since they were relocated within the state they are classified as “retained” by the state. In 2009, some employees were reclassified as part of Cleveland division. EZ abatement was evaluated at current employment level and it was determined abatement level of 75% remains appropriate based on investment, payroll, and number of employees. Ms. Hamet recommended modifying the agreement to require at least the current level of employment for the duration of the agreement. Also, correct the exemption start date to be no later than 11/30/09 extending through 12/31/19.

A motion was made by Mr. Ed Pokora, seconded by Mr. Chris Fiora to continue the agreement. Motion carried.

PLEDGER LLC

This agreement was created to finish out a 10,000 square foot building. The project involved relocation and expansion of the business. Enterprise zone regulation limit the abatement to the new investment above the purchase price of the existing building of \$1.2 million. Construction is complete and investment exceeds expectations. Employment is ahead of commitment.

Ms. Hamet recommends continuing the agreement. Mr. Pete Dobrozsi motioned to continue. Ms. Fahncke seconded and the motion carried.

AERONCA

This agreement was created in 2000 to retain jobs and to expand the facility. Construction is complete and investment exceeds expectations. After 9/11, employment dropped, and agreement was modified (abatement percent was reduced to 50%) to account for lower than expected employment (155). Employment was maintained at or near that level until 2009, during which time employment dropped to 121. Although 2009 was a difficult year, the company is forecasting hiring 9 staff in 2010, 10 in 2011, and 10 in 2012. EZ abatement was evaluated at current

employment level and it was determined abatement level of 50% remains appropriate based on investment, payroll, and number of employees.

Ms. Hamet recommended modifying the agreement to require at least the current level of employment (121) for the duration of the agreement.

A motion was made by Mr. Russ Carolus, seconded by Ms. Julie-Joyce Smith to continue the agreement. Motion passed.

MINUTES

March 5, 2009

Ms. Hamet gave the TIRC a few moments to review the minutes from the meeting of March 5, 2009 for the 2008 review. She then asked for discussion. Mr. Becker questioned the expiration date of Aeronca's agreement. The current information shows "2013" and the meeting minutes show "2010". The minutes were amended to show the date correction. A motion was made by Mr. Nick Nelson and seconded by Mr. Russ Carolus to approve the minutes as amended. Carried.

STATUS OF TAX : INCREMENT FINANCING IN 2008

BUTLER COUNTY PROPERTIES

Ms. Hamet reported on the TIF districts created in 2000 first, followed by the 11 TIF districts created in 2005.

DOWNTOWN IMPROVEMENT TIF DISTRICT

Ms. Hamet reported that \$30,479 was deposited into the TIF fund during 2009. The current balance is \$1,228. Ms. Hamet recommended continuing the agreement.

A motion was made by Mr. Russ Carolus, seconded by Ms. Julie-Joyce Smith to continue the agreement. Motion carried.

AERONCA TIF DISTRICT

Ms. Hamet reported the following improvements: redevelopment of 18 acres (CORF project) and Sanitary Sewer extension. \$2,319 was deposited in the fund in 2009. Balance is \$1,294. Ms. Hamet recommended continuing the agreement.

A motion was made by Ms. Lisa Fahnce, seconded by Mr. Chris Fiora to continue the agreement. Motion carried.

AIRPORT/RIVERFRONT TIF DISTRICT

Ms. Hamet reported the following improvements: Airport hangar upgrade, new hangar expansion, Sorg facility demolition, purchase of property for economic development, Smith Park Sewer improvements; Carmody Boulevard improvements, Boulevard resurfacing. \$2,102 was deposited in 2009. The balance is \$1,051. Ms. Hamet recommended continuing the agreement.

A. motion was made by Ms. Judy Gilleland, seconded by Ms. Julie-Joyce Smith to continue the agreement. Motion carried.

MADE TIF DISTRICT

Ms. Hamet reported the following improvements: Yankee Road improvements, Yankee Road extension (to SR 63). Roadway resurfacing. Ms. Hamet recommended to continue the agreement.

A motion was made by Mr. Russ Carolus, seconded by Ms. Judy Gilleland to continue the agreement. Motion carried.

MILER ROAD NORTH TIF DISTRICT

Ms. Hamet reported the Revenue of \$13,138 was deposited in 2009. Ms. Hamet recommended to continue the agreement.

A motion was made by Ms. Julie-Joyce Smith, seconded by Mr. Chris Fiora to continue the agreement. Motion carried.

MILER ROAD SOUTH TIF DISTRICT

Ms. Hamet reported the following improvements: Marshall Road Extension, Miller Road improvements; Miller/Breiel traffic signalization, Breiel Blvd.. extension East Sanitary Sewer extension, Riviera Water main extension/looping, and Boulevard resurfacing. Revenue of \$21,738 was deposited in 2008. Ms. Hamet recommended to continue the agreement.

A motion was made by Roger Reynolds, seconded by Russ Carolus to continue the agreement. Motion carried.

GREENTREE TIF DISTRICT

Ms. Hamet reported this is a portion of Greentree Industrial Park including PAC Worldwide and 3415 Emerald Way undeveloped land. Revenue is expected in 2010. Ms. Hamet recommended to continue the agreement.

A motion was made by Mr. Russ Carolus, seconded by Ms. Fahnce to continue the agreement. Motion carried.

**MIDDLETOWN COKE TIF DISTRICT
(EXECUTED 4-21-2009)**

Ms. Hamet said these are parcels along Yankee Road including Suncoke parcels, Quaker Chemical, and Pilot Chemical.

Ms. Hamet recommendation to continue. Ms. Fahnce motioned to continue. Ms. Julie-Joyce Smith seconded. Motion carried.

WARREN COUNTY PROPERTIES

EAST END (S. TOWNE BLVD.) TIF DISTRICT

Ms. Hamet reported that \$1,236,752 was deposited into the TIF fund since established. The current balance is \$31,551. Ms. Hamet noted that the balance includes funds from all Warren County TIFs, and excludes an allocation to schools. Ms. Hamet recommended to continue the agreement.

A motion was made by Ms. Judy Gilleland, seconded by Ms. Lisa Fahnce to continue the TIF. Motion carried.

TOWNE MALL/HOSPITAL TIF DISTRICT

Ms. Hamet reported the revenue was \$372,771 in 2009. The ending balance is \$11,308. The previous years beginning balance is combined in 2008 with S. Towne Blvd TIF. Expenses include bond payment of \$80,000 and allocation to schools \$280,089. Ms. Hamet recommended to continue the agreement.

A motion was made by Mr. Russ Carolus, seconded by Ms. Judy Gilleland to continue the agreement. Motion carried.

MANCHESTER RID DISTRICT (WARREN)

Ms. Hamet reported 2009 revenue was \$1,190 and the balance is \$378. Ms. Hamet recommended to continue the agreement.

A motion was made by Ms. Russ Carolus, seconded by Mr. Ed Pokora to continue the agreement. Motion carried.

RENAISSANCE NORTH RID DISTRICT

Ms. Hamet noted that revenues for 2009 were \$224,259 and the balance is \$91,407.
Ms. Hamet recommended to continue the agreement.

A motion was made by Ms. Chris Fiora, seconded by Ms. Lisa Fahnce to continue the agreement. Motion carried.

RENAISSANCE SOUTH RID DISTRICT

Ms. Hamet noted that revenues for 2009 were \$32,500 and the balance is \$10,151.
Ms. Hamet recommended to continue the agreement.

A motion was made by Ms. Julie-Joyce Smith, seconded by Mr. Chris Fiora to continue the agreement. Motion carried.

SAYWER'S MILL RID DISTRICT

Ms. Hamet noted there has been some recent construction activity and recommended to continue the agreement.

A motion was made by Mr. Ed Pokora, seconded by Ms. Julie-Joyce Smith to continue the agreement. Motion carried.

Ms. Hamet thanked all of the attendees of the meeting.

Meeting Adjourned at 2.43 P.M.

OATH OF OFFICE

I, **Boyce Ray Tolson**, do solemnly swear that I will support the Constitution and laws of the United States and of the State of Ohio, and the Charter and Ordinances of the City of Middletown; that I will not make or authorize expenditures of public money other than for adequate consideration and efficient service; and that I will in all respects faithfully discharge the duties of my employment or office for the City of Middletown, Butler / Warren Counties, Ohio.

\s Boyce Ray Tolson

Sworn to before me and subscribed in my presence this 1st day of March, 2010

\s Karen L. Caverly
Notary Public, State of Ohio
My Commission Expires April 12, 2014

Position: Public Works Superintendent
For Meeting of: 2nd Meeting of March

DEPARTMENT OF LAW

Personnel Division

March 5, 2010

TO: Judy Gilleland, City Manager

FROM: Les Landen, Law Director

SUBJECT: APPOINTMENT – ASSISTANT PROSECUTOR

We are recommending the appointment of **DANIEL ALLNUTT** to the position of Assistant Prosecutor in the Department of Law. Mr. Allnutt will fill the vacancy created by the appointment of Carrie Carpenter to Prosecutor.

Mr. Allnutt will be assigned to Range 180, Step A, which provides a salary of \$1800.16 bi-weekly, \$46,804.16 annually. The effective date of the appointment is March 17, 2010.

/ks

c: Betsy Parr, Clerk of Council
Linda Conaway, Personnel Specialist
Becky Helmrich, Executive Account Clerk (Payroll)
file

CCMTG3/16/10

CLASSIFICATION – ASSISTANT PROSECUTOR

Authorized Strength – 1

Current Staff Level – 0 (currently being filled by Mr. Allnutt on a contractual basis)

STAFF REPORT
For the Business Meeting of: March 16, 2010

March 8, 2010

TO: Judith A. Gilleland, City Manager

FROM: David J. Duritsch Jr., Director of Public Works & Utilities

**PROJECT DEVELOPMENT AGREEMENT WITH
JOHNSON CONTROLS**

PURPOSE

To authorize the City Manager to enter into a contract with Johnson Controls, Inc. to conduct detailed engineering analysis and financing of facility and infrastructure improvements.

BACKGROUND and FINDINGS

The City of Middletown entered into a project development with Johnson Controls in 2005 to replace approximately 20,000 water meters (< 2" size) in the City. The ensuing project resulted in substantial revenues to the water and sewer funds through more accurate meters and automated, real-time meter readings.

The City of Middletown is currently exploring additional projects to evaluate and implement additional water and energy conservation projects.

1. Right Size/Type Metering – this process evaluates the end user's consumption profile and matches it to a particular type of meter to capture low flow usages.
2. Water Distribution Leak Detection - this program looks for leaks in the distribution system to reduce the water loss and increase billable water usage. Water Maintenance initiated a water survey in 2009, but this program would be more comprehensive.
3. Wastewater Treatment Plant (WWTP) Electrical Upgrades – several electrical components at the treatment facility are outdated and obsolete. As new processes have been brought on-line over the past few years, the power system needs updated to meet the operational needs of the WWTP, including energy conservation and facility safety measures.

Similar to 2005, Johnson Controls has performed a preliminary evaluation of the above mentioned projects, at no cost to the City, to determine viability. Staff met to discuss the preliminary analysis and determined that the project warranted additional study. The project development agreement provides for compensation to Johnson Controls to perform the detailed engineering required to refine and finalize the projects.

ALTERNATIVES

The alternative is to do nothing.

FINANCIAL IMPACT

Johnson Control's proposal is in an amount not-to-exceed \$79,500 to perform the detailed engineering. The work will be funded out of water and sewer fund. There are sufficient funds allocated in the 2010 Water and Sewer Capital Improvement budgets to perform this work.

CONFORMITY TO CITY POLICY

Conforms.

OTHER CONSIDERATIONS

The Right Size/Type Metering and Leak Detection projects are important programs to manage our system. Some of the electrical upgrades at the WWTP are already programmed into the 2010 Sewer Capital Improvement Program. This agreement will potentially bring additional funding options to support these existing programs and planned improvements.

If the City pursues the projects based on the detailed engineering report, the costs associated with the report will be rolled into the resulting project financing.

EMERGENCY/NON EMERGENCY

Non emergency - Consent Agenda.

RECOMMENDATION

Staff recommends award of a contract with Johnson Controls, Inc. in an amount not-to-exceed \$79,500 to conduct detailed engineering analysis and financing of facility and infrastructure improvements.

DJD/dd

cc: Leslie S. Landen, Law Director
Russ Carolus, Finance Director
Betsy Parr, Clerk of City Council
Paul Fraley, Wastewater Treatment Manager
Brian Adams, Public Works Superintendent
File

**LEGISLATIVE
ITEMS 1 & 2
ARE SECOND
READINGS**

RESOLUTION NO. R2010-05

A RESOLUTION TO MAKE ADJUSTMENTS TO APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF MIDDLETOWN, COUNTIES OF BUTLER AND WARREN, STATE OF OHIO, FOR THE PERIOD ENDING DECEMBER 31, 2010, (TRANSIT PROTECTION FUND).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

The sums are hereby appropriated from the Transit Fund of the City to accounts of the City for the purposes therein described as follows:

FROM: Unappropriated	TRANSIT FUND (Fund #530)	\$446,480
TO: Accounts of 530		446,480
TOTAL TRANSIT FUND		\$ 446,480

Section 2

The Director of Finance is hereby authorized to draw his warrants on the City Treasurer for payments from any of the foregoing appropriations upon receiving proper certificates and vouchers therefor, approved by the Board of Officers authorized by law to approve the same, or an ordinance or resolution of the City Council to make expenditures provided that no warrants shall be drawn or paid for salaries or wages except to persons employed by authority of and in accordance with law or ordinance.

Section 3

All legislation inconsistent herewith is hereby repealed.

Section 4

This resolution shall take effect and be in force at the earliest date permitted by law.

Lawrence P. Mulligan, Jr., Mayor

1st Reading: _____

2nd Reading: _____

Adopted: _____

Effective: _____

Attest: _____

Clerk of City Council

h/law/leg/r Transit Fund for Oxford Route 2010

LEGISLATION

ITEM 2

ORDINANCE NO. O2010-22

AN ORDINANCE AMENDING SECTIONS 436.071 (DRIVING UNDER SUSPENSION OR IN VIOLATION OF LICENSE RESTRICTION) AND 436.072 (OPERATING MOTOR VEHICLE WITHOUT VALID LICENSE) OF THE CODIFIED ORDINANCES.

BE IT ORDAINED, by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

Section 436.071 is hereby amended to read in full as set forth in Exhibit "A," which is attached hereto and made a part hereof.

Section 2

Section 436.072 is hereby amended to read in full as set forth in Exhibit "B," which is attached hereto and made a part hereof.

Section 3

This ordinance shall be effective at the earliest time permitted by law.

Lawrence P. Mulligan, Jr., Mayor

1st Reading: _____

2nd Reading: _____

Adopted: _____

Effective: _____

Attest: _____

Clerk of the City Council

Exhibit "A"

§436.071 DRIVING UNDER SUSPENSION OR IN VIOLATION OF LICENSE RESTRICTION.

(a) No person whose driver=s or commercial driver=s license or permit or nonresident operating privilege has been suspended under any provision of the Revised Code, other than Ohio R.C. Chapter 4509, or under any applicable law in any other jurisdiction in which the person=s license or permit was issued shall operate any motor vehicle upon the public roads and highways or upon any public or private property used by the public for purposes of vehicular travel or parking within this Municipality during the period of suspension unless the person is granted limited driving privileges and is operating the vehicle in accordance with the terms of the limited driving privileges.

(b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality in violation of any restriction of the person=s driver=s or commercial driver=s license or permit imposed under Ohio R.C. 4506.10(D) or 4507.14.

~~(c) (1) Whoever violates this section is guilty of driving under suspension or in violation of a license restriction, a misdemeanor of the first degree. The court shall impose upon the offender a class seven suspension of the offender=s driver=s license, commercial driver=s license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(7).~~

(c) (1) A. Except as provided in subsection (c)(1)B. hereof, whoever violates subsection (a) hereof, is guilty of driving under suspension, a misdemeanor of the first degree. The court shall impose upon the offender a class seven license suspension of the offender=s driver=s license, commercial driver=s license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(7).

B. If the offender=s driver=s or commercial driver=s license or permit or nonresident operating privilege has been suspended under Ohio R.C. 3123.58, 4510.22, a violation of subsection (a) hereof, is an unclassified misdemeanor. The offender may be fined up to one thousand dollars (\$1,000) and pursuant to Ohio R.C. 2929.27(B), additionally may be ordered to serve a term of community service up to five hundred hours. If the offender previously was convicted of or pleaded guilty to two or more violations of this section, Ohio R.C. 4510.11 or a substantially equivalent municipal ordinance within the past three years, the offense is a misdemeanor of the first degree.

(2) Except as provided in division (c)(3) or (4) of this section, the court, in addition to any other penalty that it imposes on the offender and if the vehicle is registered in the

offender=s name, shall order the immobilization of the vehicle involved in the offense for 30 days in accordance with Ohio R.C.4503.233 and the impoundment of that vehicle=s license plates for 30 days.

(3) If the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.11, this section, or of a substantially equivalent municipal ordinance, the court, in addition to any other sentence that it imposes on the offender and if the vehicle is registered in the offender=s name, shall order the immobilization of the vehicle involved in the offense for 60 days in accordance with Ohio R.C. 4503.233 and the impoundment of that vehicle=s license plates for 60 days.

(4) If the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.11, this section, or of a substantially equivalent municipal ordinance, the court, in addition to any other sentence that it imposes on the offender and if the vehicle is registered in the offender=s name, shall order the criminal forfeiture of the vehicle involved in the offense to the state.

(d) Any order for immobilization and impoundment under this section shall be issued and enforced under Ohio R.C. 4503.233. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(e) Any order of criminal forfeiture under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of the copy of the order from the court, neither the Registrar of Motor Vehicles nor a Deputy Registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order, unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar then shall take necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.

(ORC 4510.11)

(f) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver=s or commercial driver=s license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.

(ORC 4510.04)

Exhibit B

§436.072 OPERATING MOTOR VEHICLE WITHOUT VALID LICENSE.

(a) (1) No person, except those expressly exempted under Ohio R.C. 4507.03, 4507.04, and 4507.05, shall operate any motor vehicle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid driver=s license issued under Ohio R.C. Chapter 4507 or a commercial driver=s license issued under Ohio R.C. Chapter 4506.

(2) No person, except a person expressly exempted under Ohio R.C. 4507.03, 4507.04, and 4507.05, shall operate any motorcycle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid license as a motorcycle operator that was issued upon application by the Registrar of Motor Vehicles under Ohio R.C. Chapter 4507. The license shall be in the form of an endorsement, as determined by the Registrar, upon a driver=s or commercial driver=s license, if the person has a valid license to operate a motor vehicle or commercial motor vehicle, or in the form of a restricted license as provided in Ohio R.C. 4507.14, if the person does not have a valid license to operate a motor vehicle or commercial motor vehicle.

(b) Whoever violates this section is guilty of operating a motor vehicle without a valid license and shall be punished as follows:

~~(1) If the trier of facts finds that the offender never has held a valid driver=s or commercial driver=s license issued by this State or any other jurisdiction, the offense is a misdemeanor of the first degree.~~

~~(2) A. Subject to division (b)(2)B. of this section, if the offender=s driver=s or commercial driver=s license or permit was expired at the time of the offense for no more than six months, the offense is a minor misdemeanor, and if the offender=s driver=s or commercial driver=s license or permit was expired at the time of the offense for more than six months, the offense is a misdemeanor of the fourth degree.~~

~~B. 1. If the offender previously was convicted of or pleaded guilty to one violation of Ohio R.C. 4510.12, this section, or a substantially equivalent municipal ordinance, within the past three years, the offense is a misdemeanor of the third degree.~~

~~2. If the offender previously was convicted of or pleaded guilty to two violations of Ohio R.C. 4510.12, this section, or a substantially equivalent municipal ordinance within the past three years, the offense is a misdemeanor of the second degree.~~

~~3. If the offender previously was convicted of or pleaded guilty to three or~~

~~more violations of Ohio R.C. 4510.12, this section, or a substantially equivalent municipal ordinance within the past three years, the offense is a misdemeanor of the first degree.~~

(1) If the trier of fact finds that the offender never has held a valid driver's or commercial driver's license issued by this State or any other jurisdiction, the offense is an unclassified misdemeanor. The offender may be fined up to one thousand dollars (\$1,000) and pursuant to Ohio R.C. 2929.27(B) additionally may be ordered to serve a term of community service up to five hundred hours.

(2)(A) Subject to subsection (b)(2)(B) hereof, if the offender's driver's or commercial driver's license or permit was expired at the time of the offense, the offense is a minor misdemeanor.

(B) If the offender previously was convicted of or pleaded guilty to three or more violations of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance within the past three years, the offense is a misdemeanor of the first degree.

(c) The court shall not impose a license suspension for a first violation of this section or if more than three years have passed since the offender=s last violation of Ohio R.C. 4510.12, this section, or a substantially equivalent municipal ordinance.

(d) If the offender was convicted of or pleaded guilty to one or more violations of Ohio R.C. 4510.12, this section, or a substantially equivalent municipal ordinance within the past three years, and if the offender=s license was expired for more than six months at the time of the offense, the court shall impose a class seven suspension of the offender=s driver license, commercial driver=s license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in Ohio R.C. 4510.02 (A)(7).
(ORC 4510.12)

LEGISLATIVE

ITEMS 3 & 4

SHARE A

STAFF

REPORT

LEGISLATION

ITEM 3

RESOLUTION NO. R2010-06

A RESOLUTION AUTHORIZING THE DIRECTOR OF ECONOMIC DEVELOPMENT TO FILE AN APPLICATION TO THE STATE OF OHIO, DEPARTMENT OF DEVELOPMENT, TO SUPPORT AN APPLICATION FOR ASSISTANCE UNDER THE OHIO JOB READY SITES PROGRAM AND DECLARING AN EMERGENCY.

WHEREAS, the State of Ohio, Department of Development, provides financial assistance to local governments for the purpose of filling statewide gaps in Ohio's site offerings market;

WHEREAS, the City of Middletown desires to participate by receiving financial assistance for **Design Homes IX Development** under the Ohio Job Ready Sites Program;

WHEREAS, the City of Middletown has the authority to apply for financial assistance and to administer the amounts received from the State of Ohio, Department of Development, through its Ohio Job Ready Sites Program; and

WHEREAS, the City of Middletown must direct and authorize the Site Improvement Project Manager to act in connection with the application and to provide such additional information as may be required.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

City Council hereby authorizes the Director of Economic Development, as the official representative (the "Site Improvement Project Manager") of the City of Middletown, to file an application to participate in the State of Ohio, Department of Development's, Ohio Job Ready Sites Program, and provide all information and documentation required in the application for submission. City Council further authorizes the Director of Economic Development to communicate to the Ohio Department of Development that the City places a higher priority on the grant for the Design Homes IX Development than on the North Pointe Technical & Research Centre.

Section 2

The City of Middletown hereby approves filing an application for financial assistance under the Ohio Job Ready Sites Program.

Section 3

The City of Middletown hereby understands and agrees that participation in the program will require compliance with program guidelines and assurances.

Section 4

The City of Middletown hereby commits itself to provide the required local match investment as described in the application.

Section 5

This resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: in order to permit the timely filing of the application, and shall take effect and be in force from and after its adoption.

Lawrence P. Mulligan, Jr., Mayor

Adopted: _____

Attest: _____
Clerk of City Council

STAFF REPORT

For the Business Meeting of March 16, 2010

March 16, 2010

TO: Judy Gilleland, City Manager

FROM: Denise Hamet, Economic Development Program Manager

**Request for Authorization to submit application for
Job Ready Sites Grant – Design Homes IX
Job Ready Sites Grant - Al. Neyer Inc.**

PURPOSE

To authorize the City of Middletown to file an application to the state of Ohio, Department of Development, to support an application for assistance under the Ohio Job Ready Sites program. Staff proposes filing separate applications; one with development partner Design Homes IX; and one with development partner Al Neyer, Inc. The City's priority is the application with Design Homes IX. Both applications will be for a Technology Center/Research Laboratories site. The project budget and site plan have not been finalized for the projects. Funding will be provided by the developer and the state. The City will not be obligated to provide any funding.

BACKGROUND and FINDINGS

The Ohio Job Ready Sites (JRS) Program, authorized by Ohio Revised Code (ORC) §122.086, was created to bolster the State's inventory of available facility locations served by utility and transportation infrastructure. Sites improved under the JRS Program are kept ready for future business prospects seeking locations for new or expanded operations. The State of Ohio will sell \$150 million in bonds during a seven-year period to fund the JRS Program. Grants are capped at either \$3.5 million or \$750,000, depending on the development intensity (see Definitions, Section II), and may be used to offset costs traditionally incurred in industrial and commercial site development, from acquisition of real property, infrastructure upgrades, and construction build-out of speculative facilities.

Funds are directed to: (1) bolster Ohio's current inventory of sites available for future development and/or reuse by economy shifting end-users; (2) promote re-investment and re-use of formerly developed property; (3) leverage State and local communities' previous investments in infrastructure; (4) foster regional cooperation and economic growth strategies; and (5) encourage sustainable development. As such, JRS Program funds are available each year to a limited number of sites that offer Ohio's best opportunities for future development and/or re-use.

The Design Homes IX site is approximately 87 acres along I-75 (across from Atrium Medical Center). The siteplan will be mixed use but primarily research/technical center. The plan will incorporate sustainable features including geothermal heating and cooling. The developer will commit to constructing (if awarded the grant) a LEED certified building within the three year time period of the grant.

The Al. Neyer, Inc. site plan will include a minimum of 20 acres of the North Pointe development adjacent to the Inn at Renaissance and the Veterans Administration's Medical Building. The site plan envisions a mixed-use development, with research/technical center being the largest component, to carry out the vision created in the Renaissance District Master Plan. Al. Neyer, Inc. will commit to constructing a minimum of 100,000 square feet in a single or multiple facilities within the grant period.

Buildout of the site as mixed use with emphasis on Research/Technology implements the vision of our Renaissance District Master Plan. Development of a technology/research center site will fill a void in our inventory; it will provide a site with dual access feed, an essential element for many technical center uses.

ALTERNATIVES

1. Apply for Job Ready Site grant monies to provide financial assistance for the development of the sites.
2. Do not apply for the funds. This would likely delay development of the sites and future income to the City.

OTHER CONSIDERATIONS

The City has successfully implemented a previous JRS grant and will soon have the first certified site under this program.

FINANCIAL IMPACT

There is no City share associated with the submission of the Job Ready Site grant applications.

RECOMMENDATION

Staff recommends that the City pursue grant monies from the Job Ready Sites fund..

EMERGENCY/NON EMERGENCY

Emergency. The agreement is to be part of the Job Ready Sites grant applications, which are to be submitted by April 1.

DEPARTMENTAL CLEARANCES

Law Department

C: Leslie S. Landen, Law Director
Betsy Parr, Clerk of City Council
File

ATTACHMENTS

None

LEGISLATION

ITEM 4

RESOLUTION NO. R2010-07

A RESOLUTION AUTHORIZING THE DIRECTOR OF ECONOMIC DEVELOPMENT TO FILE AN APPLICATION TO THE STATE OF OHIO, DEPARTMENT OF DEVELOPMENT, TO SUPPORT AN APPLICATION FOR ASSISTANCE UNDER THE OHIO JOB READY SITES PROGRAM AND DECLARING AN EMERGENCY.

WHEREAS, the State of Ohio, Department of Development, provides financial assistance to local governments for the purpose of filling statewide gaps in Ohio's site offerings market;

WHEREAS, the City of Middletown desires to participate by receiving financial assistance for **North Pointe Technical & Research Centre** under the Ohio Job Ready Sites Program;

WHEREAS, the City of Middletown has the authority to apply for financial assistance and to administer the amounts received from the State of Ohio, Department of Development, through its Ohio Job Ready Sites Program; and

WHEREAS, the City of Middletown must direct and authorize the Site Improvement Project Manager to act in connection with the application and to provide such additional information as may be required.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Middletown, Butler/Warren Counties, Ohio that:

Section 1

City Council hereby authorizes the Director of Economic Development, as the official representative (the "Site Improvement Project Manager") of the City of Middletown, to file an application to participate in the State of Ohio, Department of Development's, Ohio Job Ready Sites Program, and provide all information and documentation required in the application for submission. City Council further authorizes the Director of Economic Development to communicate to the Ohio Department of Development that the City places a higher priority on the grant for the Design Homes IX Development than on the North Pointe Technical & Research Centre.

Section 2

The City of Middletown hereby approves filing an application for financial assistance under the Ohio Job Ready Sites Program.

Section 3

The City of Middletown hereby understands and agrees that participation in the program will require compliance with program guidelines and assurances.

Section 4

The City of Middletown hereby commits itself to provide the required local match investment as described in the application.

Section 5

This resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, to wit: in order to permit the timely filing of the application, and shall take effect and be in force from and after its adoption.

Lawrence P. Mulligan, Jr., Mayor

Adopted: _____

Attest: _____
Clerk of City Council

LEGISLATION

ITEM 5

ORDINANCE NO. O2010-23

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT OR CONTRACTS TO ACQUIRE AND DISPOSE OF CERTAIN REAL PROPERTY LOCATED AT 1607 CENTRAL AVENUE IN EXCHANGE FOR THE ACQUISITION OF 1316 VAIL DRIVE AND DECLARING AN EMERGENCY.

WHEREAS, the City Council desires to demolish the structure located at 1316 Vail Drive in conjunction with another demolition project of properties located on Central Avenue adjacent to 1316 Vail Drive; and

WHEREAS, the structure at 1316 Vail Drive presently houses Middletown Custom Cabinet Co., and in order to demolish said structure, the City needs to relocate that business; and

WHEREAS, the structure on certain real property located at 1607 Central Avenue would be suitable for the relocation of Middletown Custom Cabinet Co., and is available for purchase; and

WHEREAS, the City is willing to purchase the property located at 1607 Central Avenue and exchange it for the property located at 1316 Vail Drive, and the owners of both properties have agreed to this exchange in principle;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Middletown, Butler and Warren Counties, Ohio, that:

Section 1

The City Manager is hereby authorized to enter into a contract (or more than one contract) which would result in the relocation of Middletown Cabinet Co. from its present location to the real property located at 1607 Central Avenue and the acquisitions of the real property located at 1316 Vail Drive by the City. All contracts shall be in writing and shall be in a form approved by the Director of Law.

Section 2

For said purposes, the Director of Finance is authorized and directed to expend a sum not to exceed \$95,000.00 from the Downtown Improvements Fund (481) which said sum is hereby appropriated to the accounts of (990).

Section 3

City Council hereby determines that the procedures to be followed in the acquisition and disposal of real property shall consist solely of the procedure set forth in this ordinance, and that the provisions of Chapter 721 of the Ohio Revised

Code and Ordinance No. O2002-87 shall not be applicable to the acquisitions and disposal of property authorized by the ordinance and the contracts therefore.

Section 4

City Council determines that any property transferred by the City in accordance with this ordinance is not presently needed for any municipal purpose.

Section 5

It is hereby determined that the subject matter of this legislation is not of a general and permanent nature, does not provide for a public improvement, and does not assess a tax or payment.

Section 6

This ordinance shall take effect and be in force at the earliest date permitted by law.

Lawrence P. Mulligan, Jr., Mayor

Adopted: _____

Effective: _____

Attest: _____
Clerk of City Council

STAFF REPORT
For the Business Meeting of March 16, 2010

Date: March 8, 2010
TO: City Council
FROM: Mike Robinette, Economic Development Director

**Authorize Acquisition and Exchange of Real Estate,
and Appropriating Funds (Consent Agenda)**

PURPOSE

Authorize the City Manager to acquire real estate at 1607 Central Avenue and exchange real estate with Midtown Custom Cabinet Co., 1316 Vail Drive, appropriating funds, and declaring an emergency.

BACKGROUND and FINDINGS

Midtown Custom Cabinet Co. is currently located at 1316 Vail Drive. The Company needs to expand their business and add employment. The City desires to acquire 1316 Vail Drive for downtown redevelopment. The City would acquire 1607 Central Avenue and exchange that real estate with Midtown Custom Cabinet Co. for their current real estate located at 1316 Vail Drive.

ALTERNATIVES

Do not proceed with the acquisition and exchange of real estate which provides for the expansion of Midtown Custom Cabinet Co. and the demolition of real estate for future redevelopment.

FINANCIAL IMPACT

The total cost of the project is \$95,000 to be appropriated from the Downtown Improvements Fund (Account Number: 481-990-54400)

CONFORMITY TO CITY POLICY

This conforms to city policy to convert underutilized commercial and industrial property to productive uses as provided for in the City's Master Plan.

OTHER CONSIDERATIONS

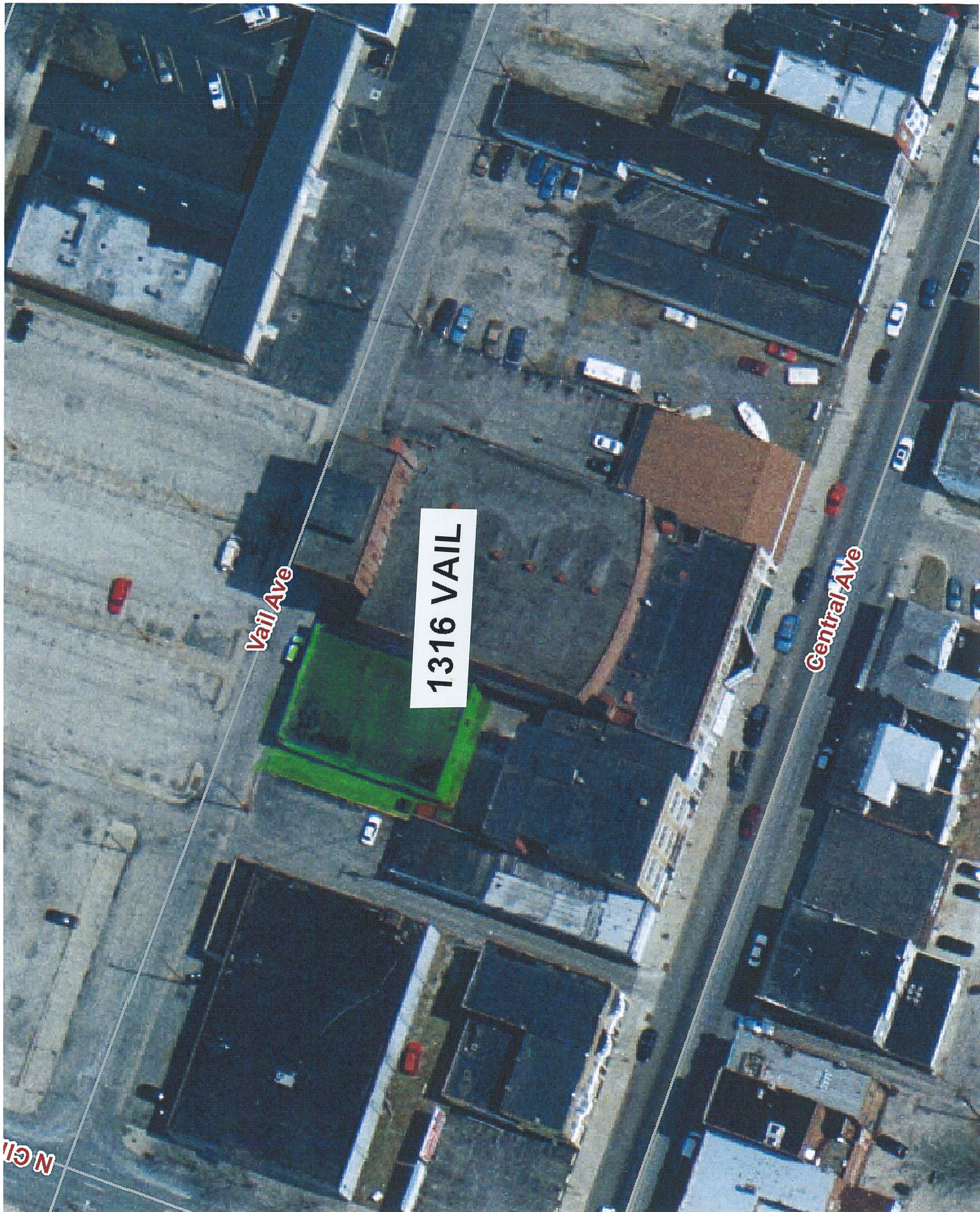
None

RECOMMENDATION

Staff recommends approval of the acquisition and exchange of this real estate as an emergency in order to facilitate the timely transfer of the Midtown Custom Cabinet Co. business.

ATTACHMENTS

1316 Vail aerial, 1607 Central aerial, Redevelopment area aerial



Vail Ave

1316 VAIL

Central Ave

NCI



1607 CENTRAL

Vail Ave

Central Ave

N Lebbe St

Iglehart St



Manchester Ave

REDEVELOPMENT

Vail Ave

Clark St

Central Ave

N Clinton St

St

St

LEGISLATION

ITEM 6

LEGISLATIVE ITEMS

6, 7, 8, 9, 10 & 11

SHARE A STAFF

REPORT

ORDINANCE NO. O2010-24

AN ORDINANCE APPROVING A SECOND AMENDMENT TO AN AGREEMENT WITH AERONCA, INC. FOR DEVELOPMENT AND EXPANSION OF AN EXISTING MANUFACTURING FACILITY AS A DEVELOPMENT PROJECT AND TAX EXEMPTION PURSUANT TO THE STATE URBAN JOBS AND ENTERPRISE ZONE PROGRAM, AND MAKING DETERMINATION IN CONNECTION THEREWITH.

WHEREAS, City Council authorized a tax abatement agreement with Aeronca, Inc. on August 15, 2000 in Ordinance No. O2000-98; and

WHEREAS, an Enterprise Zone Agreement (“the Agreement”) was executed on August 16, 2000 in accordance with Chapter 5709 of the Ohio Revised Code; and

WHEREAS, in 2006 the Tax Incentive Review Council (TIRC) recommended that the “Agreement” be modified to reduce the abatement percentage from seventy-five percent (75%) to fifty percent (50%); and

WHEREAS, Section 5709.85(C) requires that a tax incentive review council shall review the compliance of each recipient of a tax exemption under this program; and

WHEREAS, a duly appointed Tax Incentive Review Council reviewed the compliance of Aeronca, Inc. with the Enterprise Zone Agreement and concluded that Aeronca, Inc. had fallen below its requirements for job creation and job retention as anticipated in the amended Enterprise Zone Agreement at its March 1, 2010 meeting; and

WHEREAS, at the same meeting, the Tax Incentive Review Council recommended that the Enterprise Zone Agreement be modified to require Aeronca, Inc. to maintain a minimum of 121 employees which is the present level; and

WHEREAS, the City Council accepted the report and recommendation of the Tax Incentive Review Board by motion at its March 16, 2010 meeting;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Middletown, Butler and Warren Counties, Ohio, that:

Section 1

The City Manager is hereby authorized to enter into a second amendment of the Enterprise Zone Agreement entered into by and between the City of Middletown and Aeronca, Inc. on August 16, 2000, and amended in 2006. The second amendment shall reflect the recommendations of the Tax Incentive Review Council and be in a form approved by the Director of Law.

Section 2

It is hereby determined that the subject matter of this legislation is not of a general and permanent nature, does not provide for a public improvement, and does not assess a tax or payment.

Section 3

This ordinance shall take effect and be in force at the earliest date permitted by law.

Lawrence P. Mulligan, Jr., Mayor

1st Reading: _____

2nd Reading: _____

Adopted: _____

Effective: _____

Attest: _____

Clerk of City Council

STAFF REPORT

For the Business Meeting of March 16, 2010

March 16, 2010

TO: Judy Gilleland, City Manager
FROM: Denise Hamet, Economic Development Program Manager

**Tax Incentive Review Council
Report of Annual Meeting, March 1, 2010**

PURPOSE

The purpose of this report is to provide City Council with the recommendations of the Tax Incentive Review Council (TIRC) regarding the performance of tax incentives during the 2009 calendar year.

BACKGROUND and FINDINGS

Ohio Revised Code Section 5709.85 requires that the legislative authority of a city that grants tax exemptions shall create a TIRC. The purpose of this body is to review the status and performance of all agreements granting exemption from property taxation, as well as all tax increment financing (TIF) districts, as of the end of the previous year. On the basis of this review, the TIRC must submit to City Council written recommendations for continuation, modification, or cancellation of each agreement. The TIRC typically meets once a year to perform these tasks. Its most recent meeting was March 1, 2010. The TIRC membership includes County Auditors, representatives of affected school districts, City staff and elected officials, and interested citizens.

During 2009, Middletown had 10 active Enterprise Zone agreements for tax exemption and 14 TIF districts (8 commercial and 6 residential). The City executed two (2) Enterprise Zone Abatements during 2009: Pledger LLC and Clayton Enterprises. As indicated in the attached minutes of the March 1st meeting, the TIRC reviewed annual performance information presented by Economic Development Department staff for the 2009 calendar year. The receiving and filing of the TIRC Report will be done by Motion. The State of Ohio requires Annual Reports to be submitted to the Ohio Department of Development by no later than March 31, 2010.

TIRC members reviewed the investment and employment status of each of the agreements. Due to the fact that several of the companies had lost employees, each agreement was re-evaluated based on actual investment and current employees and recommendations were made accordingly.

The TIRC voted for the following actions for Enterprise Zone Agreements:

- Continue the following agreements: Compartir/Pac National; Quaker Chemical; Pledger LLC. No action was needed for Excelsior because it was expiring.
- Cancel Interscope 2008 agreement. Expansion has been postponed due to the economy.
- Cancel Clayton LLC agreement. Expansion has been canceled.
- Modify Aeronca agreement to require the company to maintain at least the current level of employment (121) for the duration of the agreement. This employment level includes 119 retained and 2 new created positions.
- Modify Middletown Coke to reflect revised project start and completion dates of October 1, 2010 and September 30, 2012. Change “no exemption shall commence after July 1, 2010” to “no exemption shall commence after December 31, 2013”. Change “nor extend beyond December 31, 2020” to “nor extend beyond December 31, 2022”. Extend “job creation period” start date from March 2009 to March 2011. Also change “DTE 23” in clause 5 to “DTE 24”.
- Modify Ventilex USA agreement employment clause to require at least the current level of employment (5) for the duration of the agreement and to eliminate the requirement for the new positions. Reduce abatement percent to 40% to reflect reduction in employment requirement. Also correct the exemption start date to be no later than December 31, 2009. Also Change DTE 23 in Clause 5 to DTE 24.
- Modify Paychex North America/Al Neyer, Inc. to require at least the current level of employment (84) for the duration of the agreement. Also correct the exemption start date to be no later than December 31, 2010 extending through 12/31/2019. Also change “DTE 23” in clause 6 to “DTE 24”.

TIRC members voted for the following actions for Tax Increment Financing Agreements:

- Continue all agreements.

ALTERNATIVES

Alternatives include the following:

- 1) Accept the recommendations of the TIRC.
- 2) Do not accept the recommendations of the TIRC. City Council must recommend to continue, amend, or terminate abatements and/or TIF districts.

OTHER CONSIDERATIONS

None.

FINANCIAL IMPACT

There is no financial impact from accepting the recommendations of the TIRC. The individual agreements do have a financial impact and are reflected in each individual report.

RECOMMENDATION

Staff recommends acceptance of the TIRC recommendations as follows:

ENTERPRISE ZONES

Continue Compartir/Pac National; Quaker; and Pledger LLC

Cancel Interscope 2008 and Clayton LLC

Modify Aeronca, Ventilex, Middletown Coke, and Paychex North America/Al Neyer, Inc. as stated above

TAX INCREMENT FINANCING DISTRICTS

Continue all TIF Districts.

CONFORMITY TO CITY POLICY

This project is consistent with the City's 2005 Master Plan recommendation to obtain support from local school districts for tax incentive policies, as representatives from all local school districts are invited attend the TIRC meetings. This recommendation falls under Objective ED2: "Establish an economic development entity with the authority and accountability to effectively attract and retain jobs and businesses".

EMERGENCY/NON EMERGENCY

Non-Emergency.

- The receiving and filing and acceptance of TIRC recommendations by City Council will be by motion.
- The ordinances terminating the 2 Enterprise Zones will be non-emergency.
- The ordinances modifying the four Enterprise Zone agreements will be non-emergency.

DEPARTMENTAL CLEARANCES

Law

ATTACHMENTS

Attachment (3): Enterprise Zone Agreement Project Status for 2009
 Tax Increment Project Status for 2009
 Minutes from March 1, 2010 meeting of the TIRC

City of Middletown

Enterprise Zone Agreements							
Investment Committed (Millions)	Investment Actual (Millions)	New Payroll	Retained Positions	Created Positions	Total Positions	Comments	
Project Status for Year Ending 12/31/09							
Butler County							
Aeronca	\$4.4	\$8.0	\$80,000	119	2	121	Exceeds investment; Abatement % dropped in 2006 to reflect lower employment
Compartir/Pac National	\$15.1	\$33.1	\$1,916,000	157	70	227	Exceeds investment and employment commitments
Excelsior/Midd Cities	\$10.9	\$10.3	\$129,000	0	3	3	Expiring
Interscope 2008	\$0.9	\$0.0	\$0	32	0	32	Cancel; investment postponed
Middletown Coke (Suncoke)	\$354.1	\$9.0	\$0	0	0	0	Project start projected 2010
Quaker Chemical-2008	\$20.0	\$20.0	\$1,059,000	24	17	41	Meets investment commitment; added new positions but retained dropped

BUTLER COUNTY

Aeronca Enterprise Zone Agreement

<i>Contact:</i>	John Furbay	<i>Date of Execution:</i>	8/16/2000
<i>Length:</i>	10-years	<i>Amendments:</i>	YES - 2007 (TIRC)
<i>Personal Property:</i>	50% abatement	<i>Real Property:</i>	50% abatement
<i>PP taxes abated:</i>	\$98,138	<i>RP taxes abated:</i>	\$106,226
<i>Investment in PP:</i>	\$3,980,142	<i>Investment in RP:</i>	\$4,020,196
<i>Employment:</i>	121	<i>Jobs created:</i>	2
<i>New Payroll:</i>	\$80,000	<i>Expiration:</i>	2013

Notes: Agreement was created in 2000 to retain jobs and to expand the facility. Construction is complete and investment exceeds expectations. After 9/11 employment dropped, and agreement was modified (abatement percent was reduced to 50%) to account for lower than expected employment (155). Employment was maintained at or near that level until 2009, during which time employment dropped to 121. Although 2009 was a difficult year, the company is forecasting hiring 9 staff in 2010, 10 in 2011, and 10 in 2012. EZ abatement was evaluated at current employment level and it was determined abatement level of 50% remains appropriate based on investment, payroll, and number of employees.

Recommendation: *MODIFY* to require at least the current level of employment for the duration of the agreement.

Compartir/Pac National Enterprise Zone Agreement

<i>Contact:</i>	Ben McNary	<i>Date of Execution:</i>	5/7/2007
<i>Length:</i>	10-years	<i>Amendments:</i>	NO
<i>Personal Property:</i>	N/A	<i>Real Property:</i>	75% abatement
<i>PP Taxes Abated:</i>	N/A	<i>RP Taxes Abated:</i>	\$0
<i>Investment in PP:</i>	\$18,500,000	<i>Investment in RP:</i>	\$14,572,000
<i>Employment:</i>	227	<i>Jobs Created:</i>	70
<i>New Payroll:</i>	\$1,915,748	<i>Expiration:</i>	2018

Notes: Agreement was created for construction for 350,000 square foot facility. Since the creation of agreement, additional division was moved to Middletown at the site. Exceeds investment and employment commitments.

Recommendation: *CONTINUE*

Excelsior/Midd Cities Enterprise Zone Agreement

<i>Contact:</i>	Tom Leeds	<i>Date of Execution:</i>	9/10/2003
<i>Length:</i>	5-years	<i>Amendments:</i>	No
<i>Personal Property:</i>	75% abatement	<i>Real Property:</i>	75%
<i>PP Taxes Abated:</i>	\$0	<i>RP Taxes Abated:</i>	\$0
<i>Investment in PP:</i>	\$9,600,343	<i>Investment in RP:</i>	\$697,962
<i>Employment:</i>	3	<i>Jobs Created:</i>	3
<i>Payroll:</i>	\$128,661	<i>Expiration:</i>	12/31/09

Notes: Agreement was established jointly with developer (Midd-Cities) and Excelsior.

Recommendation: EXPIRING

Interscope Manufacturing Enterprise Zone Agreement 2008

<i>Contact:</i>	Mike Brill	<i>Date of Execution:</i>	9/11/08
<i>Length:</i>	7-years	<i>Amendments:</i>	No
<i>Personal Property:</i>	0% abatement	<i>Real Property:</i>	75% abatement
<i>PP Abated:</i>	-0-	<i>RP Taxes Abated:</i>	\$0
<i>Investment PP:</i>	-0-	<i>Investment RP:</i>	-0-
<i>Employment:</i>	32	<i>Jobs Created:</i>	-0-
<i>New Payroll:</i>	-0-	<i>Expiration:</i>	2016

Note: Expansion is not scheduled in near future.

New agreement will be considered when Interscope is ready to expand.

Recommendation: CANCEL

Middletown Coke

<i>Contact:</i>	Tim Wojtowicz	<i>Date of Execution:</i>	9/18/08
<i>Length:</i>	10-years	<i>Amendments:</i>	No
<i>Personal Property:</i>	50% abatement	<i>Real Property:</i>	50% abatement
<i>PP Abated:</i>	-\$0-	<i>RP Taxes Abated:</i>	\$0
<i>Investment PP:</i>	-\$0-	<i>Investment RP:</i>	\$9,028,716
<i>Employment:</i>	-0-	<i>Jobs Created:</i>	-0-
<i>New Payroll:</i>	-\$0-	<i>Expiration:</i>	2020

Note: A modification is recommended to reflect proposed new construction timeframe.

Recommendation: MODIFY to reflect revised project start and completion dates of October 1, 2010 and September 30, 2012. Change “no exemption shall commence after July 1, 2010” to “December 31, 2013”; change “nor extend beyond December 31, 2020 to “December 31, 2022”. Extend “job creation period” start date from March 2009 to March 2011. Also change “DTE 23” in clause 5 to “DTE 24

Quaker Chemical Enterprise Zone Agreement

<i>Contact:</i>	Fred Sansom	<i>Date of Execution:</i>	10/11/2006
<i>Length:</i>	10-years	<i>Amendments:</i>	5/12/2008
<i>Personal Property:</i>	N/A	<i>Real Property:</i>	75%
<i>PP Abated:</i>	N/A	<i>RP Taxes Abated:</i>	-\$0-
<i>Investment PP:</i>	\$17,400,000	<i>Investment RP:</i>	\$2,600,000
<i>Employment:</i>	41	<i>Jobs Created:</i>	17
<i>New Payroll:</i>	\$1,059,000	<i>Expiration:</i>	2020

Notes: Agreement was established to expand the existing facility. Construction is complete. Exceeded investment projections and is on target for new positions, however, retained dropped in 2009 due to 13 layoffs. The company anticipates bringing many but perhaps not all of the positions back in 2010.

Recommendation: ***CONTINUE***

Ventilex USA Enterprise Zone Agreement

<i>Contact:</i>	Jodi Lex	<i>Date of Execution:</i>	8/21/2007
<i>Length:</i>	10-years	<i>Amendments:</i>	No
<i>Personal Property:</i>	N/A	<i>Real Property:</i>	65%
<i>Investment PP:</i>	\$64,443	<i>Investment RP:</i>	\$790,660
<i>PP Abated:</i>	N/A	<i>RP Taxes Abated:</i>	\$0
<i>Employment:</i>	5*	<i>Jobs Created:</i>	0
<i>New Payroll:</i>	\$0		
<i>Expiration:</i>	2018		

Notes: Agreement was created to construct 10,000 square foot building for international company to relocate to Middletown. Construction is complete and investment meets expectations. Since jobs have been delayed and company does not forecast hiring in 2011, EZ abatement was evaluated at current employment level and it was determined abatement level of 40% was appropriate based on investment, payroll, and number of employees. Agreement will be re-evaluated if hiring commences; company forecasts hiring to resume in 2012.

- ***Recommendation:*** ***MODIFY*** to require at least the current level of employment for the duration of the agreement and to reduce abatement percent to 40%. Also correct exemption start to be no later than December 31, 2009. Also Change DTE 23 in Clause 5 to DTE 24.

WARREN COUNTY

Clayton LLC

<i>Contact:</i>	Andrew Vecellio	<i>Date of Execution:</i>	7/28/2009
<i>Length:</i>	10 years	<i>Amendments:</i>	No
<i>Personal Property:</i>	N/A	<i>Real Property:</i>	65%
<i>PP Abated:</i>	N/A	<i>RP Abated:</i>	-\$0-
<i>Investment PP:</i>	-\$0-	<i>Investment RP:</i>	-\$0-
<i>Employment:</i>	-0-	<i>Jobs Created:</i>	-0-
<i>Expiration:</i>	12/31/2020		

Recommendation: CANCEL. Project canceled.

Paychex North America and Neyer East Pointe 200 LLC

<i>Contact:</i>	Dan Tennity	<i>Date of Execution:</i>	2/26/08
<i>Length:</i>	10-years	<i>Amendments:</i>	No
<i>Personal Property:</i>	N/A	<i>Real Property:</i>	75%
<i>PP Abated:</i>	N/A	<i>RP Taxes Abated:</i>	-\$0-
<i>Investment PP:</i>	-\$0-	<i>Investment RP:</i>	\$7,056,766
<i>Employment:</i>	84	<i>Jobs Created:</i>	-0-
<i>Expiration:</i>	2018		

Notes: Agreement was created jointly with the developer/builder (Al Neyer, Inc.) and Paychex North America to construct 50,000 square foot building. Construction is complete and investment meets expectations. All Paychex jobs are new to Middletown and regarded as "created" for Middletown classification; however, for state reporting, since they were relocated within the state they are classified as "retained" by the state. In 2009, some employees were reclassified as part of Cleveland division. EZ abatement was evaluated at current employment level and it was determined abatement level of 75% remains appropriate based on investment, payroll, and number of employees.

Recommendation: MODIFY to require at least the current level of employment for the duration of the agreement. Also correct the exemption start date to be no later than December 31, 2010 extending through 12/31/2019 Also change "DTE 23" in clause 6 to "DTE 24.

Pledger LLC

<i>Contact:</i>	Laurence Jones	<i>Date of Execution:</i>	5/19/2009
<i>Length:</i>	10years	<i>Amendments:</i>	No
<i>Personal Property:</i>	N/A	<i>Real Property:</i>	75%
<i>PP Abated:</i>	N/A	<i>RP Taxes Abated:</i>	-\$0-
<i>Investment PP:</i>	\$422,131	<i>Investment RP:</i>	\$ 1,990,221
<i>Employment:</i>	15	<i>Jobs Created:</i>	5
<i>New Payroll:</i>	\$242,106	<i>Expiration:</i>	12/31/2020

Notes: Agreement was created to finish out a 10,000 square foot building. The project involved relocation and expansion of the business. Enterprise zone regulations limit the abatement to the new investment above the purchase price of the existing building of \$1.2 million. Construction is complete and investment exceeds expectations. Employment is ahead of commitment.

*Recommendation: **CONTINUE***

TAX INCREMENT FINANCING DISTRICTS

City of Middletown							
Tax Increment Financing Agreements							
Project Status for Year Ending 12/31/09							
County	TIF Fund	Beginning Balance at 1/1/09	Revenues 09	Expenses 09	Ending Balance 12/31/09	Cumulative Revenues 12/31/09	Cumulative Expenses 12/31/09
Butler	DOWNTOWN TIF DEBT SERVICE FUND	\$ 108,940	\$ 30,479	\$ 138,191	\$ 1,228	\$ 139,419	\$ 138,191
Butler	AERONCA TIF FUND	\$ 2,301	\$ 2,319	\$ 3,326	\$ 1,294	\$ 4,620	\$ 3,326
Butler	AIRPORT/RIVERFRONT TIF	\$ 831	\$ 2,102	\$ 1,882	\$ 1,051	\$ 2,933	\$ 1,882
Butler	MILLER RD NORTH RID	\$ 21,738	\$ 13,138	\$ 22,435	\$ 12,441	\$ 34,876	\$ 22,435
Butler	MILLER RD SOUTH RID	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Butler	MADE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Butler	MIDDLETOWN COKE						
Butler	GREENTREE INDUSTRIAL PARK	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Warren	TOWNE MALL/HOSPITAL	\$ -	\$ 372,771	\$ 361,463	\$ 11,308	\$ 372,771	\$ 361,463
Warren	E. END/S. TOWNE BLVD TIF FUND	\$ 384,605	\$ 152,361	\$ 505,415	\$ 31,551	\$1,236,752	\$1,205,201
Warren	MANCHESTER ROAD RID	\$ -	\$ 1,190	\$ 812	\$ 378	\$ 1,190	\$ 812
Warren	SAWYER MILL RID	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Warren	RENAISSANCE NORTH RID	\$ -	\$ 224,259	\$ 132,852	\$ 91,407	\$ 224,259	\$ 132,852
Warren	RENAISSANCE SOUTH RID	\$ -	\$ 32,500	\$ 22,349	\$ 10,151	\$ 32,500	\$ 22,349
		\$ 518,415	\$ 831,119	\$ 1,188,725	\$ 160,809	\$ 2,049,320	\$ 1,888,511

TAX INCREMENT FINANCING DISTRICTS

BUTLER COUNTY TIFS

Downtown TIF District

Description: Parcels north and south of Central from Main Street to University Boulevard.

<i>Date of Execution:</i>	6/6/2000	<i>Length:</i>	20 years
<i>Schools Harmless:</i>	No	<i>Amendments:</i>	No
<i>Real Property:</i>	50%	<i>Beginning Balance:</i>	\$108,490
<i>2009 Revenues:</i>	\$30,479	<i>2009 Expenses:</i>	\$138,191
<i>Revenues to Date:</i>	\$139,419	<i>Expenses to Date:</i>	\$138,191
<i>Ending Balance:</i>	\$1,228		

Notes: Expenses include School Reimbursements of \$50,191 (for current and previous years), and also include bond principal of \$88,000.

Recommendation: CONTINUE

Aeronca TIF Parcel

Description: 18 acres of land adjacent to Aeronca (being remediated through Clean Ohio Revitalization Fund.)

<i>Date of Execution:</i>	12/20/2005	<i>Length:</i>	30 years
<i>Schools Harmless:</i>	No	<i>Amendments:</i>	No
<i>Real Property:</i>	100%	<i>Beginning Balance:</i>	\$2,301
<i>2009 Revenues:</i>	\$2,319	<i>2009 Expenses:</i>	\$3,326
<i>Revenues to Date:</i>	\$4,620	<i>Expenses to Date:</i>	\$ 3,326
<i>Ending Balance:</i>	\$1,294		

Recommendation: CONTINUE

Airport/Riverfront TIF District

Description: the area surrounding Middletown Regional Airport and also a portion of downtown west of Main Street including Wausau Paper

<i>Date of Execution:</i>	12/20/2005	<i>Length:</i>	30 years
<i>Schools Harmless:</i>	Yes	<i>Amendments:</i>	No
<i>Real Property:</i>	100%	<i>Beginning Balance:</i>	\$831
<i>2009 Revenues:</i>	\$2,102	<i>2009 Expenses:</i>	\$1,882
<i>Revenues to Date:</i>	\$2,933	<i>Expenses to Date:</i>	\$1,882
<i>Ending Balance:</i>	\$1,051		

Notes: Expenses are reimbursements to schools.

Recommendation: CONTINUE

MADE TIF District

Description: 2 Magnode farm land parcels (CAUF), City owned parcels, and excess land owned by Misa Metals.

<i>Date of Execution:</i>	12/20/2005	<i>Length:</i>	30years
<i>Schools Harmless:</i>	Yes	<i>Amendments:</i>	No
<i>Real Property:</i>	100%	<i>Beginning Balance:</i>	\$-0-
<i>2009 Revenues:</i>	\$-0-	<i>2009 Expenses:</i>	\$-0-
<i>Revenues to Date:</i>	\$-0-	<i>Expenses to Date:</i>	\$-0-

Recommendation: CONTINUE

Miller Road North RID District

Description: residential area around northern portion of Miller Road.

<i>Date of Execution:</i>	12/20/2005	<i>Length:</i>	30 years
<i>Schools Harmless:</i>	Yes	<i>Amendments:</i>	No
<i>Real Property:</i>	100%	<i>Beginning Balance:</i>	\$21,738
<i>2009 Revenues:</i>	\$13,138	<i>2009 Expenses:</i>	\$22,435
<i>Revenues to Date:</i>	\$34,876	<i>Expenses to Date:</i>	\$22,435
<i>Ending Balance:</i>	\$12,441		

Recommendation: CONTINUE

Miller Road South RID District

Description: residential area around south Miller Road.

<i>Date of Execution:</i>	12/20/2005	<i>Length:</i>	30 years
<i>Schools Harmless:</i>	Yes	<i>Amendments:</i>	No
<i>Real Property:</i>	100%	<i>Beginning Balance:</i>	\$-0-
<i>2009 Revenues</i>	\$-0-	<i>2009 Expenses</i>	\$-0-
<i>Revenues to Date</i>	\$-0-	<i>Expenses to Date</i>	\$-0-
<i>Ending Balance:</i>	\$-0-		

Recommendation: CONTINUE

Greentree TIF District

Description: a portion of Greentree Industrial Park including Pac Worldwide, and 3415 Emerald Way undeveloped land.

<i>Date of Execution:</i>	12/20/2005	<i>Length:</i>	30years
<i>Schools Harmless:</i>	Yes	<i>Amendments:</i>	No
<i>Real Property:</i>	100%	<i>Beginning Balance:</i>	\$-0-
<i>2009 Revenues</i>	\$-0-	<i>2009Expenses:</i>	\$-0-
<i>Revenues to Date</i>	\$-0-	<i>Expenses to Date</i>	\$-0-

Notes: revenue anticipated in 2010.

Recommendation: CONTINUE

Middletown Coke TIF District

Description: parcels along Yankee Road including Suncoke parcels, Quaker Chemical, Pilot Chemical.

<i>Date of Execution:</i>	4/21/2009	<i>Length:</i>	30 years
<i>Schools Harmless:</i>	Yes	<i>Amendments:</i>	No
<i>Real Property:</i>	100%	<i>Beginning Balance:</i>	\$-0-
<i>2009 Revenues</i>	\$-0-	<i>2009 Expenses</i>	\$-0-
<i>Revenues to Date</i>	\$-0-	<i>Expenses to Date</i>	\$-0-
<i>Ending Balance:</i>	\$-0-		

Recommendation: CONTINUE

WARREN COUNTY TIFS

East End (South Towne Boulevard) TIF District

Description: parcels along South Towne Blvd including Wal-Mart.

<i>Date of Execution:</i>	6/6/2000	<i>Length:</i>	15 years
<i>Schools Harmless:</i>	No	<i>Amendments:</i>	No
<i>Real Property:</i>	66%	<i>Beginning Balance:</i>	\$384,605
<i>2009 Revenues</i>	\$152,361	<i>2009 Expenses</i>	\$505,415
<i>Revenues to Date</i>	\$1,236,752	<i>Expenses to Date</i>	\$1,205,202
<i>Ending Balance:</i>	\$31,551		

Notes: 2009 expenses include a one-time re-allocation for distributions to schools for all Warren County TIFs for all prior years of \$444,197. Expenses also include interest on bonds of \$59,309.

Recommendation: CONTINUE

Towne Mall/Hospital TIF District

Description: Towne Mall area and commercial/hospital development area in East Renaissance District

<i>Date of Execution:</i>	12/20/2005	<i>Length:</i>	30 years
<i>Schools Harmless:</i>	Yes	<i>Amendments:</i>	No
<i>Real Property:</i>	100%	<i>Beginning Balance:</i>	\$-0-
<i>2009 Revenues:</i>	\$372,771	<i>2009 Expenses:</i>	\$361,462
<i>Revenues to Date:</i>	\$372,771	<i>Expenses to Date:</i>	\$361,462
<i>Ending Balance:</i>	\$11,308		

Notes: Previous years beginning balance is combined in 2008 with S. Towne Blvd. TIF. Expenses include bond payment of \$80,000 and allocation to schools \$280,089.

Recommendation: CONTINUE

Manchester Road RID District

Description: 55 acres of residential land south of Manchester at Autumn Road.

<i>Date of Execution:</i>	12/20/2005	<i>Length:</i>	30years
<i>Schools Harmless:</i>	No	<i>Amendments:</i>	No
<i>Real Property:</i>	100%	<i>Beginning Balance:</i>	\$-0-
<i>2009 Revenues:</i>	\$1,190	<i>2009 Expenses:</i>	\$812
<i>Revenues to Date:</i>	\$1,190	<i>Expenses to Date:</i>	\$812
<i>Ending Balance:</i>	\$378		

Recommendation: CONTINUE

Renaissance North RID District

Description: Renaissance residential area south of SR 122

<i>Date of Execution:</i>	12/20/2005	<i>Length:</i>	30 years
<i>Schools Harmless:</i>	Yes	<i>Amendments:</i>	No
<i>Real Property:</i>	100%	<i>Beginning Balance:</i>	\$-0-
<i>2009 Revenues:</i>	\$224,259	<i>2009 Expenses:</i>	\$132,852
<i>Revenues to Date:</i>	\$224,259	<i>Expenses to Date:</i>	\$132,852
<i>Ending Balance:</i>	\$91,407		

Notes: Previous years beginning balance is combined in 2008 with S. Towne Blvd. TIF

Recommendation: CONTINUE

Renaissance South RID District

Description: Renaissance residential area closest to Hendrickson Road

<i>Date of Execution:</i>	12/20/2005	<i>Length:</i>	30years
<i>Schools Harmless:</i>	Yes	<i>Amendments:</i>	No
<i>Real Property:</i>	100%	<i>Beginning Balance:</i>	\$-0-
<i>2009 Revenues:</i>	\$32,500	<i>2009 Expenses:</i>	\$22,349
<i>Revenues to Date:</i>	\$32,500	<i>Expenses to Date:</i>	\$22,349
<i>Ending Balance:</i>	\$10,151		

Notes: Previous years beginning balance is combined in 2008 with S. Towne Blvd. TIF

Recommendation: CONTINUE

Sawyer’s Mill RID District

Description: Residential area west of Dixie Highway north of Manchester

<i>Date of Execution:</i>	12/20/2005	<i>Length:</i>	30 years
<i>Schools Harmless:</i>	Yes	<i>Amendments:</i>	No
<i>Real Property:</i>	100%	<i>Beginning Balance:</i>	\$-0-
<i>2009 Revenues:</i>	\$-0-	<i>2009 Expenses:</i>	\$-0-
<i>Revenues to Date:</i>	\$-0-	<i>Expenses to Date:</i>	\$-0-
<i>Ending Balance:</i>	\$-0-		

Note: some recent construction activity

Recommendation: CONTINUE

LEGISLATION

ITEM 7

ORDINANCE NO. O2010-25

AN ORDINANCE APPROVING AN AMENDMENT TO AN AGREEMENT WITH MIDDLETOWN COKE COMPANY, INC. PROVIDING FOR THE CONSTRUCTION OF A MANUFACTURING FACILITY AS A DEVELOPMENT PROJECT AND TAX EXEMPTION PURSUANT TO THE STATE URBAN JOBS AND ENTERPRISE ZONE PROGRAM, AND MAKING DETERMINATION IN CONNECTION THEREWITH.

WHEREAS, City Council authorized a tax abatement agreement with Middletown Coke Company, Inc. on September 16, 2008 in Ordinance No. O2008-69; and

WHEREAS, an Enterprise Zone Agreement was executed in accordance with Chapter 5709 of the Ohio Revised Code; and

WHEREAS, Section 5709.85(C) requires that a tax incentive review council shall review the compliance of each recipient of a tax exemption under this program; and

WHEREAS, a duly appointed Tax Incentive Review Council reviewed the compliance of Middletown Coke Company, Inc. with the Enterprise Zone Agreement and concluded that Middletown Coke Company, Inc. has not begun construction of a development project; and

WHEREAS, at that same meeting, the Tax Incentive Review Council recommended that the Enterprise Zone Agreement be modified by deferring the dates for commencement and completion of abatement period and the dates for the job creation period; and

WHEREAS, the City Council accepted the report and recommendation of the Tax Incentive Review Board by motion at its March 16, 2010 meeting;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Middletown, Butler and Warren Counties, Ohio, that:

Section 1

The City Manager is hereby authorized to enter into an amendment of the Enterprise Zone Agreement entered into by and between the City of Middletown and Middletown Coke Company, Inc. The Amendment shall reflect the recommendations of the Tax Incentive Review Council and be in a form approved by the Director of Law.

Section 2

It is hereby determined that the subject matter of this legislation is not of a general and permanent nature, does not provide for a public improvement, and does not assess a tax or payment.

Section 3

This ordinance shall take effect and be in force at the earliest date permitted by law.

Lawrence P. Mulligan, Jr., Mayor

1st Reading: _____

2nd Reading: _____

Adopted: _____

Effective: _____

Attest: _____

Clerk of City Council

LEGISLATION

ITEM 8

ORDINANCE NO. O2010-26

AN ORDINANCE APPROVING AN AMENDMENT TO AN AGREEMENT WITH NEYER EAST POINTE 200 LLC AND PAYCHEX NORTH AMERICA, INC. PROVIDING FOR THE CONSTRUCTION OF A FACILITY AS A DEVELOPMENT PROJECT AND TAX EXEMPTION PURSUANT TO THE STATE URBAN JOBS AND ENTERPRISE ZONE PROGRAM, AND MAKING DETERMINATION IN CONNECTION THEREWITH.

WHEREAS, City Council authorized a tax abatement agreement with Neyer East Point 200 LLC and Paychex North America, Inc. on February 19, 2008 in Ordinance No. O2008-19; and

WHEREAS, an Enterprise Zone Agreement was executed in accordance with Chapter 5709 of the Ohio Revised Code; and

WHEREAS, Section 5709.85(C) requires that a tax incentive review council shall review the compliance of each recipient of a tax exemption under this program; and

WHEREAS, a duly appointed Tax Incentive Review Council reviewed the compliance of Neyer East Point 200 LLC and Paychex North America, Inc. with the Enterprise Zone Agreement and concluded that at a minimum the current employment levels should be maintained through the term of the Agreement; and

WHEREAS, at the same meeting, the Tax Incentive Review Council recommended that the Enterprise Zone Agreement be modified at a minimum the current employment levels should be maintained through the term of the agreement extending the abatement period from December 31, 2010 through December 31, 2019; and

WHEREAS, the City Council accepted the report and recommendation of the Tax Incentive Review Board by motion at its March 16, 2010 meeting;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Middletown, Butler and Warren Counties, Ohio, that:

Section 1

The City Manager is hereby authorized to enter into an amendment of the Enterprise Zone Agreement entered into by and between the City of Middletown and Neyer East Point 200 LLC and Paychex North America, Inc. The amendment shall reflect the recommendation of the Tax Incentive Review Council and be in a form approved by the Director of Law.

Section 2

It is hereby determined that the subject matter of this legislation is not of a general and permanent nature, does not provide for a public improvement, and does not assess a tax or payment.

Section 3

This ordinance shall take effect and be in force at the earliest date permitted by law.

Lawrence P. Mulligan, Jr., Mayor

1st Reading: _____

2nd Reading: _____

Adopted: _____

Effective: _____

Attest: _____
Clerk of City Council

LEGISLATION

ITEM 9

ORDINANCE NO. O2010-27

AN ORDINANCE APPROVING AN AMENDMENT TO AN AGREEMENT WITH VENTILEX USA, INC. PROVIDING FOR THE CONSTRUCTION OF A MANUFACTURING FACILITY AS A DEVELOPMENT PROJECT AND TAX EXEMPTION PURSUANT TO THE STATE URBAN JOBS AND ENTERPRISE ZONE PROGRAM, AND MAKING DETERMINATION IN CONNECTION THEREWITH.

WHEREAS, City Council authorized a tax abatement agreement with Ventilex, Inc. on August 7, 2007 in Ordinance No. O2007-56; and

WHEREAS, an Enterprise Zone Agreement was executed in accordance with Chapter 5709 of the Ohio Revised Code; and

WHEREAS, Section 5709.85(C) requires that a tax incentive review council shall review the compliance of each recipient of a tax exemption under this program; and

WHEREAS, a duly appointed Tax Incentive Review Council reviewed the compliance of Ventilex, Inc. with the Enterprise Zone Agreement and concluded that Ventilex, Inc. had failed to meet its requirements for job creation and job retention as provided in the Enterprise Zone Agreement at its March 1, 2010 meeting; and

WHEREAS, at the same meeting, the Tax Incentive Review Council recommended that the Enterprise Zone Agreement be modified by reducing the abatement percentage on real property from sixty five percent (65%) to forty percent (40%) based on current employment levels and change the exemption start date to December 31, 2009; and

WHEREAS, the City Council accepted the report and recommendation of the Tax Incentive Review Board by motion at its March 16, 2010 meeting;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Middletown, Butler and Warren Counties, Ohio, that:

Section 1

The City Manager is hereby authorized to enter into an amendment of the Enterprise Zone Agreement entered into by and between the City of Middletown and Ventilex, Inc. The Amendment shall reflect the recommendations of the Tax Incentive Review Council and be in a form approved by the Director of Law.

Section 2

It is hereby determined that the subject matter of this legislation is not of a general and permanent nature, does not provide for a public improvement, and does not assess a tax or payment.

Section 3

This ordinance shall take effect and be in force at the earliest date permitted by law.

Lawrence P. Mulligan, Jr., Mayor

1st Reading: _____

2nd Reading: _____

Adopted: _____

Effective: _____

Attest: _____
Clerk of City Council

LEGISLATION

ITEM 10

ORDINANCE NO. O2010-28

AN ORDINANCE TERMINATING AN AGREEMENT WITH CLAYTON, LLC PROVIDING FOR THE CONSTRUCTION OF A NEW FACILITY AS A DEVELOPMENT PROJECT AND TAX EXEMPTION PURSUANT TO THE STATE URBAN JOBS AND ENTERPRISE ZONE PROGRAM.

WHEREAS, the City of Middletown entered into an Enterprise Zone Agreement with Clayton, LLC in accordance with Ordinance No. 02009-59; and

WHEREAS, the Enterprise Zone Agreement provided for certain abatement of taxes in consideration for the development of a new manufacturing facility under the Urban Jobs and Enterprise Zone Program; and

WHEREAS, Clayton, LLC has cancelled the development project;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Middletown, Butler and Warren Counties, Ohio:

Section 1

The Agreement with Clayton, LLC providing for the construction of a new facility as a development project and tax exemption pursuant to the state urban jobs and enterprise zone program entered in accordance with Ordinance No. 02009-59 is hereby terminated. All rights and obligations of the parties are hereby extinguished.

Section 2

It is hereby determined that the subject matter of this legislation is not of a general and permanent nature, does not provide for a public improvement, and does not assess a tax or payment.

Section 3

This ordinance shall take effect and be in force at the earliest time permitted by law.

Lawrence P. Mulligan, Jr., Mayor

1st Reading: _____

2nd Reading: _____

Adopted: _____

Effective: _____

Attest: _____
Clerk of City Council

ps.h:\leg.0 terminate agree w Clayton LLC 2010

LEGISLATION

ITEM 11

ORDINANCE NO. O2010-29

AN ORDINANCE TERMINATING AN AGREEMENT WITH INTERSCOPE MANUFACTURING, INC. PROVIDING FOR EXPANSION OF A MANUFACTURING FACILITY AS A DEVELOPMENT PROJECT AND TAX EXEMPTION PURSUANT TO THE STATE URBAN JOBS AND ENTERPRISE ZONE PROGRAM.

WHEREAS, the City of Middletown entered into an Enterprise Zone Agreement with Interscope Manufacturing, Inc. in accordance with Ordinance No. 02008-65; and

WHEREAS, the Enterprise Zone Agreement provided for certain abatement of taxes in consideration for the development of a new manufacturing facility under the Urban Jobs and Enterprise Zone Program; and

WHEREAS, Interscope Manufacturing, Inc. has determined not to proceed with the expansion in the near future;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Middletown, Butler and Warren Counties, Ohio:

Section 1

The Agreement with Interscope Manufacturing, Inc. providing for expansion of a manufacturing facility as a development project and tax exemption pursuant to the state urban jobs and enterprise zone program entered in accordance with Ordinance No. 02008-65 is hereby terminated. All rights and obligations of the parties are hereby extinguished.

Section 2

It is hereby determined that the subject matter of this legislation is not of a general and permanent nature, does not provide for a public improvement, and does not assess a tax or payment.

Section 3

This ordinance shall take effect and be in force at the earliest time permitted by law.

Lawrence P. Mulligan, Jr., Mayor

1st Reading: _____

2nd Reading: _____

Adopted: _____

Effective: _____

Attest: _____

Clerk of City Council

ps.h:\leg.0 terminate agree w Interscope manufacturing 2010

EXECUTIVE SESSION