

A regularly scheduled meeting of the Board of Trustees was held on Monday, October 15, 2018, in the Village Hall. Mayor Westcott opened the meeting at 7:00 p.m. Also present were Deputy Mayor Conley, Trustee Blumrick, Trustee McAvoy, Trustee Edwards, Coordinator Bobbitt, Police Chief Swick, Clerk-Treasurer Schweigert, and Brian Seaman, attorney. Mr. Bobbitt led the Pledge of Allegiance.

There were a few people in attendance, as well, including President Darren Burdick and Chief Fred Srock from Middleport Fire Co., No 1, Inc.

A motion was made by Trustee McAvoy, and seconded by Trustee Blumrick, to approve the minutes of the September 17, 2018, meeting. Carried, with all present voting aye.

A motion was made by Trustee Edwards, and seconded by Deputy Mayor Conley to approve WWTP Upgrade Project payment no. 14 request from Wind-Sun Construction, Inc., as approved by Wendel Engineering, in the amount of \$53,919.82 (This amount is included in total in item 5.) Carried, with all present voting aye.

A motion was made by Deputy Mayor Conley, and seconded by Trustee Edwards, to approve payment of claims submitted on Abstract 5-18/19 in the amount of: General - \$77,387.21; Water - \$12,986.02; Sewer - \$29,665.29; Capital Improvement: \$53,919.82 for a total of \$174,408.34. Carried, with all present voting aye.

A motion was made by Trustee Blumrick, and seconded by Trustee Edwards, to approve payrolls no. 9 and 10 for weeks ending September 15 and September 29, 2018. Carried, with all present voting aye.

The Treasurer's report was submitted and accepted for September 2018.

The Public Works report was submitted and accepted for September 2018.

The Village and Town Police reports were submitted and accepted for September 2018, with Chief Swick reading the highlights.

The fire report was submitted and accepted for September 2018.

President Burdick and Chief Srock were invited to address the Board at this time.

They wanted to inform the Board of the following:

- the Fire Company is aware of the State's updated financial disclosure requirements legislation for Incorporated Volunteer Fire Companies and what steps they are taking to comply with this regulation. Mayor Westcott then gave the Board a little background on the legislation.
- The Fire Company is in compliance with the State's updated regulations on Sexual Harassment Policies and the members have already had the required training.
- The Fire Company is still trying to determine who is financially responsible for the State's new cancer insurance coverage for volunteer firefighters. They have received information that the contracting municipality is responsible but they've also received information that the fire companies are responsible. They will pass along whatever definitive information they receive to the Board of Trustees.

Notice will go to the paper that the Village's overnight parking ban will be enforced effective Sunday November 4, 2018, through April 7, 2019.

Correspondence was addressed:

- Received a notice from Niagara County about a public hearing to be held on October 16, 2018, regarding an agriculture district in Niagara County. All interested are invited to attend.

- Received requests from two residents asking that the penalty on their water bills be forgiven as they never received the bills. Clerk Schweigert explained that it was the Clerk's office's error that they never got the bills.

A motion was made by Trustee McAvoy, and seconded by Trustee Blumrick, authorizing the removal of the penalties for the water/sewer bills for the August 2018 billing for account 722 and the May 2018 and August 2018 billings for account 673. Carried, with all present voting aye.

Another Change Order has been submitted by Wendel Engineer on behalf of Wind-Sun Construction, a contractor working on the WWTP Upgrades Project. Mr. Bobbitt gave an overview of the requested changes. Mr. Seaman advised the Order has been reviewed by Wendel and they recommend adopting it. Discussed the issues covered by the Order.

A motion was made by Trustee Edwards, and Seconded by Deputy Mayor Conley, to authorize execution of Change Order No. 1G-03 totaling \$45,409.93 in additional costs. Carried, with all present voting aye.

Deputy Mayor Conley acknowledged the plans submitted by Clerk Schweigert for the annual Tree Lighting Service in December. Discussed. All approved having the event on Saturday, December 1, 2018, at 6 pm and retiring to the Royalton Hartland Community Library for refreshments.

Mayor Westcott gave an update on the remediation project for 2018. They are nearly done for the year.

Mayor Westcott offered thanks to the Middleport Fire Company and the Middleport Police Department for their assistance during homecoming week at the bonfire and during the parade.

Clerk Schweigert asked for permission to advertise for a full-time Deputy Village Clerk-Treasurer. She would like to start the pay at \$15 per hour. It is in the budget to fill this position.

A motion was made by Trustee McAvoy, and seconded by Trustee Blumrick, to authorize Clerk Schweigert to advertise for a full-time Deputy Village Clerk-Treasurer. Carried, with all present voting aye.

Mr. Seaman advised the Board that as a result of the NY State budget that passed in April 2018, the Village is required to update its Sexual Harassment Policy and provide training to all employees based on recent NYS legislation. Discussed. Clerk Schweigert advised that training may be able to be done in-house as the NYS Department of Labor has training templates on their website. Training must be done by October 9, 2019, and then annually after that.

POLICY

The Village of Middleport is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. The Village of Middleport has a zero-tolerance policy for any form of sexual harassment, and all employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of the Village of Middleport's commitment to a discrimination-free work environment.

Sexual harassment is against the law. All employees have a legal right to a workplace free from sexual harassment, and employees can enforce this right by filing a complaint internally with the Village of Middleport, or with a government agency or in court under federal, state, or local antidiscrimination laws.

Policy:

1. The Village of Middleport Policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors, and persons conducting business with the Village of Middleport.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action, up to and including termination.
3. **Retaliation Prohibition:** No person covered by this Policy shall be subject to adverse employment action including being discharged, disciplined, discriminated against, or otherwise subject to adverse employment action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. The Village of Middleport has a zero-tolerance policy for such retaliation against anyone who, in good faith complains or provides information about suspected sexual harassment. Any employee of the Village of Middleport who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. Any employee, paid or unpaid intern, or non-employee working in the workplace who believes they have been subject to such retaliation should inform a supervisor, manager, or the Mayor. Any employee, paid or unpaid intern, or non-employee who believes they have been a victim of such retaliation may also seek compensation in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and subjects the Village of Middleport to liability for harm to victims of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who knowingly allow such behavior to continue, will be penalized for such misconduct.
5. The Village of Middleport will conduct a prompt, thorough, and confidential investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
 1. All employees are encouraged to report any harassment or behaviors that violate this policy. The Village of Middleport will provide all employees a complaint form for employees to report harassment and file complaints.
 2. Managers and supervisors are required to report any complaint that they receive, or any harassment that they observe to the Mayor.
 3. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be posted prominently in all work locations and be provided to employees upon hiring.

What Is "Sexual Harassment"?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, gender identity, and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment consists of words, signs, jokes, pranks, intimidation, or physical violence which is of a sexual nature, or which is directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment, or any other terms, conditions, or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should complain so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical assaults of a sexual nature, such as:
 - Touching, pinching, patting, grabbing, brushing against another employee's body, or poking another employee's body;
 - Rape, sexual battery, molestation, or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the victim's job performance evaluation, a promotion, or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.

- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, and the status of being transgender, such as:
 - Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. A perpetrator of sexual harassment can be a superior, a subordinate, a coworker, or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer, or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises or not during work hours.

What Is "Retaliation"?

Unlawful retaliation can be any action that would keep a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation.

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who engaged in "protected activity."

Protected activity occurs when a person has:

- Filed a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- Testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- Opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- Complained that another employee has been sexually harassed; or
- Encouraged a fellow employee to report harassment.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. The Village of Middleport cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid

or unpaid intern, or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager, or the Mayor. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, or the Mayor.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns, or non-employees who believe they have been a victim of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

Supervisory Responsibilities

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior, or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the Mayor.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue. Supervisors and managers will also be subjected to discipline for engaging in any retaliation.

Complaint And Investigation Of Sexual Harassment

All complaints or information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible. An investigation of any complaint, information, or knowledge of suspected sexual harassment will be prompt and thorough, and should be completed within 30 days. The investigation will be confidential to the extent possible. All persons involved, including complainants, witnesses, and alleged perpetrators will be accorded due process to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Employees who participate in any investigation will not be retaliated against.

Investigations will be done in accordance with the following steps:

- Upon receipt of complaint, the Mayor will conduct an immediate review of the allegations, and take any interim actions, as appropriate. If complaint is oral, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the oral reporting. If documents, emails, or phone records are relevant to the allegations, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.

- Interview all parties involved, including relevant witnesses.
- Create a written documentation of the investigation (such as a letter, memo, or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in the employer's records.
- Promptly notify the individual who complained and the individual(s) who responded of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who complained of their right to file a complaint or charge externally as outlined below.
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Legal Protections And External Remedies

Sexual harassment is not only prohibited by the Village of Middleport but is also prohibited by state, federal, and, where applicable, local law. Aside from the internal process at the Village of Middleport, employees may also choose to pursue legal remedies with the following governmental entities at any time.

New York State Division of Human Rights (DHR)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns, and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with DHR or in the New York State Supreme Court.

Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged discrimination. An individual may not file with DHR if they have already filed an HRL complaint in state court.

Complaining internally to the Village of Middleport does not extend your time to file with DHR or in court. The one year or three years is counted from the date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take

action to stop the harassment, or redress the damage caused, including paying monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400, www.dhr.ny.gov. Contact DHR at (888) 392-3644 or visit www.dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized, and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

United States Equal Employment Opportunity Commission (EEOC)

The EEOC enforces federal anti-discrimination laws including Title VII of the 1964 federal Civil Rights Act (codifies as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an employee believes that he/she has been discriminated against at work, he/she can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at www.eeoc.gov, or via email at info@eeoc.gov. If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city, or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/lichr/html/home/home.shtml.

Contact the Local Police Department

If the harassment involves physical touching, coerced physical confinement, or coerced sex act, the conduct may constitute a crime. Contact the local police department.

A motion was made by Deputy Mayor Conley, and seconded by Trustee Edwards to adopt the preceding updated Sexual Harassment Policy. Carried, with all present voting aye.

Mr. Seaman advised that all current employees must receive a copy of the new policy and all new employees should receive a copy of the updated policy when hired.

State Assembly candidate Joe DePasquale addressed the Board at this time.

The next regularly scheduled meeting of the Board of Trustees will be held on Monday, November 19, 2018, at the Village Hall.

A motion was made by Trustee McAvoy, and seconded by Deputy Mayor Conley, to move into Executive Session for the purpose of consultation with the Village's attorney. Carried, with all present voting aye.

Executive Session opened at 8:00 p.m.

A motion was made by made by Trustee Edwards, and seconded by Trustee McAvoy, to return to General Session. Carried, with all present voting aye.

General Session reconvened at 8:22 p.m.

At this time the Board accepted the resignation from Police Officer Part-Time Kenneth Kostek, effective October 31, 2018.

There being no other business, a motion was made by Trustee Blumrick, and seconded by Trustee Edwards, to adjourn. Carried, with all present voting aye.

Meeting adjourned at 8:23 p.m.

Respectfully submitted,

Rebecca A. Schweigert
Clerk-Treasurer