

March 21, 2016

Body:

03/A regularly scheduled meeting of the Board of Trustees was held on Monday, March 21, 2016, in the Village Hall. Mayor Westcott opened the meeting at 7:00 p.m. Also present were Deputy Mayor Conley, Trustee Hinkson, Trustee McAvoy, Coordinator Bobbitt, Clerk-Treasurer Schweigert, and Brian Seaman, attorney. Trustee Blumrick and Police Chief Swick were absent. Mr. Bobbitt led the Pledge of Allegiance. There were a few people in attendance, as well. A motion was made by Trustee McAvoy, and seconded by Trustee Hinkson, to approve the minutes of the February 16 and March 2, 2016, meetings. Carried, with all present voting aye. A motion was made by Deputy Mayor Conley, and seconded by Trustee McAvoy, to approve payment of claims submitted on Abstract No. 10-15/16 in the amounts of General: \$21,858.91; Water: \$5,513.01; Sewer: \$6,829.81; for a total of \$34,201.73. Carried, with all present voting aye. A motion was made by Trustee, and seconded by Trustee, to approve payrolls no. 20 and 21 for weeks ending February 20 and March 5, 2016. Carried, with all present voting aye. The Treasurer's report was submitted and accepted for February 2016. The Public Works report was submitted and accepted for February 2016. The Village and Town Police reports were submitted and accepted for February 2016, with Mayor Westcott reading the highlights. The annual report from the Village Historian Christa Lutz was submitted and accepted for 2015. Discussed the publication of the former historian Anna Wallace's history of the Village. Target release date is by Memorial Day. Correspondence was read: Received an update from Swim Program Director Kathy Mullin regarding what employees will be returning and suggested replacements for those who won't be. Wages will be addressed for any new employees when hired in May or June. Received an email from a resident regarding having chickens. Discussion ensued. The Board instructed Brian Seaman to craft legislation to control/prohibit farm animals within the Village limits. Also discussed limiting the number of dogs, and maybe cats, at an address. Mr. Seaman will also be looking into crafting legislation regarding that issue. The biggest concern with chickens is noise, odor, and messiness. There has been an ongoing issue on Mill Street with a resident's owning chickens (as many as 25). For now, Mr. Seaman suggested that this issue could be addressed via zoning regulations. Will be referred to Code Enforcement. The Ad Hoc committee meeting regarding the creation of a health consortium has postponed the March meeting to April. Not all entities have met with the consultants, and they would like to meet with everyone prior to the next meeting. We have been contact by the US&J re: annual Pride edition. Mrs. Lutz has agreed to update the Village's section in the Pride edition of the Union Sun, which is published in April each year. Canal cleanup will be held 4/22-4/24. Anyone interested must register by March 23. Mayor Westcott asked Board members to read and think about Trustee Blumrick's letter regarding the issue of outdoor music at the Basket Factory and to please be prepared to discuss this issue at the April 4 meeting. This issue should be discussed when all Board members are present. Old business: Discussed the 2016-17 budget. Clerk Schweigert explained the additional cuts she made and explained the three different tax levies. Following discussion, Board decided to leave the tax levy the same as the 2015-16 budget. Due to the decrease in the assessments, the tax rate will increase by nearly 4 cents per thousand to make up the loss of over \$700 in revenue from the decreased assessments. Expenditures will be accepted as explained. Mr. Seaman advised the Board that for the upcoming remediation efforts in the Village, the DEC has asked for the following: They would like to enter into an agreement with

the Village to substantially comply with the Village's infrastructure protection code and will undertake restoring any damage that may occur; they would also like a variance that would waive the required bond as they will guarantee all work done and repair or replace anything that is damaged. Mr. Seaman has had conversations with the DEC's attorney and rep and fees that these two requests would protect the Village and residents in the same manner as the law. The DEC complied with all parts of the law and were a good neighbor during the remediation efforts done in 2015. Deputy Mayor Conley asked who the Village would seek relief from if there was a problem? Either the Village or the DEC o/b/o the Village would go after the contractor. The DEC will be keeping track of the subcontractor(s). The Village would instigate a complaint, and the DEC will be responsible for itself and any contractors. The agreement would take the place of any bond. Trustee McAvoy asked if the DEC will police itself. Rick Watts, a rep from the environmental engineering firm E&E Environmental who oversees the project, said they will inspect for violations by contractor and report any to the DEC or the NYS Department of Health regarding any remediation issues. They, in turn, would pursue relief. Mr. McAvoy asked if that would be in writing. Mr. Seaman assured him that the agreement would cover this. It references the Village's infrastructure law and required restoration. Deputy Mayor Conley's concerns that private property would also be included were allayed. Trustee McAvoy's concern was that Village Coordinator Bobbitt should not have to spend a large amount of time policing the area. Mr. Bobbitt replied that there were no problems in 2015 and he anticipates the same degree of cooperation in upcoming years. Mayor Westcott assured the Board that the agreement removes the requirement of the bond only. All other aspects of the infrastructure law will remain in full force and effect. Trustee McAvoy asked who private homeowners approach with a problem. Mr. Seaman said they may either contact the DEC or the contractor, and if they do not get satisfaction, they can contact Mr. Bobbitt. Mr. Watts explained all of the precautions they contractors take to ensure no damage or what needs to be done in the event of damage to make full restoration. Trustee Hinkson asked when the next phase will start. Target is April. Deputy Mayor Conley asked if this agreement is blanket or will it time out at some point. It is for multi-year projects and will time out in 2020, which Mayor Westcott advised he's been assured will be the end date for all work in the part of the Village. A motion was made by Trustee McAvoy, and seconded by Deputy Mayor Conley, to enter into an agreement with the New York State Department of Conservation requiring the NYSDEC to substantially comply with the Village's infrastructure protection law and authorize Mayor Westcott to execute said agreement. Carried, with all present voting aye. The following resolution was offered by Deputy Mayor Conley, who moved its adoption, and seconded by Trustee Hinkson, WHEREAS, the Village of Middleport has enacted an Infrastructure Preservation Law (Chapter 165 of the Code of the Village of Middleport), and WHEREAS, the New York State Department of Environmental Conservation ("DEC") proposes to conduct activities (itself and/or through its contractors) in the Village of Middleport which are covered by the Infrastructure Preservation Law, and has submitted a Request For Variance dated March 7, 2016 pursuant to section 165-8 of the Infrastructure Preservation Law, and WHEREAS, the DEC has prepared and offered to enter into an agreement with the Village entitled "AGREEMENT for TEMPORARY USE of MUNICIPAL HIGHWAYS, ROADWAYS, AND RIGHT-OF-WAYS PURSUANT TO ECL SECTION 27-1309, 271313(8) AND OTHER ECL SECTIONS," in which the DEC (referred to therein as the "DEPARTMENT") agrees, among other terms, that: 1. ". . . all work to be performed hereunder will be done in substantive conformance with the VILLAGE's Infrastructure Preservation Law (Chapter 165) at no cost or expense to the VILLAGE." 2. "Following completion of remedial

activities, impacts to VILLAGE Infrastructure will be evaluated in accordance with DEPARTMENT's "Municipal Infrastructure Protection and Restoration Plan" dated September 2015 (Attachment B). If any damage is caused to VILLAGE "infrastructure" as that term is defined by the VILLAGE's Infrastructure Preservation Law, in the course of covered activity, the DEPARTMENT shall return the infrastructure to a condition as good as it was prior to the damage, or shall pay the cost of repair or replacement of the same at or after the effective date of this Agreement," now therefore, THE VILLAGE BOARD OF TRUSTEES MAKES THE FOLLOWING FINDINGS: 1. That granting the DEC's requested variance would be in keeping with the intent and spirit of the Infrastructure Preservation Law. 2. That there are special circumstances involved, including but not limited to, the nature of the remedial activities proposed and the DEC's willingness to accept the liabilities imposed by the proposed agreement. 3. That denying the variance would result in undue hardship to the applicant which is not self-imposed. 4. That given the DEC's willingness to enter into the above mentioned agreement with the Village, there is little or no risk of damage to the Village's infrastructure or residents' property. ACCORDINGLY THIS BOARD GRANTS THE APPLIED FOR VARIANCE subject to those conditions set forth below: Conditions of Variance The DEC must deliver a fully executed AGREEMENT for TEMPORARY USE of MUNICIPAL HIGHWAYS, ROADWAYS, AND RIGHT-OF-WAYS PURSUANT TO ECL SECTION 27-1309, 27-1313(8) AND OTHER ECL SECTIONS to the Village prior to commencing any covered activity, and must comply with all terms of that agreement. The vote on the preceding resolution was as follows: Ayes: Deputy Mayor Conley, Trustee Hinkson, Trustee McAvoy, and Mayor Westcott. Nays: None. Abstentions: None. Absent: Trustee Blumrick. The resolution was duly passed. Mr. Seaman advised the Board that, although conditions were set that a signed agreement must be returned prior to the commencement of remedial efforts, the Board may impose any other conditions in the future, should they deem it necessary. Mr. Seaman advised the Board that in order to continue with the audit of National Grid accounts for gross tax receipts, a non-disclosure agreement must be signed. He has reviewed the disclosure agreement and made a few changes. He recommends that the Board authorize Mayor Westcott to execute the agreement. A motion was made by Trustee Hinkson, and seconded by Trustee McAvoy, to authorize Mayor Westcott to execute the non-disclosure agreement with National Grid subject to attorney's review. Carried, with all present voting aye. Mr. Bobbitt advised the Board he has gotten two other quotes for new carpeting at the Scout House. Payne's has a price of \$2,000, including installation. Carpet Collection's price was between \$2,900 and \$3,500, if we went with removable squares. A motion was made by Trustee Hinkson, and seconded by Trustee McAvoy, to purchase carpeting from Payne's at a maximum cost of \$2,000. Carried, with all present voting aye. Mayor Westcott and Coordinator Bobbitt met with Tim Walck, from Wendel, and Rick Rink, from the DEC, regarding a continuation of the I&I program, called CMON. This calls for the Village to be split into 8 to 10 sections and the sanitary sewer system in each section is examined for issues and repairs are made as needed. This will be an ongoing program and the Village will have to add a line item for it. This will not impact our SPDES permit. Discussed what this will entail. The DEC was advised that the Village doesn't have the manpower or money to undertake all they are requiring. The DEC does not have punitive authority regarding this program. Mr. Bobbitt feels this is actually a good preventive maintenance plan and will ultimately benefit the Village. Mr. Bobbitt informed the Board that the all weather sampler at the Sewer Treatment Plant has quit working and due to its age, parts are no longer available. He can either buy a used sampler for \$300 from ebay without a guarantee it will work and a \$200 shipping fee or a new one for

\$7,000. He would like to hold off purchasing a new one until the upgrades at the Plant are undertaken. Trustee McAvoy suggested he contact other local plants to see if they have any extras. For years we had an extra one, so maybe someone else still does. Mr. Bobbitt will do so.

New business: Trustee Hinkson asked if the Village will be engaging a grant writer. Clerk Schweigert responded that the rental moneys from the Verizon antenna were possibly going to be earmarked for that. We have a line item for economic development in the budget that could be used for a grant writer. At this time the 2016-17 budget was addressed again. A motion was made by Trustee McAvoy, and seconded by Trustee Hinkson, to approve the tentative 2016-17 budget in the amount of \$1,698,975.61 with a tax rate of \$10.02 per thousand. Budget Hearing set for April 4, 2016, at 7:05 p.m. Carried, with all present voting aye. Next meeting of the Board of Trustees will be the Annual Meeting on Monday, April 4, 2016, at 7:00 p.m. Next regularly scheduled meeting of the Board of Trustees will be Monday, April 18, 2016, at 7:00 p.m. There being no other business, a motion was made by Deputy Mayor Conley, and seconded by Trustee McAvoy, to adjourn. Meeting adjourned at 8:10 p.m. Respectfully submitted, Rebecca A. Schweigert Clerk-Treasurer