

# May 16, 2016

## Body:

A regularly scheduled meeting of the Board of Trustees was held on Monday, May 16, 2016, in the Village Hall. Mayor Westcott opened the meeting at 7:00 p.m. Also present were Deputy Mayor Conley, Trustee Blumrick, Trustee Hinkson, Trustee McAvoy, Police Chief Swick, Clerk-Treasurer Schweigert, and Brian Seaman, attorney. Coordinator Bobbitt was absent. Trustee Blumrick led the Pledge of Allegiance. There were several residents in attendance, as well. At this time Mayor Westcott opened the floor for public comment. Kim Pasnik, 26 State Street, asked for clarification on the animal regulation law changes that the Board is working on. She owns chickens and has been advised to get rid of them. She cited the Village Code that allows “customary agricultural practices” in areas zone residential as allowing her to own chickens. Mayor Westcott advised that the Board is looking into setting a number on dogs, cats, and domestic rabbits that a homeowner may have at an address and defining what farm animals are. It is understood that cats are difficult to regulate. The law spells out who is responsible, the definition of owner, harboring, and other things. Mr. Seaman advised that there is only a draft to regulation of animals. Board members have been given a draft to look at and consider. Renee Eberhard, 52 Main St., ask several questions, including why this is happening now. Dr. David Monti, DMV, 36 Manor Lane, asked for a copy of the current animal control code. He suggested that the Board use the NYS Agriculture animal code as guidance. He advised it is risky to set a maximum number. The current laws should be enforced instead of creating new ones that penalize residents. Discussion ensued regarding current laws and proposed changes, including an increase of complaints from residents about chickens and dogs. Nicholas Eberhard, also of 52 Main Street, is concerned about legislation simply because of the “squeaky wheels” who complain. John Keirn, 36 Mill Street, advised those present that he had to deal with chickens owned by a neighbor and the ensuing noise, odors, dealing with chickens in his yard, and that the chickens drew rats and mice. It was unpleasant to deal with. He agreed that it is irresponsible home owners that cause regulations having to be put in place. Trustee Hinkson observed that free range does not mean letting chickens onto neighbors’ yards. Elizabeth Storch, 59 State Street, asked if spaying and neutering requirements could be added in order to prevent “puppy mills” in the Village. She observed that many people own pets who do not realize the proper and reasonable care of them. At this time Ms. Pasnik enquired about the enforcement of the letter she received from the Building Inspector about getting rid of her chickens. Mr. Seaman will look into it. Mayor Westcott advised all that at present updating the laws is just in the exploratory stage at this time and no action will be taken in the near future. A motion was made by Deputy Mayor Conley, and seconded by Trustee Hinkson, to approve the minutes of the April 20, 2016, meeting. Carried, with all present voting aye. A motion was made by Trustee Blumrick, and seconded by Trustee McAvoy, to approve payment of claims submitted on Abstract 12-15/16 in the amount of General: \$25,082.12; Water: \$2,362.82; Sewer: \$12,648.48; for a total of \$40,093.42. Carried, with all present voting aye. A motion was made by Trustee Hinkson, and seconded by Trustee Blumrick, to approve payrolls No. 24 and 25 for periods ending April 23 and May 7, 2016. Carried, with all present voting aye. The Treasurer’s report was submitted and accepted for April 2016. The Public Works report was submitted and accepted for April 2016. The Village and Town Police reports were submitted and accepted for April 2016, with Chief Swick reading the highlights. The fire report was submitted and accepted for April 2016. There

will be no refuse/recycle pickup on Wednesday, June 1, 2016, due to the Memorial Day holiday. Regular pickup will be on Thursday, June 2, 2016. Water and Sewer Billing for the quarter billed on May 1, 2016: Water: \$49,321.66; Sewer: \$48,605.16; for a total of \$97,926.82. The Amount of unpaid water/sewer bills as of April 30, 2016, added onto 2016 - 2017 tax roll is \$19,702.56. Niagara County is now requiring a resolution to relevel any unpaid water/sewer bills that are over \$1,000. The following resolution was offered by Deputy Mayor Conley, who moved its adoption, and seconded by Trustee Hinkson, WHEREAS the Village is required pursuant to NYS Village Law § 11- 1118 to relevel any unpaid water/sewer rents onto the upcoming Village tax bill and WHEREAS the County of Niagara now requires authorization to relevel any delinquent water/sewer bill greater than \$1,000, NOW THEREFORE the Niagara County Real Property Department is authorized to relevel all delinquent water/sewer accounts, including those owing over \$1,000, onto 2016-2017 Village tax bills. The vote on the preceding resolution was as follows: Ayes: Conley, Hinkson, McAvoy, Blumrick, and Westcott; Nays: none; Abstentions: none; Absent: none. The resolution was duly adopted. The tax warrant to be signed by Mayor Westcott in the amount of \$559,493.58 (this includes tax levy of \$539,791.02 and unpaid water/sewer in the amount of \$19,702.56). Correspondence was read: Resignation received from Police Officer Part-Time Jackie Feggans, effective May 1, 2016. Resignation received from Police Officer Part-Time Hercules Andrade, effective May 16, 2016. Both resignations are received with regret. Both officers have gained full-time employment elsewhere, and the Board wishes them the best in their future endeavors. Old Business: Clerk Schweigert informed the Board that Mr. Seaman has advised that the contract with the towns for the swim program does not need to be amended to add an adult aerobics class. Both towns are agreeable to the addition. Board approval given for the addition. Clerk Schweigert updated the Board on the Health Care Consortium. The Town of Somerset landed a \$250,000 grant to move forward on applying to the state to get this consortium up and running. They will receive \$225,000 and the remaining matching 10 percent of \$25,000 will be split among the entities who are interested. There are currently 26 entities signed onto this, although after receiving the results in February, some of them are no longer 100% committed. The state has indicated that they are excited about the consortium and will help us however they can to bring it to fruition. After much discussion, the ad hoc committee decided that the \$25,000 will be split evenly among the participating entities. The County indicated that a financial investment signals a sincere effort by an entity to participate in this for the long haul. We were told that the more municipalities that commit, the greater the chance that the County will sign on, too. They want to see a large participation before they commit, but they are very interested in participating, too. The maximum commitment by the Village will not exceed \$1154.00 or quarterly reimbursements to not exceed \$288.50. This \$1,154 will probably parlay into a \$14,000 savings on the Village's part when the consortium comes to fruition. The following resolution was offered by Trustee McAvoy, who moved its adoption, and seconded by Deputy Mayor Conley WHEREAS, the Greater Niagara Orleans County Municipal Health Insurance Consortium Study consists of twenty-six municipal entities throughout Niagara and Orleans Counties; and WHEREAS, the Consortium's goal is to reduce overall health care costs to municipalities through purchasing health insurance jointly; and WHEREAS, an initial comprehensive review was completed by Arthur J. Gallagher & Co. showing that significant savings would accompany the joint purchasing of health insurance through the Consortium, thereby reducing the overall operating costs to municipalities; and WHEREAS, the Consortium, if adopted, should provide relief to taxpayers through efficiency and leverage provided by the Consortium; and WHEREAS, by consensus vote of the Consortium

Ad Hoc Committee comprised of participating municipalities , it was directed that the Town of Somerset as lead agency for the participating members apply for a \$250,000.00 grant from the New York State Department of State to further study the Consortium; and WHEREAS, the twelve towns in Niagara County, who are all participating members, in this project, each contributed \$417.00 to date towards the cost of the grant writer to pursue the state grant; and WHEREAS, the Consortium was successful in that the state grant was awarded and the Town of Somerset was designated as the lead agency for administering the grant; and WHEREAS, as a condition to the Department of State \$250,000.00 grant, the recipient must provide matching funds equal to 10% of the overall grant total; and WHEREAS, the Town of Somerset, as the lead agency, is responsible for providing the \$25,000.00 in matching funds as required by the New York State Department of State; and WHEREAS, by consensus vote of the Consortium Ad Hoc Committee comprised of participating municipalities, it was agreed that participating municipalities would equally reimburse the Town of Somerset for the matching funds required to be paid by the Town of Somerset for this grant; and WHEREAS, at this time and during the grant process, there is no obligation of any municipality to join the Consortium upon its final implementation; and WHEREAS, in order to completely evaluate the full costs and benefits of a Consortium, it is essential that the grant project continue until its conclusion; and WHEREAS, the Town of Somerset will seek reimbursement on a quarterly basis from the State for services and expenses rendered under this Grant, in which the State will deduct the matching grant portion; and WHEREAS, the Town of Somerset will then submit quarterly to each participating municipality a voucher for its portion of the matching grant share; and WHEREAS, this municipality is one of the entities participating in this project and will continue to benefit from the Consortium study and potential implementation; and NOW THEREFORE BE IT RESOLVED, that in the spirit of cooperation, this municipal body agrees that the cost of the matching amount borne by the Town of Somerset shall be allocated amongst the current twenty-six participating municipalities in equal shares, with each Niagara County town who contributed towards the cost of the initial grant writer receiving a \$417.00 deduction from this equal share in order to ensure that each entity contributes an identical amount towards this worthy project; and be it further RESOLVED, this municipal body does hereby authorize payment to reimburse the Town of Somerset in the amount not to exceed a total of \$1154.00 over a two-year period in quarterly reimbursements not to exceed \$288.50 for our share of the grant matching funds for this worthy project; and be it further RESOLVED, that if any additional municipal entity joins this Consortium study, then this municipal body recognizes that the aforementioned reimbursements will be adjusted downward accordingly. The vote on the preceding resolution was as follows: Ayes: Conley, Hinkson, McAvoy, Blumrick, and Westcott; Nays: none; Abstentions: none; Absent: none. The resolution was unanimously adopted. The needed upgrades at the Wastewater Treatment Plant were discussed at this time. Mr. Seaman updated the Board on discussion that he had with our engineer Tim Walck, as well as conversations with Municipal Solutions and Nathan Neal of Neal & Strong, bond counsel. Mr. Walck did a walkthrough of the WWTP and found a few more items that need upgrading. Overall, it has been determined that the maximum amount this work will cost is \$2.9 million. The Board only needs to authorizing borrowing that total, it does not mean that they will be required to do so. After firm plans are made, the cost could be lowered to \$2.1 or \$2.2, the original amount identified for our needs. In order to move forward with applying for a 20 percent grant and borrowing, hopefully we will qualify for zero percent loans, a figure needs to be identified. Mr. McAvoy explained some of the reasons more work was identified to his fellow Board members. The

Board recognizes that this work needs to be done and the sooner, the better. The following resolution was offered by Trustee McAvoy, who moved its adoption, and seconded by Trustee Hinkson, THE BOARD OF TRUSTEES OF THE VILLAGE OF MIDDLEPORT, IN THE COUNTY OF NIAGARA, NEW YORK, HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said Board of Trustees) AS FOLLOWS: Section 1. The Village of Middleport, in the County of Niagara, New York (herein called the "Village"), is hereby authorized to construct wastewater treatment plant improvements. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is \$2,900,000 and said amount is hereby appropriated for such purpose. The plan of financing includes the issuance of bonds in the principal amount of \$2,900,000 to finance said appropriation. Sewer assessments have been imposed in the Village and it is expected that such assessments shall continue to be imposed and collected by the Village and the amounts derived therefrom shall be budgeted and used to the pay principal of and interest on the bonds, and any notes issued in anticipation thereof, as the same shall become due and payable. Section 2. Bonds of the Village in the principal amount of \$2,900,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said appropriation. Section 3. The following additional matters are hereby determined and declared: (a) The period of probable usefulness of the object or purpose for which said bonds are authorized to be issued, within the limitations of Section 11.00 a. 4 of the Law, is forty (40) years. (b) The proceeds of the bonds herein authorized, and any bond anticipation notes issued in anticipation of said bonds, may be applied to reimburse the Village for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department. (c) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years. Section 4. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds, and any notes issued in anticipation of said bonds, shall be general obligations of the Village, payable as to both principal and interest by general tax upon all the taxable real property within the Village. The faith and credit of the Village are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds, and any notes issued in anticipation of the sale of said bonds, and provision shall be made annually in the budget of the Village by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year. Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 of the Law relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the Board of Trustees relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and as to the execution of agreements for credit enhancements, are hereby delegated to the Village Treasurer, the chief fiscal officer of the Village. Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if: (a) such obligations are

authorized for an object or purpose for which the Village is not authorized to expend money, or (b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or (c) such obligations are authorized in violation of the provisions of the constitution. Section 7. This bond resolution is subject to a permissive referendum and the Village Clerk is hereby authorized and directed, within ten (10) days after the adoption hereof, to cause to be published, in full, in the "Lockport Union Sun & Journal," a newspaper having general circulation in said Village and hereby designated the official newspaper of the Village for such publication, and posted in at least six (6) public places and in each polling place in the Village, a Notice in substantially the following form: VILLAGE OF MIDDLEPORT, NEW YORK PLEASE TAKE NOTICE that on May 16, 2016, the Board of Trustees of the Village of Middleport, in the County of Niagara, New York, adopted the bond resolution entitled: "Bond Resolution of the Village of Middleport, New York, adopted May 16, 2016, authorizing the construction of wastewater treatment plant improvements, stating the estimated maximum cost thereof is \$2,900,000, appropriating said amount for such purpose, and authorizing the issuance of bonds in the principal amount of \$2,900,000 to finance said appropriation," an abstract of such bond resolution concisely stating the purpose and effect thereof, being as follows: FIRST: AUTHORIZING the Village of Middleport to construct wastewater treatment plant improvements; STATING the estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the financing thereof, is \$2,900,000; APPROPRIATING said amount for such purpose; STATING the plan of financing includes the issuance of bonds in the principal amount of \$2,900,000 to finance said appropriation; and STATING that sewer assessments have been imposed in the Village and it is expected that such assessments shall continue to be imposed and collected by the Village and the amounts derived therefrom shall be budgeted and used to the pay principal of and interest on the bonds, and any notes issued in anticipation thereof, as the same shall become due and payable; SECOND: AUTHORIZING the issuance of bonds in the principal amount of \$2,900,000 pursuant to the Local Finance Law of the State of New York (the "Law") to finance said appropriation; THIRD: DETERMINING and STATING that (a) the period of probable usefulness of the object or purpose for which the bonds are authorized is forty (40) years; (b) the proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the Village for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized; and (c) the proposed maturity of said bonds will exceed five (5) years; FOURTH: DETERMINING that said bonds and any bond anticipation notes issued in anticipation of said bonds and the renewals of said bond anticipation notes shall be general obligations of the Village; and PLEDGING to their payment the faith and credit of the Village; FIFTH: DELEGATING to the Village Treasurer the powers and duties as to the issuance of said bonds and any bond anticipation notes issued in anticipation of said bonds, or the renewals thereof; and SIXTH: DETERMINING that the bond resolution is subject to a permissive referendum. DATED: May 16, 2016 REBECCA A. SCHWEIGERT Village Clerk Section 8. The Village Clerk is hereby authorized and directed to cause a summary of this Bond Resolution to be published after this Bond Resolution shall take effect, in the newspaper referred to in Section 7 hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as provided by Section 81.00 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York. The adoption of the foregoing resolution duly put to a vote on roll call,

which resulted as follows: AYES: Deputy Mayor Conley, Trustee Blumrick, Trustee Hinkson, Trustee McAvoy, and Mayor Westcot. NAYS: none ABSENTIONS: none ABSENT: none The resolution was declared adopted. At this time Mr. Seaman advised the Board that a contract needs to be in place for the services of Municipal Solutions. We have worked with them in the past on bonding issues. They will be available to help guide us through the application process with EFC for grant and borrowing applications. As it is a women owned business, it will help us satisfy that requirement for EFC funding. The following resolution was offered by Deputy Mayor Conley, who moved its adoption, and seconded by Trustee McAvoy: WHEREAS the Board of Trustees of the Village of Middleport wishes to enter into a contract with Municipal Solutions, and WHEREAS this contract will enable Municipal Solutions to assist the Village with guidance in navigating the protocol to secure funding for necessary upgrades at the Village's Wastewater Treatment Plant, NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees approves the contract with and authorizes Mayor Westcott to execute the contract with Municipal Solutions at a maximum cost of \$12,000. The roll call vote on the above resolution is as follows: Ayes: Deputy Mayor Conley, Trustee Hinkson, Trustee McAvoy, Trustee Blumrick, and Mayor Westcott. Nays: none. Abstentions: none. Absent: none. The resolution was unanimously adopted. Discussed the proposal from Wendel Engineering for their portion of the WWTP upgrade project. Following Mr. Walck's tour of the plant and his discovery of some more necessary work, their proposal was amended to reflect this. If it is determined that some of the work is ultimately unnecessary, this cost could be reduced, as well. A motion was made by Trustee Hinkson, and seconded by Trustee Blumrick to approve the proposal from Wendel for engineering services for the upgrades at the WWTP at a maximum of \$363,000 and to authorize Mayor Westcott to sign the agreement. Carried, with all present voting aye. Mr. Seaman advised the Board that initially the Village may have to use a BAN to pay upfront costs, but this could be rolled into the final Bond for the project. All of these contracts are included in the overall price tag of \$2.9 million maximum. Any grant money we may procure is also included in the overall cost. The Village will also need enter into a contract with Seaman Norris LLP for legal services for the length of the project, as well. They propose a fee of 1 percent of the overall cost of the project. A motion was made by Trustee McAvoy, and seconded by Deputy Mayor Conley, to approve the contract with Seaman Norris at a cost of 1 percent of the overall cost of the WWTP upgrades project and to authorize Mayor Westcott to execute the contract. Carried, with all present voting aye. Mr. Seaman advised that this project is a Type II SEQRA project and the Board must address that. The following resolution was offered by Trustee Blumrick, who moved its adoption, and seconded by Trustee McAvoy, WHEREAS, the Village of Middleport owns and operates a wastewater treatment plant described and evaluated in an engineering report dated January 2016 prepared by Wendel WD Architecture, Engineering, Surveying and Landscape Architecture, P.C., a professional engineering consulting firm; and WHEREAS, based on the findings of the report a capital project is proposed to address various needs and deficiencies related to efficient operation, maintenance and facility performance, including changes to meet the new effluent limits as imposed by the new SPDES permit; and WHEREAS, the proposed project consists of maintenance, repair or equipment upgrades, involving no substantial changes in an existing structure or facility, consistent with 6 NYSRR Part 617.5(c)(1) of the State Environmental Quality Review Act (SEQR) NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE BOARD OF THE VILLAGE OF MIDDLEPORT THAT 1. The proposed rehabilitation project is declared to be a Type 2 action for State Environmental Quality Review Act purposes, and no further action is required. 2. This

Resolution shall take effect immediately. The vote on the preceding resolution was as follows: Ayes: Deputy Mayor Conley, Trustee Hinkson, Trustee McAvoy, Trustee Blumrick, and Mayor Westcott. Nays: none. Abstentions: none. Absent: none. The resolution was unanimously passed. Trustee Hinkson asked if anyone had an update on the Basket Factory. Their target opening has been pushed to June as they are having issues getting a liquor license. Mayor Westcott updated the Board on the remediation efforts. Signals have been made that the Governor and the DEC may be backing away from future efforts. The court settlement may occur soon. We'll have to see how this plays out and if it gets handed back to FMC. This is only in the talking stage at this time. Mr. Bobbitt emailed the Board regarding hiring summer help. He has recommended Ryan Metz, a Roy Hart grad, who is attending Brockport for Parks and Recreation and needs a summer internship. Working for us could satisfy that requirement. Discussed this. A motion was made by Trustee McAvoy, and seconded by Trustee Hinkson, to approve hiring Ryan Metz as a summer laborer commencing May 23, 2016, at an hourly wage of \$10. Carried, with all present voting aye. Mr. Bobbitt is authorized to set Ryan's end date of employment. Trustee McAvoy asked about picnic tables and the public restrooms being ready for the upcoming boating season. All will be in place by Memorial Day. Mayor Westcott advised all present that the Middleport Fire Department had donated an AED unit to the Board for use at the Scout House. The next regularly scheduled meeting of the Board of Trustees will be held on June 20, 2016, at 7:00 p.m. at the Village Hall. A motion was made by Trustee McAvoy, and seconded by Trustee Hinkson, to enter into executive session for the purpose of discussion with the Village's attorney. Carried, with all present voting aye. Executive session was opened at 8:29 p.m. A motion was made by Trustee Hinkson, and seconded by Trustee Blumrick, to return to general session. Carried, with all present voting aye. General session reconvened at 9:25 p.m. Discussed creating a 4th full-time police officer position. May be several months before the position is filled. A motion was made by Trustee Blumrick, and seconded by Deputy Mayor Conley, to create a fourth full-time police officer's position. Carried, with all present voting aye. Clerk Schweigert advised the Board that the power will be off for an hour or two in the morning of Monday, May 23. She asked for permission to open the office late that morning. Discussed. Permission granted. There being no other business, a motion was made by Deputy Mayor Conley, and seconded by Trustee Hinkson, to adjourn. Carried, with all present voting aye. Meeting adjourned at 9:27 p.m. Respectfully submitted, Rebecca A. Schweigert Clerk-Treasurer