

# July 20, 2015

Body:

A regularly scheduled meeting of the Board of Trustees was held on Monday, July 20, 2015, 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, Police Chief Swick, Building Inspector Belson, Clerk-Treasurer Schweigert, and Brian Seaman, attorney. Trustee Blumrick was absent. Trustee McAvoy led the Pledge of Allegiance. There were a few residents and several members of the Masonic Lodge in attendance, as well. A motion was made by Trustee Hinkson, and seconded by Trustee McAvoy, to approve the minutes of the June 15, 2015, meeting. Carried, with all present voting aye. A motion was made by Deputy Mayor Conley, and seconded by Trustee Hinkson, to approve payment of claims submitted on Abstract No. 02-15/16 in the amount of: General: \$57,063.98; Water: \$9,639.22; Sewer: \$3,779.35, for a total of \$70,482.55. Carried, with all present voting aye. A motion was made by Trustee McAvoy, and seconded by Deputy Mayor Conley, to approve payrolls 2, 3, and 4 for weeks ending June 20, July 4, and July 18, 2015. Carried, with all present voting aye. A motion was made by Deputy Mayor Conley, and seconded by Trustee Hinkson, to approve the following budget transfers for the 2014-15 budget: TO FROM AMOUNT A9710.7 A9055.8 \$123.04 G9060.8 G9060.81 \$662.23 TOTAL \$785.27 Motion carried, with all present voting aye. The Treasurer's report was submitted and accepted for June 2015. The Public Works report was submitted and accepted for June 2015. The Village and Town Police reports were submitted and accepted for June 2015, with Chief Swick reading the highlights. The Code Enforcement report was submitted and accepted for June 2015. At this time Mayor Westcott opened the floor for public comment on anything on the agenda. Jim Anderson, representing the Masonic Lodge, asked for permission to read a letter written and sent to Board members by Mason Herbert Koenig regarding the issue of Verizon's proposed cell antenna installation. Permission was granted and the letter was read. The Masons are again asking that the Board consider allowing the cell antenna's installation be on their building as they would like the revenue from the rental of their rooftop by Verizon. The Masons are struggling with membership and fundraising issues. They would like to have secured funding to allow them to offer their building for use without having to charge for the use. Judy Willis, also associated with the Mason, advised the Board that the Mason's building would be available for fundraising purposes and gave an example of a past effort. There being no other comments, the Mayor read a statement advising that it is the Board's duty to act in the best interest of the entire village; therefore, the cell antenna will be installed on the Village Hall per Village Code now that the misunderstanding between the Village and Verizon has been resolved. The poor economy in the past decade has hurt the Village, so any source of revenues that are not real estate taxes is beneficial to the taxpayers by helping to reduce the need for an increase in the tax rate. The Board must place the needs of the residents and taxpayers of the Village ahead of those of a private individual or organization. It is sad that, due to an error on Verizon's part, this became an area of contention within the Village. Mayor Westcott reminded those present that the Village Board does not have control over any decisions made by the Zoning Board of Appeals, contrary to rumors that are flying about. Mr. Seaman clarified that the Village Code dictates where the antenna should be located; the ZBA decides if the use permit is issued. The Village Board decides where the antenna goes. Mrs. Willis asked if it is the Board's determination that the Village needs the money more than the Masons do.

Mayor Westcott replied that Verizon erred by ignoring the Village Code and moved on to considering other buildings. Had they done their due diligence, this issue never would have arisen. Correspondence was read: Received a notice of a public hearing and public statement period from the NYS Department of Public Service regarding the Matter of a Study on the State of Telecommunications in New York State. Attorney Seaman advised the Board that the request to purchase health insurance through the Village by a retiring employee and union member was brought to the attention of the Teamsters, as the employee does not have enough seniority to have the Village pay for his coverage per the collective bargaining agreement. The Teamster's representative signed a Memorandum of Understanding that allows this union member to purchase health insurance through the Village at 100% of his own cost. The following resolution was offered by Trustee Hinkson, who moved its adoption, and seconded by Trustee McAvoy: WHEREAS, Village employee and Teamsters Union member Steven Smith has retired effective July 16, 2015, with 11 years and 7 months of service, and WHEREAS, the most recent collective bargaining agreement between the Teamsters Union and the Village of Middleport allows for 75 percent of the health insurance premiums to be paid by the Village for retiring employees with more than 15 years of and 100 percent coverage be paid for by the Village for retiring employees with more than 20 years of service, and WHEREAS, Mr. Smith has requested permission to continue to avail of the Village's health insurance coverage by paying 100 percent of the premium for himself and his wife, and WHEREAS, the Village and the Teamsters Union do not object to this request, now THEREFORE, the Village of Middleport and the Teamsters Union do hereby enter into a memorandum of understanding allowing Steven Smith to purchase health insurance coverage for himself and his wife through the Village's policy or policies with 100 percent of the cost of said policy or policies being the sole responsibility of Steven Smith. Mayor Westcott is authorized to execute the memorandum of understanding. 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 adopted. Mr. Seaman returned to the issue of the Verizon antenna on the Village Hall. In order to go forward with this, there is action the Board must take. Verizon has completed part 1 of the SEQRA short form indicating there will be no environmental impact from this action. The Village must complete parts 2 and 3. The following resolution was offered by Trustee Hinkson, who moved its adoption, and seconded by Deputy Mayor Conley: WHEREAS a Short Environmental Assessment Form dated July 7, 2015, having been prepared and filed by Upstate Cellular Network d/b/a Verizon Wireless relative to a proposed cell tower installation on the roof of 24 Main Street, Middleport, New York, and this form having been reviewed and considered, NOW, THEREFORE, THIS BOARD FINDS AS FOLLOWS: The action is an Unlisted Action, pursuant to the State Environmental Quality Review Act (SEQRA). This Board finds that this action will not have a significant adverse effect on the environment and, accordingly, directs that a Negative Declaration, pursuant to SEQRA, be issued. The vote on the foregoing 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 thereupon declared duly adopted. The Short Environmental Assessment Form will be filed with the Village. The Village must enter into a lease agreement with Verizon. Mr. Seaman has reviewed the contract and offered some language changes. Verizon has agreed to the amendments. The contract is initially for 5 years, to extend for 4 additional 5-year terms, at an initial rate of \$6,000 per year. Mr. Seaman asked for the following changes: a separate meter for electricity Cost of Living Adjustment (COLA) after each 5-year term of 8 percent per term

Included insurance and indemnification terms in the agreement Trustee McAvoy asked for clarification on whose insurance covers damage to Verizon's equipment if it is caused by the Village (i.e., Village building has a fire). Mr. Seaman verified that the contract has a clause to waive cause of action for both parties. Our insurance covers our property; Verizon's insurance would cover theirs. A motion was made by Deputy Mayor Conley, and seconded by Trustee McAvoy, to approve the lease and to authorize Mayor Westcott to sign it pending attorney approval of final changes. Carried, with all present voting aye. Clerk Schweigert advised the Board that she had attended a seminar on June 29, 2015, regarding State grants that are available. She told the Board that there are several areas of funding that the Village should pursue in the future. She also advised that she sat in on a webinar on July 15 regarding \$50 million in water/sewer grant monies that have been released by the State. Applications must be submitted by early September. As we have Wendel filing a grant application for engineering plans for upgrades to the Wastewater Treatment Plant, she will contact them to see if we have enough information now to apply for a grant for the upgrades. Trustee Hinkson asked for an update on the remediation. Mayor Westcott advised the work on the school property is underway. The work on residences in K & M blocks need more testing, so remediation there is on hold at the present time. We are hopeful that the change in DEC commissioners does not impact the progress. Commissioner Martens is stepping down as head of the DEC at the end of this month. Trustee McAvoy asked for the status of the surplus vehicles that are to be sold. Mr. Bobbitt advised they should be gone by the end of the month. Chief Swick advised that the Niagara County Sheriff's Department new radio system is up and running, with all of the necessary equipment having been installed in our Police vehicles. Still an issue with indoor transmissions, though. Deputy Mayor Conley asked for an update on street repairs. Mr. Bobbitt advised what he has done to date. He suggested the Village consider renting a small paver so that we can do the work ourselves for the remainder of streets that need attention this year at a reasonable price. Discussed areas that still need attention. Board agrees that renting the paver is a good idea. The cost is \$500 per week, and Mr. Bobbitt feels we would only need to rent it for two weeks. Mayor Westcott brought up the issue of sidewalk repairs as he has gotten numerous complaints recently. The Village has a Code that allows us to enforce sidewalk repairs by doing the work ourselves and billing the homeowner. The Village's sidewalk repair reimbursement program does not get utilized as much as it should, more than likely due to the fact that property owners do not have extra money for sidewalk repairs. Mr. Bobbitt will do an inventory of sidewalks that are experiencing damage due to Village trees in the right of way and determine what can be done to relieve the problem. The next regularly scheduled meeting of the Board of Trustees will be held on Monday, August 17, 2015, at 7:00 p.m. at the Village Hall. There being no other business, a motion was made by Trustee McAvoy, and seconded by Trustee Hinkson, to adjourn. Carried, with all present voting aye. Meeting adjourned at 8:07 p.m. Respectfully submitted, Rebecca A. Schweigert Clerk-Treasurer