

A regularly scheduled meeting of the Board of Trustees was held on Monday, May 15, 2023, in the Village Hall. Mayor Dodge opened the meeting at 7 p.m. Also present were Deputy Mayor Conley, Trustee Blumrick, Trustee McAvoy, Coordinator Bobbitt, Police Chief Swick, Fire Chief Czaja, Clerk-Treasurer VanBuren, and Tom Seaman, attorney. Trustee Barr arrived later.

Trustee Blumrick led the Pledge of Allegiance.

Mayor Dodge opened the Public Hearing regarding the Local Law Authorizing Employment of Swim Director at 7:01 p.m.

## **Local Law No. 2 of the Year 2023**

### **Village of Middleport**

### **County of Niagara, State of New York**

#### **A Local Law Authorizing Employment of Swim Director**

Be it enacted by the Village Board of the Village of Middleport as follows:

#### **SECTION 1. THE VILLAGE BOARD OF THE VILLAGE OF MIDDLEPORT MAKES THE FOLLOWING FINDINGS:**

- a) The Village of Middleport conducts a swim program during summer months for children in the Royalton, Hartland, and Middleport area. Costs of the program are contributed to equally amongst the Village of Middleport, the Town of Royalton, and the Town of Hartland.
- b) The Village employs seasonal employees to conduct the program, which employment is limited to the program duration and preparations for the program.
- c) The individual who has been involved in the program as an employee for over twenty years has now become a Village Trustee, and is highly qualified to act as Director of the Village swim program.
- d) The Village Board desires to hire a member of the Board of Trustees for such position, although it is the appointing body.
- e) New York General Municipal Law Article 18 and other laws and opinions, including the Whitehall Doctrine (120 Misc. 124, Affid 206 App Division 786) prohibit a municipality from hiring a board member to a position in the same municipality, however, New York State Attorney General opinion (1987 N.Y. OP Atty General 109, Informal) provides that if there is a finding by the local legislative body that a local law is in the public interest, the governing body can adopt a local law overriding the Whitehall doctrine and the incompatibility, and is authorized to adopt local laws consistent with the constitution and general state law, relating to the powers, duties and qualifications of its employees pursuant to Municipal Home Rule Law Section 10(1)(ii)(a)1).
- f) This Board finds that adoption of this law is in the public interest because it allows for the hiring on a short-term basis of a highly qualified Board member to direct a swimming program for area youths, who benefit from the program, and the Board members abilities and expertise.

#### **SECTION 2.**

The Village Board is hereby authorized, to hire a qualified member of the Village Board as Swim Program Director based upon the above findings and the Village Board shall, at its discretion, hire the qualified member of the Village Board as Director of the Village of Middleport Swim Program.

#### **SECTION 3. AUTHORITY.**

This Local Law is adopted pursuant to Municipal Home Rule Section 10(1)(ii)(a)1 and 1987 N.Y. Op Atty Gen. (Inf), 109 (N.Y.A.G.) 1987.

**SECTION 4. EFFECTIVE DATE.**

This Local Law shall take effect immediately upon the filing with the Secretary of State.

Mayor Dodge closed the Public Hearing at 7:02 p.m.

A motion was made by Trustee McAvoy, and seconded by Deputy Mayor Conley to adopt Local Law No. 2-2023 Authorizing Employment of Swim Director and duly put to a roll call vote.

AYES: Daniel A. Dodge  
Wayne B. Blumrick  
Thomas C. Conley  
Dennis J. McAvoy

NOES: NONE

ABSENT: Dorothy J. Barr

The resolution was declared adopted

A motion was made by Trustee Blumrick, and seconded by Trustee McAvoy, to approve the minutes of the April 11, 2023, and April 17, 2023, meetings. Carried, with all present voting aye.

A motion was made by Deputy Mayor Conley, and seconded by Trustee McAvoy, to authorize two budget transfers in the sewer fund. The first budget transfer is from G8110.2 to G8110.4 for \$125.00 and the second budget transfer is from G8120.1 to G8130.11 for \$500.00 for a Total budget transfer amount of \$625.00. Carried, with all present voting aye.

A motion was made by Trustee Blumrick, and seconded by Deputy Mayor Conley, to authorize the following budget transfers in the General Fund:

TO	FROM	AMOUNT
A3120.13	A1620.4	\$1,800.00
A3120.15	A1620.4	2,000.00
A3620.4	A1325.4	5.00
A7510.4	A7550.4	100.00
A8160.4	A7110.4	450.00
A9030.8	A1325.1	150.00
<b>TOTAL</b>		<b>\$4,505.00</b>
<b>Carried, with all present voting aye.</b>		

A motion was made by Trustee McAvoy, and seconded by Deputy Mayor Conley, to approve payment of claims submitted on Abstract No. 12-22/23 in the amount of General: \$185,168.07; Water: \$269.99; Sewer: \$23,543.13; for a Total of: \$208,981.19. This figure also includes Payrolls No. 24 and 25 and the Town of Royalton 2023 fire contract with the Middleport Fire Department. Carried, with all present voting aye.

A motion was made by Trustee McAvoy, and seconded by Trustee Blumrick, to approve Payrolls No. 24 and 25 for weeks ending April 22, 2023, and May 6, 2023, respectively. Carried, with all present voting aye.

The Treasurer's report and the General Fund Cash Flow Forecast was submitted and accepted for April 2023.

The Public Works report was submitted and accepted for April 2023.

The Village and Town Police reports were submitted and accepted for April 2023.

Trustee Barr entered the meeting at 7:07 p.m.

The fire report was submitted and accepted for April 2023.

There is no refuse/recycle collection on Wednesday, May 31, 2023, due to the Memorial Day holiday. Regular pickup will be on Thursday, June 1, 2023.

Water and Sewer Billing for the quarter billed on May 1, 2023:

Water:	\$ 56,607.01
Meter Rental:	2,229.50
Sewer:	57,678.75
<u>Sewer Debt Service Charge:</u>	<u>8,162.50</u>
<b>Total:</b>	<b>\$124,677.76</b>

This cycle billing is for 8,548,000 gallons.

A motion was made by Deputy Mayor Conley, and seconded by Trustee Blumrick, to authorize the increase to the Village's Health Insurance Health Reimbursement Account (HRA) from \$2,350 to \$2,600 for a single plan and from \$4,700 to \$5,200 for a family or multiple-person plan effective June 1, 2023. Carried, with all present aye.

The amount of unpaid water/sewer bills as of April 25, 2023, added to the 2023-2024 tax roll is \$34,423.06. A motion was made by Deputy Mayor Conley, and seconded by Trustee McAvoy, to authorize Niagara County Real Property Department to relevy all accounts onto the 2023-2024 Village tax bills. Carried, with all present voting aye.

A motion was made by Trustee McAvoy, and seconded by Trustee Blumrick, to approve 59 ½ hours of vacation carryover for Clerk VanBuren, 40 hours of vacation carryover for Chief Swick, 40 hours of vacation carryover for Officer Mandaville, 40 hours of vacation carryover for Officer Wolcott, and 53 hours of vacation carryover for Coordinator Bobbitt. Carried, with all present voting aye.

The tax warrant to be signed by Mayor Dodge is in the amount of \$715,116.17 (tax levy of \$678,743.11 plus unpaid water and sewer of \$34,423.06 plus miscellaneous charges of \$1,950).

## **Correspondence**

A letter from Cal and Rebecca Rhoney was read thanking the DPW for their efforts with assisting them with chipping a tree that had fallen across the towpath.

A card was read from Sally and Jim Wilson thanking the DPW for keeping the streets plowed and salted during the winter months.

A thank you note was read from Clute-Phillips #938 American Legion Auxiliary thanking the Village staff for their support of the annual Walk-a-thon and providing the barricades for blocking off the street.

An email from FMC was shared informing the Board of the upcoming remedial activities in the Village.

Trustee Barr updated everyone about the activities planned for Memorial Day and the Duck Derby. There will also be three food trucks this year.

## **Old Business**

The Board reviewed NYMIR's 2023-2024 Insurance Proposal.

## **New Business**

The Board discussed the Fusion MGA cyber liability insurance proposal that was emailed to them prior to the meeting. Discussion ensued, and ultimately the Village will be getting better coverage in 2023-2024 with Fusion than they had the previous year with NYMIR. The Village would also be paying a higher premium for less coverage with NYMIR.

The Board was emailed a copy of the engagement letter from Tronconi Segarra & Associates for filing the Village's 2022-2023 Annual Financial Report.

Chief Swick requested that the Board authorize the purchase of two AED units. One for the Police Department and one for the Village Hall. He presented them with two quotes.

There was a brief discussion about the Summer Swim Program. The schedule for this year will be one five-week session. The swim sign-up is tentatively scheduled for Saturday, June 10, 2023, from 9 a.m. to 11:30 a.m.

Clerk VanBuren told the Board that representatives from Ampion stopped by the Village Hall offering a savings to the Village by receiving a percentage of electricity from one of the solar farms in the area. The Board is not interested at this time.

Clerk VanBuren will complete a Per33c application for the 25<sup>th</sup> Annual Super Cruise on Main Street. This year's cruise will be held on Sunday, September 10, 2023. The Middleport Beautification Committee will also be holding a basket raffle.

A motion was made by Deputy Mayor Conley, and seconded by Trustee McAvoy, to authorize Mayor Dodge to enter into an agreement with Fusion MGA for the Village's 2023-2024 Cyber Liability Coverage as described in the proposal dated 5/12/2023. Carried, with all present voting aye.

A motion was made by Trustee Blumrick, and seconded by Trustee Barr, to authorize Mayor Dodge to formally enter into an agreement with Tronconi Segarra & Associates to file the Village's Annual Financial Report for the Fiscal Year 2022-2023. Carried, with all present voting aye.

A motion was made by Trustee McAvoy, and seconded by Trustee Blumrick, to authorize Chief Swick to purchase one new AED unit for the police department and one new AED unit with case for the Village Hall from Martin Medical at a cost of \$1,629 for each unit. Carried, with all present voting aye.

A motion was made by Trustee Blumrick, and seconded by Deputy Mayor Conley, to enter into executive session for the purpose of consultation with the Village attorney and to discuss the Collective Bargaining Agreement.

Executive Session opened at 8:07 p.m.

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

General Session reconvened at 9:11 p.m.

A motion was made by Deputy Mayor Conley, and seconded by Trustee Blumrick, to enter into a Collective Bargaining Agreement between the Village of Middleport and Teamsters 264, for the term of four years (June 1, 2023 through May 31, 2027). The terms were outlined and presented by the Village Attorney, conditioned on final contract to be approved by the Village Attorney which shall have substantially the same terms as presented in the redlined version, further conditioned on ratification by Teamsters 264, and to authorize the Mayor to execute the same. Carried, with all present voting aye.

A motion was made by Trustee McAvoy, and seconded by Trustee Blumrick, to amend the procurement policy to reflect that purchases or public works expenditures less than \$2,500 are left to the discretion of the purchaser, and less than \$5,000 and greater than \$2,500 require a verbal or written quote from two entities, as reflected in the amended procurement policy attached hereto. Carried, with all present voting aye.

## **VILLAGE OF MIDDLEPORT PROCUREMENT POLICY**

**WHEREAS**, Section 104-b of the General Municipal Law requires every village to adopt internal policies and procedures governing all procurement of goods and services not required to be procured by competitive bidding, and

**WHEREAS**, comments have been solicited from those officers of the village involved with procurement; NOW, THEREFORE, BE IT

**RESOLVED** that the Village of Middleport does hereby adopt the following procurement policies and procedures:

Guideline 1. Every prospective purchase of goods or services shall be evaluated to determine the applicability of General Municipal Law Section 103. The Purchaser shall estimate the cumulative amount of the items of supply of equipment needed in a given fiscal year. That estimate shall take into consideration requirements of other village departments and past history to determine the likely yearly value of the commodity to be acquired.

Guideline 2. All purchases of a) supplies or equipment which will exceed \$20,000.00 in the fiscal year or b) public works contracts over \$35,000.00 shall be formally bid pursuant to General Municipal Law Section 103.

Guideline 3. All estimated purchases of:

1. Less than \$20,000.00 but greater than \$5,000.00 require a verbal or written request for a proposal and written or fax quotes from three vendors.

2. Less than \$5,000.00 but greater than \$2,500.00 require a verbal request for the goods and verbal or fax quotes from two vendors.

3. Less than \$2,500.00 are left to the discretion of the Purchaser.

All estimated public works contracts of:

1. Less than \$35,000.00 but greater than \$5,000.00 require a verbal or written request for proposal and written or fax proposals from three contractors.

2. Less than \$5,000.00 but greater than \$2,500.00 require a verbal or written request for proposal and verbal or fax proposals from two contractors.

3. Less than \$2,500.00 are left to the discretion of the Purchasers

Guideline 4. Purchase or public works contracts in excess of \$2,500.00 shall be approved by the Village Board of Trustees. The Purchaser to accept a proposal in accordance with these guidelines prior to receipt of approval, but subject to approvals. If no separate action by the Village Board of Trustees has been taken, the approval of vouchered billings by the Village Board of Trustees shall constitute approval.

Guideline 5. The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the Purchaser prepares a written justification providing reasons why it is in the best interest of the village and its taxpayers to make an award to other than the low proposal.

Guideline 6. A good faith effort shall be made to obtain the required number of proposals or quotations. If the Purchaser is unable to obtain the required number of proposals or quotations, the Purchaser shall document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement.

Guideline 7. Except when directed by the Village Board of Trustees and subject to competitive bidding requirements, no solicitation of written proposals or quotations shall be required under the following circumstances:

- a. Acquisition of professional services;
- b. Emergencies;
- c. Sole source situations;
- d. Goods purchased from agencies for the blind or severely handicapped;
- e. Goods purchased from correctional facilities;
- f. Goods purchased from another governmental agency;
- g. Goods purchased at auction;
- h. Goods purchased for less than \$2,500.00
- i. Public works contracts for less than \$2,500.00

Guideline 8. This policy shall be reviewed annually by the Village Board of Trustees at its organizational meeting or as soon thereafter as is reasonably practicable.

Guideline 9. Except where exempted by Guideline 6, a Procurement Policy Form shall be completed by the Purchaser and placed in the file relating to the purchase. All additional information gathered in complying with the procedures of this Guideline shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.

Guideline 10. It is the determination of this board that for purchases less than \$2,500.00, the requirement of solicitation of alternative proposals and the paperwork necessary to document them are time consuming and counterproductive to the best interest of the village. The small number of individuals with purchasing authority and their overall knowledge of available products and services in their respective areas are given weight by this board in arriving at this finding. Purchasers shall, nevertheless, utilize good business judgment in obtaining products and services at the best overall value to the Village of

Middleport.

The next regularly scheduled meeting of the Board of Trustees will be held on ***Wednesday, June 21, 2023***, at 7 p.m.

There being no other business, a motion was made by Trustee Barr, and seconded by Deputy Mayor Conley, to adjourn. Carried, with all present voting aye.

Meeting adjourned at 9:15 p.m.

*Respectfully Submitted,*

*Lisa M. VanBuren*

*Clerk-Treasurer*