

A regularly scheduled meeting of the Board of Trustees was held on Wednesday, September 13, 2023, in the Village Hall. Mayor Dodge opened the meeting at 7:00 p.m. Also present were Deputy Mayor Conley, Trustee McAvoy, Trustee Barr, Coordinator Bobbitt, Police Chief Swick, Fire Chief Czaja, Clerk-Treasurer VanBuren, and Tom Seaman, attorney. Trustee Blumrick was absent.

Trustee McAvoy led the Pledge of Allegiance.

Mayor Dodge asked Attorney Seaman to read the following resolution:

**Resolution of the Board of Trustees of the Village of Middleport, in the County of Niagara, State of New York, Calling a Special Election on November 14, 2023, Directing Publication of Notices of Election, and Determining Other Matters in Connection Therewith.**

Resolved by the Village Board of Trustees of the Village of Middleport, by favorable vote of not less than 60% (3/5) of the members of the Middleport Board of Trustees, acting as the Fire Commissioners of the Village of Middleport Volunteer Fire Department, as follows:

Whereas, a length of service award program (LOSAP) is authorized by Article 11 – a of the General Municipal Law; and

Whereas, the purpose of said legislation is to encourage volunteer firemen to remain active within their respective fire companies and further to promote interest in the volunteer service and to encourage new members to join and remain active as volunteer fire members; and

Whereas, the Village of Middleport Volunteer Fire Department has been incorporated as the Middleport Volunteer Fire Company No. 1, Inc., an incorporated volunteer fire company with its principal office in the Village of Middleport, New York, for the purposes of, among other things, to enable the Middleport Volunteer Fire Department/Middleport Volunteer Fire Company No. 1, Inc. to contract with municipalities, including the Village of Middleport and municipalities outside of the Village of Middleport, for the provision of fire protection services, and

Whereas, it is in the interest of the residents of the Village of Middleport to provide a LOSAP for the Village of Middleport Fire Department/Middleport Volunteer Fire Company No. 1, Inc.; and

Whereas, the Middleport Fire Department/Middleport Volunteer Fire Company No. 1, Inc. has contracts to provide fire protection services to the Village of Middleport, the Town of Royalton and the Town of Hartland; and

Whereas, Middleport Fire Department/Middleport Volunteer Fire Company No. 1, Inc. is entered into mutual aid agreements by and amongst various other Fire Companies and Fire Departments in the region, including but not limited to those Companies and Departments servicing the Town of Royalton Fire Protection District and the Gasport Fire District, and

Whereas it is the desire and intention of the Village of Middleport to seek intermunicipal cooperation agreements, to provide for the shared funding and administration of the various LOSAPs, with similarly situated municipalities in the region, where fire protection services are routinely covered through mutual aid agreements, such other municipalities to include, but potentially not be limited to, the Town of Royalton Fire Protection District and the Gasport Fire District, which are each seeking to each establish a LOSAP for the volunteer fire companies located within each municipality.

Now, Therefore, be it Resolved as follows:

- Section 1. Board of Trustees of the Village of Middleport, acting as Commissioners of the Village of Middleport Volunteer Fire Department, does hereby approve the adoption of a length of service award program (LOSAP) as provided in Section 216 of the General Municipal Law, and shall conduct a mandatory referendum to determine whether the Village of Middleport shall establish and provide a defined benefit program for Active Volunteer Firefighters as provided in Section 215 and 219 of the General Municipal Law.
- Section 2. The name of each fire company having volunteer firefighters who are potential participants in the Village of Middleport LOSAP program is as follows: Middleport Volunteer Fire Company No. 1, Inc. also known as the Middleport Volunteer Fire Department
- Section 3. Board of Trustees of the Village of Middleport, acting as Commissioners of the Village of Middleport Volunteer Fire Department, shall administer the program as set forth in the Official Plan Document and be responsible for exercising the powers and duties conferred upon it. The Village of Middleport shall initially administer the program with the understanding that the Village of Middleport shall engage the services of qualified professionals to provide administrative and actuarial services including accounting, legal, and financial advisement services to assist it in administering the LOSAP
- Section 4. The entitlement age under the LOSAP shall be 65. No payments shall be made to a participant without first reaching age 65, except in cases of death or disability for an Active Volunteer Firefighter.
- Section 5. The estimated annual cost of LOSAP, based on the current existing number of firefighters, is as follows: Total Annual Cost of \$70,190.00, which includes an Annual Administrative Fee of \$3,522. Such estimated annual cost would result in an approximate Village of Middleport property tax increase of \$1.27 per thousand dollars of assessed property value, (an approximate property tax increase of 10% per SBL Number).
- Section 6. To obtain a nonforfeitable and vested right to a service award, each participant must first obtain five years of Firefighting Service. The age to begin to participate in LOSAP shall be 18 years of age.
- Section 7. A year of "Firefighting Service" shall be credited in accordance with the "LOSAP Point System", a copy of which is attached hereto as Exhibit A, (or such adjusted point system duly adopted hereafter) for each calendar year after establishment of the program in which an active volunteer firefighter accumulates at least 50 points.
- Section 8. A participant who joins or rejoins after the age of 65, and who earns at least one year of Firefighting Service, is entitled to collect a service award for that year and for every subsequent year of Firefighting Service. A participant who does not have five years of Firefighting Service at the age of 65, but remains active after 65 and earns at least one year of Firefighting Service, is entitled to collect a service reward based on every year of Firefighting Service.

- Section 9. The amount of the contribution to the program to be made on behalf of each participant credited with a year of Firefighting Service shall be \$2,420.35.
- Section 10. The extent to which the program provides credit for years of Firefighting Service rendered during one or more of the five calendar years immediately preceding the establishment of the program is one year of credit for each year that Firefighting Services were rendered.
- Section 11. The timing and method of financing the contributions for fire service rendered by a participant during one or more of the five calendar years immediately preceding the adoption of the program shall be as follows: taxes shall be imposed and levied in the Village of Middleport for Budget Year 2024 and thereafter sufficient to pay the costs set forth in paragraphs 5 and 9.
- Section 12. The Defined Benefit award to be paid to eligible volunteer firefighters is projected to be \$20 per month for each qualified year of active Firefighting Service, not to exceed 20 years, with payment in any month not to exceed \$400, payment to commence when (1) the eligible volunteer firefighter reaches the stipulated entitlement age of 65 and has five years of qualified active Firefighting Service or (2) the eligible volunteer firefighter reaches the stipulated entitlement age of 65 and thereafter completes one year of active Firefighting Service. After payments commence, the amount of payment will increase by \$20 per month for each additional year of active Firefighting Service, subject to the \$400 cap.
- Payment of the award shall be in the form of life annuity with 120 payments guaranteed. Any such payment shall be actuarially equivalent to any other method of payment, which may be permitted under the law.
- Regular Defined Benefit award payments are authorized to commence one year after the date of the establishment of the LOSAP. Death and disability payments are authorized to commence upon the date of establishment of the LOSAP. Death and disability payments would be one-time lump sums actuarially equivalent to the 120 months as set forth in the official Plan Document.
- Section 13. LOSAP shall take effect the first day of January next succeeding the date of the last voter approval required to establish the program.
- Section 14. All other provisions of the plan shall be in accordance with Article 11 – A of the General Municipal Law as amended from time to time. Amendments to the plan shall be made pursuant to the General Municipal Law.
- Section 15. The proposition authorizing the adoption of the program shall be submitted to referendum at a special election of the qualified voters of the Village of Middleport on November 14, 2023.
- Section 16. A Special Election of the qualified voters of the Village of Middleport, County of Niagara, and State of New York, shall be held at the Village of Middleport Offices, located at 24 Main Street, Middleport, NY, 14105 on November 14, 2023, at noon (prevailing time) and the poll shall remain open until 9:00 o'clock, or as much longer as may be

necessary to enable the voters then present to cast their votes. The cost of conducting the referendum shall be a charge to the Village of Middleport.

The vote upon the Proposition to be submitted to the qualified voters shall be by paper ballot or absentee ballot, and the Village Clerk is hereby authorized and directed to have the necessary ballots prepared for use. Absentee ballots will be available upon request of the Village Clerk no later than November 13, 2023. The Absentee Ballot must be received by the Village Clerk no later than 9:00 pm on November 14, 2023.

- Section 17. Notice of the referendum/Special Election shall be published at least once, not less than 14 days prior to the date of the referendum in the Union & Journal.
- Section 18. The Village Clerk shall also cause said Notice to be posted in five conspicuous public places in the Town at least 34 days prior to the Special Election and by causing said Notice to be posted on the Village website at least 10 days prior to the Special Election.
- Section 19. The Village Clerk shall take all other steps necessary to carry out the intent and purpose of this resolution.
- Section 20. The following resident Village of Middleport electors, each of whom is a registered voter of the Village of Middleport, are hereby appointed to act as Election Inspectors and Ballot Clerks at the Special Election (either two or four): Rebecca Schweigert and Kathy Kindle, or such other qualified Election Inspector and Ballot Clerks as is hereby appointed at a later date by the Village Board of Trustees.
- Section 21. The Chairman and Inspectors of Election shall each be paid at the rate of \$15 per hour for the time necessary to prepare the register and the additional sum of \$15 per hour each for conducting the Special Election.
- Section 22. The Inspectors of Election shall meet at Village of Middleport Offices, located at 24 Main Street, Middleport, NY, 14105 on November 14, 2023, from 11:00 o'clock am until 12:00 o'clock pm to commence preparation of the register for the Special Election.
- Section 23. Preparing such register, the Inspectors of Election shall comply with the following procedure:
- (a) They shall adopt, use or copy from, the registration was certified and supplied by the County Board of Elections the names appearing thereon of all persons residing in the Village of Middleport and qualified to vote in such forth coming election.
  - (b) The register for the Village of Middleport shall include at a minimum a space for the name of the voter, his address within the District, and a space for his signature to be signed by the voter on election day, and the space in which there shall be entered the qualifications for voters.
- Section 24. The Village Clerk shall furnish the Inspectors of Election, at Village of Middleport, with all necessary registration books, papers, equipment, and supplies.

Section 25. Said Notice of Preparation of Registration Role shall be in substantially the following form:

NOTICE OF PREPARATION OF REGISTRATION ROLLS  
FOR SPECIAL ELECTION OF THE VILLAGE OF  
MIDDLEPORT

Resolved that the Inspectors of Election of the Village of Middleport shall meet on the 14<sup>th</sup> Day of November, 2023, between the hours of 11:00 o'clock am and 12:00 o'clock PM at the Village of Middleport Offices, located at 24 Main Street, Middleport, NY, 14105, for the purpose of preparing the roles of registered voters of the Village of Middleport.

A Special Election of the Village of Middleport will be held on the 14<sup>th</sup> of November, 2023, between the hours of noon and 9:00 o'clock PM at Village of Middleport Offices, located at 24 Main Street, Middleport, NY, 14105.

Be it further resolved that only those persons who registered with the County Board of Elections on or before the 27 day of October, 2023, shall be eligible to vote.

Village Clerk, Lisa VanBuren

Section 26. Said Notice of Special Election shall be in substantially the following form:

Special Election of the Village of Middleport

November 14, 2023

Notice is hereby given pursuant to the Village Law of the State of New York, that a Special Election of the Village of Middleport will take place on the 14<sup>th</sup> of November, 2023, between the hours of noon and 9:00 o'clock PM at the Village of Middleport Offices, located at 24 Main Street, Middleport, NY, 14105, for the purpose of voting upon the following Proposition. All residents of the Village of Middleport who were duly registered to vote with the County Board of Elections on or before October 27, 2023, shall be entitled to vote at the election.

PROPOSITION

Shall the Resolution of the Board of Trustees of the Village of Middleport, in the County of Niagara, New York, adopted September 13, 2023, the substance of which is as follows, be approved:

Board Resolution of the Village of Middleport Board of Trustees, in the County of Niagara, New York adopted September 13, 2023, authorizing the establishment of a defined benefit service award program (LOSAP) under General Municipal Law section 219 in the Village of Middleport for the volunteer firefighters of the Middleport Volunteer Fire Company No. 1, Inc. (a.k.a. Middleport Volunteer Fire Department), stating that the LOSAP shall be administered by the Village of Middleport; stating the estimated annual cost will be \$70,190.00 based on the existing number of firefighters; stating the estimated annual administrative fee will be \$3,522.00; stating the estimated annual cost per covered firefighter will be \$2,420.35; stating that the expected estimated cost of the LOSAP program will result in an expected Village of Middleport property tax increase of \$1.27 per thousand dollars of assessed property value, (an approximate tax increase of 10% per parcel/ SBL Number); stating that each eligible participant may receive credit for up to five (5) qualified years of active Firefighting Service prior to the establishment of the LOSAP; stating that payment of the benefit shall be in the

form of a life annuity with 120 payments guaranteed; stating death and disability payments to be authorized to commence upon the date of establishment of the LOSAP, and regular defined award payments to be authorized to commence one year thereafter, stating that the projected monthly award to be paid to eligible volunteer firefighters shall be \$20 per month for each qualified year of active Firefighting Service, not to exceed 20 years, with payment in any month not to exceed \$400, payment to commence when (1) the eligible volunteer firefighter reaches the stipulated entitlement age of 65 and has five years of qualified active Firefighting Service or (2) the eligible volunteer firefighter reaches the stipulated entitlement age of 65 and thereafter completes one year of active Firefighting Service, after payments commence, the amount of payment will increase by \$20 per month for each additional year of active Firefighting Service, subject to the \$400 monthly cap,

Shall such Resolution be approved?

At this time Mayor Dodge read a statement he had prepared about the financial situation the public is dealing with, and questioning how a potential 10% tax increase imposed next year would affect all of the Village taxpayers.

A motion was made by Mayor Dodge to approve the preceding resolution authorizing the referendum of a special election to be held on Tuesday, November 14, 2023, for the establishment of a Length of Service Award Program (LOSAP) for the Middleport Volunteer Fire Department.

The adoption of the foregoing resolution was seconded by Deputy Mayor Conley, and duly put to a vote on roll call.

AYES: Thomas C. Conley  
Dorothy J. Barr

NOES: Daniel A. Dodge

ABSENT: Wayne B. Blumrick

ABSTAINED: Dennis J. McAvoy

Trustee McAvoy recused himself from the vote as he is a member of the Middleport Volunteer Fire Department.

The resolution was declared not adopted.

A motion was made by Trustee Barr, and seconded by Deputy Mayor Conley, to approve the minutes of the August 21, 2023, meeting. Carried, with all present voting aye.

A motion was made by Deputy Mayor Conley, and seconded by Trustee Barr to authorize the M & T Bank principal payment for the WWTP Phase 1 capital project due on October 22, 2023, in the amount of \$63,736.00. Carried, with all present voting aye.

A motion was made by Trustee McAvoy, and seconded by Deputy Mayor Conley, to authorize the National Grid pending invoice for the Net Book Value of the Village's 199 streetlights prior to the LED conversion in the amount of \$2,258.86.

National Grid needs to receive this payment prior to the design group confirming the Village's selections in the field. This is contingent up attorney review. 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 General Fund on Abstract No. 4-23/24. The first budget transfer is from A1990.4 to A1440.4 in the amount of \$205.00. The second budge transfer is from A1990.4 to A5110.2 for \$1,995.00 for a total budget transfer amount in the General Fund of \$2,200.00. Carried, with all present voting aye.

A motion was made by Deputy Mayor Conley, and seconded by Trustee Barr, to approve payment of claims submitted on Abstract No. 4-23/24 in the amount of General: \$88,389.94; Water: \$993.17; and Sewer: \$73,331.02; for a Total of: \$162,714.13. This figure also includes Payrolls No. 7 and 8. Carried, with all present voting aye.

A motion was made by Trustee McAvoy, and seconded by Deputy Mayor Conley, to approve Payrolls No. 7 and 8 for weeks ending August 26, 2023, and September 9, 2023, respectively. Carried, with all present voting aye.

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

The Public Works report was submitted and accepted for August 2023. Coordinator Bobbitt asked the Board to approve the purchase of a grader for the skid steer. Below are the two quotes he received:

1	Niagara Frontier Equipment Sales	Verbal Quote	Skid Steer Grader Attachment	\$ 3,995.00
2	Spartan Equipment	Amazon	Skid Steer Grader Attachment	\$ 15,500.00

A motion was made by Deputy Mayor Conley, and seconded by Trustee McAvoy, to authorize Coordinator Bobbitt to purchase the grader for the skid steer as presented in the procurement compliance form. He will purchase the grader from Niagara Frontier Equipment Sales as the lowest bid received at a purchase price of \$3,995.00. Carried, with all present voting aye.

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

The fire report was submitted and accepted for August 2023.

The Summer Swim Program report was submitted and accepted for 2023 with Trustee Barr reading some of the highlights of the program.

A motion was made by Deputy Mayor Conley, and seconded by Trustee Barr, to set the hours for Halloween trick-or-treating from 5:00 pm to 7:00 pm on Tuesday, October 31, 2023. Carried, with all present voting aye.

**Correspondence**

A thank you note from a boater, Walter Chattin and his wife from New Jersey, was read. He expressed his gratitude for the use of the facilities while docked in the Village and enclosed a donation.

An email from Tim Fink, Property Coordinator, with Sage Management Corporation was shared with the Board. He requested that the Board consider updating their animal code, and he provided a couple of codes from other municipalities in Niagara County to review.

Clerk VanBuren updated the Board about the status of the LED streetlight conversion. The Program Manager was unaware that the Consumer Representative assigned to the Village had gone out on medical leave so he has reassigned the project to another representative. She should be reaching out soon, and he feels the project should still be completed this year.

### **Old Business**

Clerk VanBuren reminded the Board and Department Heads that the annual Sexual Harassment training and Violence in the Workplace Training needs to be completed before the end of the year.

The Town of Hartland Police Contract expires at the end of the year so negotiations need to start soon.

### **New Business**

It was discussed if the pretreatment Enforcement Response Plan should be added to the Village's code. Attorney Seaman is going to look into it.

Chief Swick asked the Board if he could hire an additional part-time police officer.

Clerk VanBuren told the Board of the projected increase in the New York State and Local Retirement System (NYSLRS) for both the Employees retirement and Police retirement in the 2024-2025 fiscal year. It is currently projected to be about \$30,000 more than the current fiscal year.

A motion was made by Deputy Mayor Conley, and seconded by Trustee McAvoy, to approve the hiring of David-John Ceccato as a part-time police officer at an hourly rate of \$21 per hour with a start date effective Sunday, September 24, 2023. Carried, with all present voting aye.

A motion was made by Deputy Mayor Conley, and seconded by Trustee Barr, to enter into executive session for the purpose of consultation with the Village attorney and to discuss ongoing contract negotiations. Carried, with all present voting aye.

Executive Session opened at 8:01 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 8:30 p.m.

The next regularly scheduled meeting of the Board of Trustees will be held on Monday, October 16, 2023, at 7:00 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 8:30 p.m.

*Respectfully Submitted,*

*Lisa M. VanBuren*  
*Clerk-Treasurer*