

MINUTES
REGULAR MEETING OF THE BOARD OF TRUSTEES
VILLAGE OF MONTICELLO, N.Y.
MONDAY, DECEMBER 5, 2005

MEETING TO ORDER

Mayor Barnicle called the meeting to order at 7:00 p.m.

PLEDGE TO THE FLAG

Roll Call

Upon call of the roll, the following were present:

James Barnicle, Mayor
Gordon Jenkins, Trustee
Victor, Marinello, Jr. Trustee
Scott Schoonmaker, Trustee
Brian VanDermark, Trustee

Also Present: Richard Sush, Village Manager
E. Danielle Jose, Village Attorney
Tim Havas, Deputy Village Attorney
Sue Flora, Code Enforcement Officer
Clarence Decker, Water Superintendent
Douglas Solomon, Chief of Police

**APPROVAL OF MINUTES OF REGULAR BOARD MEETING OF NOVEMBER
21, 2005**

A motion was made by Trustee Schoonmaker, seconded by Trustee Marinello, unanimously approved on a roll call vote to adopt the minutes of the Village Board regular meeting of November 21, 2005 as presented.

TREE LIGHTING CEREMONY

Miss Young Sullivan County lit the Christmas tree.

OLD BUSINESS

New Business On Broadway

Mayor Barnicle announced that a Health Store has opened on Broadway in the former J & A Graphics store.

Minutes - Regular Village Board Meeting
12/05/05

Basketball League and Clinic

Mayor Barnicle announced that once again the Monticello PBA will sponsor a basketball league for boys in 5th & 6th grades beginning January 9th on Monday evening at 6 p.m. and there will also be a clinic for the youth at the Rutherford School on Saturdays from 11:30 a.m. to 1 p.m. starting January 7th thru March 11th.

PBA Officers

Mayor Barnicle announced that there is a new slate of officers in the PBA as follows:

Det. Thomas O'Connor	-	President
P.O. David Weiner	-	Vice President
Sgt. Daniel Oldfield	-	Treasurer
P.O. Brian Monroe	-	Secretary

St. Regis Mohawk Tribe Update

Mayor Barnicle read a portion of a letter just received by fax from the St. Regis Mohawk Tribe informing the Village that the Council has resolved their differences and that all three Chiefs, as well as Sub-Chiefs are in agreement and reaffirm their recent decision to move forward with only the Monticello Raceway project. They believe the Raceway site with an existing gaming facility, provides the best and realistic opportunity for the St. Regis Mohawk Tribe to finally build a Class III casino in the Catskills. The letter also states that they have met with representatives of both the Interior Department and Justice to discuss what they believe is the only remaining issue, namely whether a full blown environmental impact will be required. It is the Tribe's position that the environmental reviews conducted on site and supplemented by updated information are sufficient. Lastly, they remain confident that upon receipt of the Governor's concurrence, the fee to trust process under the land acquisitions regulations codified in 25 CFR Part 151 will largely be

Minutes - Regular Village Board Meeting
12/05/05

ministerial because a substantive "151" analysis and review has already been completed by the Eastern Region of the Bureau of Indian Affairs. Thus, at this time and for the foregoing reasons, we respectfully request your support and approval.

MANAGER'S REPORT

The Manager announced that he will be on vacation next week beginning on Saturday.

PUBLIC HEARING WITH RESPECT TO WHETHER THE VILLAGE OF MONTICELLO WISHES TO CONDEMN THE PROPERTY LOCATED ON FISK AVENUE AND MORE PARTICULARLY DESCRIBED AS VILLAGE OF MONTICELLO TAX MAP NO. SBL 113.-1-2, OWNED BY UPSTATE EQUITIES, LLP

Mayor Barnicle opened the public hearing at 7:09 p.m.

The Village Attorney read the following memo from Village Engineer Glenn Smith:

PROJECT: Village of Monticello,
Fraser Pond to Fisk Avenue Drainage Pipe
Replacement

The above-noted project consists of the replacement of approximately 350' of old, collapsed and failed 24" dia. HDPE drainage pipe. The existing piping is over 45 years old and was seriously damaged during the heavy rains and flooding that occurred in April 2005.

The new piping will be installed under Fraser Avenue and through the parcels of Wohl (SBL #113-1-1) and "Upstate Equities LLC" (SBL #113-1-2) before connecting to a catch basin on the westerly shoulder of Fisk Avenue. The existing pipe that continues under Fisk Avenue and through the downstream parcel of Wand will remain in place since it is of more recent installation in plus or minus 1980 and in satisfactory condition.

Minutes - Regular Village Board Meeting
12/05/05

There are no possible "alternative" routes for the new drainage piping since the current "straight line" route between Fraser Avenue and Fisk Avenue is the shortest distance. There is only 2'-3" of pitch in the 350' length of piping, which is equivalent to a grade of approximately 1/16th inch/ft. This pitch is well below recommended standards for drainage piping but will be sufficient if the lines are maintained periodically and flushed. To run new piping through these parcels along any other route would lengthen the pipe and cause the pipe slope and therefore the flow velocity to be reduced even further. This would contribute to more frequent clogging and maintenance requirements by the Village forces.

Therefore, replacing the drainage piping along its existing route is the more feasible and practical option to insure improved drainage in this area of the Village.

The Village Attorney explained that originally the Village Engineer thought the repair could be accomplish by a "V" shaped piping, however in reviewing the plan the Engineer found that with that design the correct pitch could not be achieved. She further explained that last week she met with the Village Manager and the property owner's attorney Perry Meltzer to review this proposal. She hoped to meet with an agreement with the property owner or the Village will have to condemn in order to have this public purpose project undertaken.

The Mayor explained that this is a preexisting condition where the pipe does dissect the property.

The Village Attorney indicated that the pipe goes through the bottom third of the property which will not interfere with any improvements such as a dwelling that might be built in the future since the lot size is 150' x 150'.

Property owner Michael Weiss explained that it was his intention to subdivide the property to make two lots 75' x 150' each and put a house on each lot, and therefore this pipe would interfere with that plan.

Sue Flora Code Enforcement Officer explained that this property is in a R-2 Zone (Single Family Residential) and only one single family house can be built on that lot since

Minutes - Regular Village Board Meeting
12/05/05

the required lot size is a minimum of 100' x 100'. She also felt that since the property owner could not show hardship, they would not be granted an area variance since they recently bought this property as one lot.

The Village Attorney explained that once the two lots were combined to one lot and they purchased it as one lot, that extinguishes that right to divide it again when the zoning has changed to 100' x 100' lots. She felt that the owner cannot show a hardship since they bought it as one lot.

Mayor Barnicle closed the public hearing at 7:25 p.m.

RESOLUTION DECLARING THE INTENT OF THE VILLAGE OF MONTICELLO TO SEEK LEAD AGENCY STATUS WITH RESPECT TO WHETHER THE VILLAGE OF MONTICELLO WISHES TO CONDEMN THE PROPERTY LOCATED ON FISK AVENUE AND MORE PARTICULARLY DESCRIBED AS VILLAGE OF MONTICELLO TAX MAP NO. SBL 113.-1-2, OWNED BY UPSTATE EQUITIES, LLP

WHEREAS, the Board of Trustees of the Village of Monticello desires to make a determination whether or not it wishes to acquire the property referenced above within the limits of the Village of Monticello; and

WHEREAS, the proposed action appears to be an unlisted action pursuant to part 617 of the implementing regulations pertaining to article 8 State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, the proposed action appears to be an unlisted action pursuant to part 617 of the implementing regulations pertaining to article 8 State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, the Board of Trustees of the Village desires to assume lead agency status for the proposed action.

NOW THEREFORE BE IT RESOLVED, by the Board of Trustees of the Village of Monticello, that the Village shall declare

Minutes - Regular Village Board Meeting
12/05/05

its intent to seek lead agency status with regard to State Environmental Quality Review, for the proposed condemnation of the property located on Fisk Avenue and more particularly described as Village Of Monticello Tax Map NO. SBL 113.-1-2, owned by Upstate Equities, LLP

A motion was made by Trustee VanDermark, seconded by Trustee Marinello, unanimously approved on a roll call vote to adopt the above resolution.

PART II OF THE ENVIRONMENTAL ASSESSMENT FORM - WITH RESPECT TO WHETHER THE VILLAGE OF MONTICELLO WISHES TO CONDEMN THE PROPERTY LOCATED ON FISK AVENUE AND MORE PARTICULARLY DESCRIBED AS VILLAGE OF MONTICELLO TAX MAP NO. SBL 113.-1-2, OWNED BY UPSTATE EQUITIES, LLP

The Village Board reviewed Part II of the Environmental Assessment Form and found no environmental impacts.

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF MONTICELLO DETERMINING THAT IT WISHES TO CONDEMN THE PROPERTY LOCATED ON FISK AVENUE AND MORE PARTICULARLY DESCRIBED AS VILLAGE OF MONTICELLO TAX MAP NO. SBL 113-1-2 OWNED BY UPSTATE EQUITIES, LLP

WHEREAS, a resolution was duly adopted by the Village Board of the Village of Monticello for a public hearing to be held on December 5, 2005 regarding a proposed condemnation of property located on Fisk Avenue and more particularly described as Village of Monticello Tax Map No. SBL 113-1-2 owned by Upstate Equities, LLC; and,

WHEREAS, a public hearing was held at the Village of Monticello Village Hall on December 5, 2005, notice having been given pursuant to New York State Eminent Domain Procedure Law Section 202(A) and (C), and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed condemnation; and,

WHEREAS, pursuant to Part 617 of the implementing regulations pertaining to Article 8 State Environmental Quality Review Law (SEQRA) it has been determined by the Board of Trustees of said Village that said proposed condemnation is an unlisted action, and after having

Minutes - Regular Village Board Meeting
12/05/05

completed a short Environmental Assessment Form ("EAF"), it has been determined that the proposed action would not have a significant effect upon the environment and could be processed by other applicable governmental agencies without further regard to SEQRA; and,

WHEREAS, the Board of Trustees of the Village of Monticello, after due deliberation, finds it is in the best interest of said Village to obtain by eminent domain the property located on Fisk Avenue and more particularly described as Village of Monticello Tax Map No. SBL 113-1-2 owned by Upstate Equities, LLC, for the public project of repairing and reconstructing the storm sewer system in the Village of Monticello.

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello has determined that it wishes to obtain by eminent domain the property located on Fisk Avenue and more particularly described as the Village of Monticello Tax Map No. SBL 113-1-2, owned by Upstate Equities, LLC, for the public project of repairing and reconstructing the storm sewer system in the Village of Monticello; and it is further

RESOLVED, that the Village Attorney is authorized to obtain an appraisal of the aforementioned property for the purposes of preparing a written offer to purchase said property, pursuant to Eminent Domain Procedure Law Section 301; and it is further

RESOLVED, that the Village Clerk is hereby authorized and directed to cause public notice of said determination as provided by law.

A motion was made by Trustee Marinello, seconded by Trustee VanDermark, unanimously approved on a roll call vote to adopt the above resolution.

RESOLUTION APPROVING BUDGET TRANSFERS

WHEREAS, the Village of Monticello has adopted its annual budget for the 2005/06 fiscal year; and,

Minutes - Regular Village Board Meeting
12/05/05

WHEREAS, the Village will incur expenditures that exceed the adopted line item amounts authorized by the Village Board of Trustees, and;

WHEREAS, there are revenues that exceeded budgetary amounts and/or expenditure line items that may be reduced.

NOW, THEREFORE BE IT RESOLVED, that the following line items are increased/decreased as adopted, and the Village Treasurer is directed to make the following modifications to the annual budget: [see attached]

A motion was made by Trustee VanDermark, seconded by Trustee Marinello, unanimously approved on a roll call vote to adopt the above resolution.

RESOLUTION AUTHORIZING APPROVING PAYMENT # 1 TO J. NOSENCHUK CO. IN THE AMOUNT OF \$27,880.00 FOR CONSTRUCTION OF NEW RECHLORINATION STATION ON EAST DILLON

WHEREAS, there has been a problem with unclear water on what is known as "Miller's Hill"; and,

WHEREAS, the Village Engineer and the Water Superintendent recommended constructing a new rechlorination station on East Dillon Road to alleviate the problem; and,

WHEREAS, the building foundation and floor slab is in place, the watermain vault is completed in East Dillon Road and the water service connection and drain pipe installation has been completed; and,

WHEREAS, the Village Engineer and Clarence Decker, Water Treatment Plant Superintendent has recommended that the first payment in the amount of \$27,436.00 be paid to J. Nosenchuk Co. for the work already completed.

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve payment No. 1 in the amount of \$27,436.00 to J. Nosenchuk Co. for the work completed for the construction of a new rechlorination station on East Dillon Road.

Minutes - Regular Village Board Meeting
12/05/05

A motion was made by Trustee Marinello, seconded by Trustee VanDermark, unanimously approved on a roll call vote to adopt the above resolution.

RESOLUTION AUTHORIZING APPROVING PAYMENT #1 TO C.A. PHILIPS CONSTRUCTION CORP IN THE AMOUNT OF \$93,394.50 AND CHANGE ORDER #1 IN THE AMOUNT OF AN INCREASE OF \$12,220.00 FOR THE PARK AVENUE WATERLINE REPLACEMENT PROJECT

WHEREAS, the Village of Monticello was awarded a grant for Waterline Replacement on Park Avenue; and,

WHEREAS, the bid was awarded to the low bidder C.A. Philips Construction Corp. who is performing the work on the Park Avenue waterline replacement project; and,

WHEREAS, additional work by the contractor had to be performed on searching for and/or repairing several waterlines that were encountered during construction which were not properly mapped or marked and caused several hours time lost by the contractor in attempting to find and old water main in Broadway for connection to the Park Avenue main.

WHEREAS, the Village Engineer and the Water Superintendent recommended the Board approve the Change Order #1 in the amount of \$12,220.00 and Payment #1 in the amount of \$93,394.50 to C.A. Philips Construction Corp. for the work already completed.

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve the Change Order #1 in the amount of \$12,220.00 and Payment #1 in the amount of \$93,394.50 to C.A. Philips Construction Corp. for the work already completed.

A motion was made by Trustee Marinello, seconded by Trustee VanDermark, unanimously approved on a roll call vote to adopt the above resolution.

Minutes - Regular Village Board Meeting
12/05/05

ORDERING BILL PAID

A motion was made by Trustee Schoonmaker, seconded by Trustee Marinello, unanimously approved of the bills audited by the Auditing Committee of the Board of Trustees and appearing on the Abstracts of the bills herewith submitted are ordered paid.

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF MONTICELLO SETTING A TIME AND PLACE FOR A PUBLIC HEARING WITH RESPECT TO ADOPTION OF PROPOSED LOCAL LAW No. 9 OF 2005 AMENDING LOCAL LAW NO. 7 OF 2005 ENTITLED "WASTE MANAGEMENT FACILITIES LAW OF THE VILLAGE OF MONTICELLO"

WHEREAS, the Board of Trustees of the Village of Monticello adopted Local Law No. 7 of 2005 to restrict the expansion and operation of solid waste management facilities within the limits of the Village of Monticello; and

WHEREAS, the Board of Trustees of the Village of Monticello needs to clarify the effective applicability of Local Law No. 7 of 2005 entitled "Waste Management Facilities Law of the Village of Monticello; and,

WHEREAS, the Board of Trustees of the Village of Monticello wishes to set a time and place for a public hearing with respect to proposed Local Law 9 of 2005 amending Local Law No. 7 of 2005 entitled "Waste Management Facilities Law of the Village of Monticello, so that the public may be heard;

NOW, THEREFORE BE IT RESOLVED, that a public hearing be held by the Board of Trustees of the Village of Monticello with respect to the aforesaid proposed Local Law at 7:00 p.m. on December 19, 2005, at the Village Hall, 2 Pleasant Street, Monticello, New York 12701; and it is further

RESOLVED, that the Village Clerk is hereby authorized and directed to cause public notice of said hearing to be given as provided by law.

A motion was made by Trustee Marinello, seconded by Trustee Jenkins, unanimously approved on a roll call vote to adopt the above resolution.

Minutes - Regular Village Board Meeting
12/05/05

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF
MONTICELLO SETTING A TIME AND PLACE FOR A PUBLIC HEARING
WITH RESPECT TO ADOPTION OF PROPOSED LOCAL LAW No. 9 OF
2005 AMENDING LOCAL LAW NO. 7 OF 2005 ENTITLED "WASTE
MANAGEMENT FACILITIES LAW OF THE VILLAGE OF MONTICELLO"**

WHEREAS, the Board of Trustees of the Village of Monticello desires to adopted Local Law No. 7 of 2005 on October 17, 2005 Entitled "Waste Management Facilities Law of the Village of Monticello; and

WHEREAS, the Board of Trustees of the Village of Monticello had determined that it is in the best interest of the Village of Monticello to restrict the expansion and operation of solid waste management facilities within the limits of the Village of Monticello; and

WHEREAS, it is necessary to amend the adopted local law to clarify Section 12. Effective Date to delete and will apply to all new applications submitted on or after that date.

WHEREAS, the Board of Trustees of the Village of Monticello wishes to set a time and place for a public hearing with respect to proposed Local Law 9 of 2005 entitled "Waste Management Facilities Law of the Village of Monticello, so that the public may be heard;

NOW, THEREFORE BE IT RESOLVED, that a public hearing be held by the Board of Trustees of the Village of Monticello with respect to the aforesaid proposed Local Law 9 of 2005 at 7:00 p.m. on December 19, 2005, at Village Hall, 2 Pleasant Street, Monticello, New York 12701; and it is further

RESOLVED, that the Village Clerk is hereby authorized and directed to cause public notice of said hearing to be given as provided by law.

A motion was made by Trustee Marinello, seconded by Trustee Jenkins, unanimously approved on a roll call vote to adopt the above resolution.

Minutes - Regular Village Board Meeting
12/05/05

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF
MONTICELLO SETTING A TIME AND PLACE FOR A MEETING IN
COOPERATION WITH THE TOWN BOARD OF THE TOWN OF THOMPSON
REGARDING WETSYSTEMS, TO BE HELD ON TUESDAY, JANUARY 10,
2006 AT 7 P.M. AT THE THEODORE STROEBELE RECREATION CENTER**

WHEREAS, the Town of Thompson ("Town") and the Village of Monticello ("Village") are currently considering implementing a recycling program to satisfy the waste disposal need of the residents of the Town of Thompson and the Village of Monticello; and

WHEREAS, Taylor Recycling desires to provide a demonstration of its recycling programs to the governing bodies and residents of both municipalities on Tuesday, January 10, 2006, at 7:00 p.m.; and

WHEREAS, the Board of Trustees of the Village of Monticello finds that it is in the best interest of the Village to consider the recycling programs of Wetsystems.

NOW THEREFORE BE IT RESOLVED, that a meeting be held by the Board of Trustees of the Village of Monticello in conjunction with members of the Town Board of the Town of Thompson with respect to Wetsystems Program at 7:00 p.m. on Tuesday, January 10, 2006, at the Theodore Stroebele Recreation Center, Jefferson Street, Monticello, New York 12701.

A motion was made by Trustee Marinello, seconded by Trustee VanDermark, unanimously approved on a roll call vote to adopt the above resolution.

PUBLIC COMMENT

Police Department Issues

Harry Brantz was concerned that he calls the police department twice and no one responded regarding a noise matter regarding his neighbor playing a radio loud all night.

Minutes - Regular Village Board Meeting
12/05/05

EXECUTIVE SESSION

At 7:40 p.m., a motion was made by Trustee VanDermark, seconded by Trustee Marinello, approved on a roll call vote to move into Executive Session to discuss possible litigation.

ADJOURNMENT

At 8:30 p.m., a motion was made by Trustee Schoonmaker, seconded by Trustee Marinello, unanimously approved on a roll call vote to adjourn the Regular Village Board meeting.

EDITH SCHOP, Village Clerk