

MINUTES  
SPECIAL MEETING OF THE BOARD OF TRUSTEES  
VILLAGE OF MONTICELLO, N.Y.  
THURSDAY, OCTOBER 12, 2006

**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

Absent:

Brian VanDermark, Trustee

Also Present: E. Danielle Jose, Village Attorney  
Tim Havas, Deputy Village Attorney  
Wm. VanHage, Lt. MPD

**EXECUTIVE SESSION**

At 7:03 p.m., a motion was made by Trustee Schoonmaker, seconded by Trustee Jenkins to move into Executive Session to discuss a personnel matter regarding a specific person.

Trustee Schoonmaker withdrew his motion.

Trustee Schoonmaker indicated that the reason he called for this Special meeting was that he feels the Mayor obtained the \$2,000 a month stipend for serving as Acting Manager without the authorization of the full Board. He questioned who authorized Victor Marinello the Deputy Village Mayor to sign a transmittal to the County appointing Jim Barnicle as Acting Manager with a \$2,000 per month salary?

Trustee Marinello responded that he was given authorization to sign that document by the Village Attorney, as well as the Treasurer, Brenda Galligan that it had to be signed by him as Deputy Mayor.

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The Village Attorney responded that he advised the Deputy Mayor to sign this document. She explained that Article 16A was repealed and the Village Manager is now appointed thru Section 10 of the Municipal Home Rule Law.

Trustee Marinello stated that when he signed this document he did everything according to Village Code.

Trustee Schoonmaker felt that Trustee Marinello did not have the authorization from the Village Board.

The Village Attorney responded that he had the authorization from the Village Code.

Trustee Jenkins felt that the salary amount must be approved by the Village Board.

The Village Attorney responded that the default position of Acting Village Manager automatically falls to the Mayor. She explained that she has spoken to Laura Etlander at the State Attorney General's Office and Mitchell Cooperman at the State Comptroller's Office both say that they don't think it is necessarily true that there is a vote that is required. Their contention is that as per the Village Law the salary is incumbent with the position, however, they did inquire about past practices. She continued that in the past Village Manager's have been paid by mechanism of a resolution of the Board, but they are not even sure those resolutions were necessary, it might only have been done as a precaution. The Village Attorney is awaiting further clarity from the Office of the Attorney General and the New York State's Comptrollers Office, but at this point she is quite sure that the Village has done nothing wrong. She indicated that other attorney from a state agency thought the Mayor would have to take the Manager's entire salary that is in the budget.

Trustee Jenkins questioned the authority of the Board if they can't set the salary for the Acting Village Manager?

The Village Attorney responded that the Board already set the salary when the Fiscal Year budget was adopted.

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Trustee Schoonmaker felt that the Board needs answers to their concerns.

The Village Attorney responded that it might take as long as two months to get a final decision.

Trustee Jenkins responded that the Acting Manager will continue to get paid even though the Board never formally approved that amount.

Trustee Schoonmaker indicated that the Mayor was only appointed interim manager, and therefore he should not get the full manager's salary. He felt that the salary amount was done without the Board's knowledge. He indicated that there was a discussion that the Mayor would be interim manager for \$2,000 a month, however, no vote was ever taken. He indicated that he now understands that the Village Attorney is telling the Board that there was no need for a vote to be taken.

The Village Attorney responded she is saying that there may not be a vote required.

The Mayor responded that Trustee Schoonmaker missed the Board's last Executive Session where it was discussed at length and there was a common understanding that the Village Manager was going to do the job at \$2,000 per month. He felt that possibly the mistake was made procedurally, not to come out of Executive Session and have a formal vote. He felt the Board members were very aware of the payment of \$2,000 a month for him to be the interim manager.

Trustee Jenkins responded that when the Mayor indicated that he would be paid \$2,000 and he answered that this amount was too much money and the Mayor would get heat from the taxpayers. The Mayor responded that he has broad shoulders and could handle the public's outcry. Trustee Jenkins indicated that at that time he would do it for free, and the Mayor responded that Trustee Jenkins was not

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qualified to do the job. He understood the salary amount was supposed to be voted upon by the full Board and they find out the Acting Manager is getting \$2,000 after Betty Friedland questioned the Mayor during public comment at the last Village Board meeting.

The Mayor agreed with Trustee Jenkins that the salary was never formally voted upon it, however, he is doing the work with the Board updated continually as the Manager, and questioned why the Board members would not associate this work with the salary.

Trustee Schoonmaker noted that the Village Code says that the Mayor automatically assumes the position as Manager; however it doesn't say anything, anywhere that he has read about any stipend that he would receive for this position.

The Village Attorney responded that she has a call into a former Mayor who indicated in some minutes she read that there may be a resolution out there is reference to compensation to the Acting Village Manager.

Trustee Schoonmaker indicated that unless the Village Attorney can show him this resolution it doesn't exist.

The Mayor explained that this is a complicated legal matter that needs time to research. He noted that he is not trying to hide anything and the Board all knew for the Mayor to do that job the amount he wanted.

Trustee Marinello explained that for the 6 years he has been a Village Trustee he has only done everything required by the Village Code. He signed this document on advice of the Village Attorney.

The Mayor felt he did not think it was fair to ask anyone to come in to run the Village, to have someone sign legal documents, to put themselves in legal positions and not to be compensated for their time.

A motion was made by Trustee Jenkins that the Mayor not receive \$2,000 monetary compensation as Acting Village Manager.

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Trustee Jenkins withdrew this motion.

A motion was made by Trustee Schoonmaker that the Mayor does not receive any monetary compensation for his duties as Acting Village Manager, seconded by Trustee Jenkins, on a roll call vote as follows: Trustee Schoonmaker, aye; Trustee Jenkins, aye; Trustee Marinello, abstain; Motion did not carry for lack of a majority.

Trustee Jenkins stated that he felt Trustee Marinello and the Village Attorney should resign from the Board because of what they have done, and he also felt that the Mayor should be ashamed of himself for taking the money as he is only looking at an additional pay check as the taxes are very high in the Village.

Trustee Marinello felt that the Mayor should be compensated for the job he is doing as Acting Village Manager.

Trustee Schoonmaker questioned under what authority the Village Attorney advised Trustee Marinello to sign the County transmittal form even though nothing referred to compensation for the position?

The Village Attorney responded that because the Village Code calls for the transfer of the position to the Mayor. She agreed that nothing referred to compensation for the position. She indicated that she will get an answer to his concerns.

Trustee Marinello stated that he will personally apologize to everyone if the Attorney General's Office says it was illegal for the Mayor to get \$2,000 compensation as Acting Village Manager.

The Village Attorney indicated that it is very indicative of the fact that this is a very complicated issue that the Office of the Attorney General did not have an answer immediately. She noted that they had to look the Village Code, the Municipal Home Rule Law, and Conflicts of Laws and there is no clear cut answer, but they are continuing to research the matter.

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Trustee Jenkins questioned the compassion for the taxpayer to stop paying the Mayor since this is about a money issue. He felt that the payments should cease until the matter is resolved.

The Village Attorney responded that if the payments were wrongly done than the Mayor would be directed to pay the money back and if he refuses the Village will have recourse against the Mayor.

Mayor Barnicle indicated that the public can rest assured that he only had the best interest at heart for everyone who lives here and continue will do the job he is doing.

Trustee Jenkins wanted the Community Review Committee dissolved and move the process of picking a new Manager at a faster pace.

**ADJOURNMENT**

At 7:30 p.m., a motion was made by Trustee Marinello, seconded by Trustee Schoonmaker, unanimously approved on a roll call vote to adjourn the Special Board meeting.

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EDITH SCHOP, Village Clerk