

MINUTES  
REGULAR MEETING OF THE BOARD OF TRUSTEES  
VILLAGE OF MONTICELLO, N.Y.  
MONDAY, NOVEMBER 6, 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  
Brian VanDermark, Trustee

Also Present: E. Danielle Jose, Village Attorney  
Tim Havas, Deputy Village Attorney  
Douglas Solomon, Chief of Police  
Sam Wohl, County Legislator  
Clarence Decker, Water Superintendent  
Bill Bertholf, Sewer Superintendent  
Sue Flora, Code Enforcement Officer

**APPROVAL OF MINUTES OF BOARD MEETING OF OCTOBER 10, 2006,  
THE SPECIAL MEETING OF OCTOBER 12, 2006 AND THE BOARD  
MEETING OF OCTOBER 23. 2006**

A motion was made by Trustee VanDermark, seconded by Trustee Jenkins, unanimously approved on a roll call vote to adopt the minutes of October 10, 2006, the Special Meeting of October 12, 2006 and the Board meeting of October 23, 2006 as presented.

**MAYOR/MANAGER REPORT**

Mayor Barnicle announced that Fury, the retired canine police dog passed away last week.

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1. Grand Opening of the Village's "Skateboard Park" was successfully completed on 10/30/06. It was under the lights, donated by the Rental Center/Jeff Sternberg. Park is being used everyday. The fence, enclosing the park, will be installed this week.
2. Halloween Parade...another successful event, w/o the help of the Fire District, we could not host...thanks to the ladies and men who plan/coordinate and execute the event. Weather has been unseasonably warm the last 3 years for us
3. 3v3 Basketball Tournament: Thanks to Betsy and the MPD for hosting our 3<sup>rd</sup> annual event, this year with the middle school kids, who embraced with event, with many parents in attendance. Again, the Rental Center donated the lights. ("TSRC" SIGN ANNOUNCEMENTS)
4. Rhulen Building demolition will continue this week, speaking with the owners on a regular basis; they've taken all the necessary steps with the Dept. of Labor, environmental agencies, our Village Dept. Heads and contractors to resume the work.
5. 2 grants from Senator Bonacic have been awarded to the Village: First a \$100,000 sidewalk grant, which will run from Sturgis Road, down Jefferson St., ending at Wasser Way. It will allow the seniors, who will reside at Tannery Village, the opportunity to walk to town and the Ted Stroebele Recreation Center. Second, a \$30,000 Parks and Recreation grant, where we will continue to invest in DeHoyos Park w/plans and a budget, Betsy Conaty will submit. In addition, we have another \$7,000 Sullivan Renaissance Grant from the SC "Federation of Sportsman's" association. Both grants will be administered by our local Grants Dept.
6. Screening and search for our new Manager will begin tonight in ex. session. Everyone has reviewed the resumes; we will determine the interview dates and the process to begin this month.
7. New signs for our Village:
  - Athletes Foot - Opening in January @ Mt. Mall
  - Tri-County Real Estate-14 Raceway Road
  - Monticello Seventh Day Adventist Church-Liberty St.
  - Southern Tier Title Agency-Add'l Directory Sign
8. Building Department Report: see attached

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Trustee Schoonmaker asked if the Building Department Report could include the amount of revenue that has been collected by the Justice Court for these fines.

Mayor Barnicle indicated that he will contact the court for the revenue received from these violations.

#### **PUBLIC COMMENT**

##### **Landfill Concerns**

Harry Brantz had concerns about the landfill regarding the judge's decision as to its expansion, whether it is to be closed or privatized.

##### **Miss Teenage Sullivan County**

Mayor Barnicle introduced the newly crowned Miss Teenage Sullivan County, Jessica Simpson who is a student at Monticello High School. Ms. Simpson introduced herself to the public and indicated that she wants to become even more involved in community affairs and events during her reign.

##### **Casino Negotiations**

Betty Friedland noted that she recently read that the County and Town have negotiated with the proposed casino being planned at the raceway, and since the Village is the host community, she questioned whether the Village is in negotiations also?

Mayor Barnicle noted that this is public comment only and he will respond to the inquiry and let her know the status of these negotiations.

##### **Freedom Of Information Concerns**

Betty Friedland explained that she read an article in the November 3<sup>rd</sup> edition of the Sullivan County Democrat regarding the request for the tax records for Monique Corley Diaz that was directed to the Village Attorney. She questioned whether this means that all FOIL tax inquiries will go to the Village Attorney? She felt that by having the Village Attorney respond to these types of FOILS is a

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big waste of time of her expertise. She questioned when the Village policy changed and who changed it? She referred to Bob Freeman of the Committee For Open Government who has always stated that if the information is readily available; it should be given out promptly, not held up for 5 days, the maximum time to respond to a FOIL request. Ms. Friedland felt that tax information is available on the computer or online, so therefore there is no reason to withhold the information. She questioned why this is different than if a title search company calls for this type of information or a member of the public calls for tax information on a property owner's taxes, and she was concerned that this was an isolated instance. She noted that someone recently called the County Treasurer's Office for this same tax information and was given the information without a FOIL or who was calling. She felt the Mayor owes the public an explanation as to why this matter was handled in this way.

Trustee Jenkins felt that one of the Board members should respond to Ms. Friedland's concerns. He felt that not giving out this type of tax information is not a normal practice, and he hoped the Village is not playing political favors with this election and he had the same concerns as Ms. Friedland after reading the Sullivan County Democrat last Friday. He felt that how tax information is given out changed overnight and why only tax information is being held up on Ms. Corley-Diaz's information only.

Trustee Schoonmaker questioned who is the designated FOIL Officer who answers these types of requests?

The Village Attorney responded that the Village Clerk Edith Schop is the FOIL Officer. She explained that if a FOIL request is made in writing and they are routinely reviewed by the Village and the Village has up to 5 days to respond to it by law. Tax information requested on the phone is answered immediately and not subject to FOIL rules.

Trustee Jenkins felt that he understands that a FOIL request is something that has to be researched, not information readily available by a touch of a key on a computer.

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Mayor Barnicle responded that there probably have been 30 FOIL requests in the last two weeks and it is a burden on our office, and therefore I instructed them not to respond to the FOIL requests immediately because they have other jobs to do and they have 5 days to respond without interrupting our Village business.

**REPORT TO VILLAGE BOARD REGARDING UNSAFE CONDITIONS AT MOUNTAIN MALL IN REFERENCE TO THE FENCE**

Mayor Barnicle explained that this report is in reference to the fence at Mountain Mall that is adjacent to the Big Ben Jeweler/First Class Formalwear building on East Broadway.

Trustee Schoonmaker questioned whether the Sullivan County Industrial Development Agency (SCIDA) owns this property.

Code Enforcement Officer, Sue Flora explained that she contacted the SCIDA, however, although they have an interest in the property the actual owner is ABC Pacific Realty, LLC and that is the corporation that was served.

The Village Attorney explained that any notices given would have to be also given to the IDA as well because they are an interest party.

The Code Enforcement Officer reported that after an inspection of the property located at 121 East Broadway, Monticello, New York reveals that the fence is an unsafe structure defined by Section 119-3. The fence in the present location is in violation of the Code of the Village of Monticello, Chapter 119, Unsafe Buildings and of NYCRR, TITLE 19, Part 1225.1 of the New York Fire Code AND SHALL BE REPAIRED OR REMOVED. The fence is on the property line and obstructing a building for fire access which is against the Village of Monticello Zoning Code and the New York State Building Code where no structure shall be erected without the approval from the Village of Monticello Building and Zoning Codes. The New

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York State Fire Code SF803.1.3 Obstructions. Furnishings or other objects shall not be placed to obstruct exits, access thereto or egress therefrom or visibility thereof. I find that this structure to be dangerous and a fire hazard and I am asking for the safety of others that this structure be removed immediately. She indicated that she has spoken with the Monticello Joint Fire District, Carl Houman, Director of Fire Safety, who agrees with this department that the structure is unsafe and wrote the following letter:

It has come to my attention that a fence has been erected along side the structure at 311 East Broadway. There are some serious life safety concerns pertaining to this fence, first since the building is divided into two different businesses access and means of egress are very limited to occupants and firefighters. If we needed to gain entry to Big Bens Jewelers there is only one door in the front of the business or the windows on the Westside which have been obstructed by this fence. We would need to cut the fencing down to operate in a suppressive mode.

Secondly, a firefighter could become cut off for some reason to the access in the front, the only means of escape would be the same windows on the Westside. If the fence was not removed by firefighters before the incident there is not sufficient room between the building and fence to rapidly remove the window and exit the building to an area of safe refuge.

I would recommend that the fence alongside the building be removed to the back corner of the structure to ensure that this life safety issue is addressed properly.

This is a serious life safety issue, to the firefighters who protect the district. While our mission is to protect life and property, we must do it in a safe manner to allow the firefighter every opportunity to go home at the end of the incident.

Chief Douglas Solomon indicated that especially since one of the businesses in that building is a jewelry store, he is very concerned with security. He felt if a robbery was in progress the police department would not want police

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cars visible passed the front of the building, they would want to remain unseen until the perpetrator left the store so they could be taken into custody more safely and also be able to look inside the windows.

The Village Attorney explained that the Village Board needs to make a determination as to whether or not the building (the fence, which is defined as a building in the Village Code) is dangerous and unsafe to the public. If the Board makes that determination the Board should pass a resolution to order either its repair (if it can be safely repaired) and if not its removal and demolition. Within that same resolution, if the Board makes such a finding, the Board also has to set a hearing to be held before them on at least 5 days notice to the owner of the building, at which time the Board can either rescind or uphold whatever they order this evening. She noted that the owners of Mountain Mall are entitled to a hearing before a final determination can be made.

Mayor Barnicle explained that this issue has spanned several months since it doesn't just go through the Village Justice Court, as the papers must be served through the State Court of Albany.

Trustee Schoonmaker felt it is imperative that the fence come down since no one can walk behind it (showed pictures of a fireman with a scotch pack on, unable to fit between the fence and the building). He felt that if it is a "spite" fence, he did not want the Village to get into civil issue between the owner of the building and the owner of Mountain Mall, however if it is for the protection of the residents, then the Village must step it and take the necessary steps to correct an unsafe situation. He felt if this fence is a safety hazard then it should be removed immediately.

The Village Attorney recommended that the Board follow the prescribed legal course.

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**RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF  
MONTICELLO ORDERING THE REMOVAL AND/OR DEMOLITION OF A  
STRUCTURE AND SCHEDULING A PUBLIC HEARING REGARDING  
MODIFICATION AND/OR AFFIRMANCE OF SAID ORDER**

**WHEREAS**, a written report was presented to the Board of Trustees of the Village of Monticello by Sue Flora, the Building Inspector regarding an unsafe structure, to wit: a fence at 121 East Broadway, Monticello, New York; and,

**WHEREAS**, said report was supplemented by written reports from Douglas Solomon, Chief of the Monticello Police and Carl Houman, Director of Fire Safety for the Monticello Joint Fire District; and,

**WHEREAS**, evidence was received by the Board that the fence is unsafe, in that it is fire hazard and does not allow for access to the neighboring building for emergency services personnel, in the event of an emergency; and,

**WHEREAS**, evidence was received by the Board that the name of the owner or person in possession as appears from the tax and deed records is ABC Pacific Realty, LLC; and,

**WHEREAS**, the Board has determined that it is in the best interest of the residents of the Village of Monticello to remove and/or demolish said fence; and,

**WHEREAS**, in keeping with the provisions of the Village Code the Board has also determined that it is in the best interest of the residents of the Village of Monticello to conduct a public hearing on the issue.

**NOW, THEREFORE BE IT RESOLVED**, that the property in question is an unsafe structure as defined by the Code of the Village of Monticello, Section 119-3, to wit: a chain link fence with green vinyl, located at 121 East Broadway, Monticello, New York, Village of Monticello, Tax Map #117-1-1; and,

**THAT**, the fence is unsafe, in that it is a fire hazard and does not allow for access to the neighboring building for emergency services personnel, in the event of an emergency; and,



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**THAT**, by order of the Board of Trustees, said fence is hereby ordered to be removed, and in the event said fence is not removed by the owner of said property, removal of said structure shall commence within 15 days of the service of the notice and shall be completed within 60 days thereafter; and,

**THAT**, in the event that such owner, occupant or other person having an interest in said premises shall fail to contest such order and fail to comply with same, the Village Board will order the repair or removal of such building or structure by the Village and that the Village will assess all costs and expenses incurred in such removal or repair against the land on which such building or structure is located, and,

**THAT**, said hearing shall be held at:

Monticello Village Hall  
2 Pleasant Street  
Monticello, New York 12701

By order of the Board of Trustees of the Village of Monticello, dated November 6, 2006.

A motion was made by Trustee VanDermark, seconded by Trustee Marinello, approved on a roll call vote as follows; Trustee Schoonmaker, nay; Trustee Jenkins, aye; Trustee Marinello, aye; Trustee VanDermark, aye; to adopt the above resolution.

**RESOLUTION AUTHORIZING PAYMENT #4 GRANT STREET CONSTRUCTION FOR THE BROADWAY SEWERLINE REPLACEMENT PROJECT IN THE AMOUNT OF \$38,498.80 AND CHANGE ORDER #2 IN THE AMOUNT OF AN INCREASE OF \$53,541.77**

**WHEREAS**, the Village of Monticello received a grant for Sewerline Replacement on Broadway; and,

**WHEREAS**, Grant Street Construction was awarded the bid and all of the sewerline and manhole replacement have been completed along Broadway, with the current payment primarily pertains to the pavement overlay that was recently completed, with temporary striping, and;

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**WHEREAS**, additional work by the contractor is for additional work items required by the NYSDOT, including removing all trench soils and replacing them with clean granular fill, providing 3 trucks on -site every day to haul away the trench material and deliver the fill and placing a pavement overlay along the entire trench line length.

**WHEREAS**, the Village Engineer and Bill Bertholf, Waste Water Treatment Plant Superintendent has recommended that does hereby approve the Change Order #2 in the amount of \$53,541.77 and Payment #4 in the amount of \$38,498.80 be paid to Grant Street Construction for the work already completed.

**NOW, THEREFORE BE IT RESOLVED**, that the Board of Trustees of the Village of Monticello does hereby approve Change Order #2 in the amount of \$53,541.77 and Payment #4 in the amount of \$38,498.80 be paid to Grant Street Construction for the work completed for the construction on the Broadway Sewerline Replacement Project.

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

**RESOLUTION BY THE BOARD OF TRUSTEES RESOLUTION CORRECTING THE 2005/06 IN THE AMOUNT OF \$932.96 RELEVIED ON THE PROPERTY AT 19 LANDFIELD AVENUE VILLAGE OF MONTICELLO TAX MAP # SBL 111-4-25**

**WHEREAS**, Chabad of Monticello is the new owner of 19 Landfield Avenue, where clean-up charges preferred on the previous owner were overdue at the time of the current owner's purchase of said property; and

**WHEREAS**, the current owner requested a municipal violations search from the Village of Monticello in connection with the purchase of said property; and

**WHEREAS**, the overdue clean-up charges were not included on the title report utilized by the current owner at the closing; and

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**WHEREAS**, subsequent to closing, the clean-up charges were levied against the property; and

**WHEREAS**, the Board of Trustees of the Village of Monticello finds that NINE HUNDRED THIRTY TWO DOLLARS AND NINETY-SIX CENTS, \$932.96 in clean-up charges was inappropriately charged to the property owner under the circumstances.

**NOW, THEREFORE, BE IT HEREBY RESOLVED**, by the Board of Trustees of the Village of Monticello that the Board of Trustees of the Village of Monticello does hereby forgive NINE HUNDRED THIRTY TWO DOLLARS AND NINETY-SIX CENTS in clean up charges releived on the property at 19 Landfield Avenue, VILLAGE OF MONTICELLO TAX MAP # SBL 111-4-25; and this resolution shall be effective immediately upon signature of the Village Clerk.

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

**RESOLUTION BY THE VILLAGE OF MONTICELLO BOARD OF TRUSTEES AUTHORIZING SHAMIR DHAMIJA TO MAKE ARRANGEMENTS WITH THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION SO THAT THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION MAY INSTALL A TOURIST DIRECTORY SIGN IN THE VICINITY OF JEFFERSON STREET AND BROADWAY LISTING SUPER 8 MOTEL ON THAT DIRECTORY.**

**WHEREAS**, Shamir Dhamija is the general manager of Super 8 Motel; and

**WHEREAS**, Mr. Dhamija has been in contact with the New York State Department of Transportation; and

**WHEREAS**, the New York State Department of Transportation intends to list the Super 8 Motel on their sign directory on Route 17; and

**WHEREAS**, the New York State Department of Transportation is making it a condition that there be an additional directory sign naming Super 8 Motel in the vicinity of Jefferson Street and Broadway; and

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**WHEREAS**, the Department of Transportation will not include the Super 8 Motel on their directory or install the sign on Jefferson Street without actual authorization from the Village of Monticello Board of Trustees, it is now hereby

**RESOLVED**, that the Village of Monticello Board of Trustees grant permission to the New York State Department of Transportation to install a tourist directory sign naming Super 8 Motel on Jefferson Street in the Village of Monticello, New York.

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

**RESOLUTION SCHEDULING A PUBLIC HEARING FOR THE PURPOSE OF CONSIDERING LOCAL LAW NO. 10 OF 2006 WHICH WOULD CREATE A SPECIAL BENEFITS ASSESSMENT WITH RESPECT TO THE CRYSTAL RIDGE PROJECT**

Discussion - Project Attorney Audrey Scott explained that this is a project presently pending before the Planning Board as well as the Town of Thompson Planning Board. The Village portion will be subdivided into fifty-two lots and on those 52 lots will be single family attached dwellings. She explained that the Federal Law under the Clean Water Act that requires certain kind of stormwater management, and in order to accomplish that a stormwater basin will be located in the Town of Thompson and that needs to be maintained in some way. It is not necessary for this project to have a homeowners association so rather than add that kind of complication and what the owner's proposes to do is to dedicate that stormwater basin to the Village and assess only the properties in the Village that are going to be benefiting from that stormwater basin the cost of the ongoing operation and maintenance of it.

The Mayor explained that the residents would pay a usage fee and the Village's DPW would maintain so the cost is borne by the individual homeowners of those units benefited.

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Trustee Schoonmaker questioned if the property owner has any intention of annexing the Town property into the Village?

Attorney Scott responded that they are not considering annexing into the Village.

Trustee VanDermark was concerned that since the property where the retention basin will be located is out of the Village, technically Village employees are working outside the municipal limits.

Attorney Dave Zeigler responded that that lot will be dedicated to the Village, and therefore owned by the Village although it is in the Town of Thompson. He explained it is a similar situation where the Village pump station is out of the Village, but maintained by the Village's Water Department.

The Village Attorney noted that the Village owns property that is not located in the Village.

**WHEREAS**, the Crystal Ridge Project has submitted applications for site plan, Planning Board, and special use permit, which are presently pending before the Village of Monticello Planning Board, in order to build a 52-unit development in the vicinity of Liberty and Crystal Streets and containing a tax map description of 106-3-1.2 and 106-3-6, and

**WHEREAS**, the Village of Monticello Board of Trustees are contemplating the adoption of Local Law No. 10 of 2006 which would create a special benefits assessment pertaining to the Crystal Ridge Project, and

**WHEREAS**, the purpose of that local law would be to defer the costs of maintaining a storm water basin located in the vicinity of that property such that those costs would be paid by the owners of the units of the project, and

**WHEREAS**, the adoption of Local Law No. 10 of 2006 creating the special benefits assessment would impose the costs on those specific unit owners as opposed to the entire tax constituency,

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**NOW, THEREFORE, IT IS HEREBY RESOLVED,** that the Village of Monticello Board of Trustees will schedule a public hearing on the 20<sup>th</sup> day of November, 2006 at 7 p.m. to take place at the Village of Monticello Village Hall located at 2 Pleasant Street in Monticello, and at that time, the Village of Monticello Board of Trustees will entertain both public and written comment from all interested parties.

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

**RESOLUTION APPROVING BUDGET TRANSFERS FOR FY 2006/07**

**WHEREAS,** Village of Monticello has adopted its annual budget for the 2006/07 fiscal year, and;

**WHEREAS,** the Village will incur expenditures that exceed the adopted line items amount authorized by the Village Board of Trustees, and;

**WHEREAS,** there are revenues that exceeded budgetary amounts and/or expenditures 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 Marinello, seconded by Trustee Schoonmaker, unanimously approved on a roll call vote to adopt the above resolution.

**ORDERING BILLS PAID**

A motion was made by Trustee Marinello, seconded by Trustee Schoonmaker, unanimously approved on a roll call vote that 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.

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**REVIEW OF SAMPLE FENCE ORDINANCES**

The Village Attorney explained that after reviewing the sample local laws she believes the Village of Central Square seems to be similar to what the Board has communicated to her that they want with the exception of the section regarding visibility at intersections which the Village Code already addresses.

Mayor Barnicle directed the Village Attorney to present a proposed local law for fence ordinance and have it to the Board a week prior to the next meeting so they can be prepared.

**EXECUTIVE SESSION**

At 8:18 p.m., a motion was made by Trustee Marinello, seconded by Trustee Schoonmaker, unanimously approved on a roll call vote to move into Executive Session to discuss sale of Village owned property and a personnel matter involving a particular person.

**ADJOURNMENT**

A motion was made by Trustee VanDermark, seconded by Trustee Marinello, unanimously approved on a roll call vote To adjourn the Regular Village Board meeting at 9:30 p.m.

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EDITH SCHOP, Village Clerk

