

MINUTES
REGULAR MEETING OF THE BOARD OF TRUSTEES
VILLAGE OF MONTICELLO, N.Y.
MONDAY, AUGUST 20, 2007

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: Ray Nargizian, Village Manager
John Barbarite, Deputy Village Manager
E. Danielle Jose, Village Attorney
Tim Havas, Deputy Village Attorney
Clarence Decker, Water Superintendent
Bill Bertholf, Sewer Superintendent
Douglas Solomon, Chief of Police

APPROVAL OF MINUTES BOARD MEETINGS OF AUGUST 6, 2007

A motion was made by Trustee Marinello, seconded by Trustee VanDermark, unanimously approved on a roll call vote to adopt the minutes of the meeting of August 6, 2007 as presented.

**PRESENTATION OF CERTIFICATES TO DISTRICT 19 MINOR DIVISION
"D" BRACKET CHAMPIONS**

Mayor Barnicle on behalf of the Village Board presented Certificates of Appreciation to the following District 19 Minor Division "D" Bracket Champions:

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Coach Jonathon Drapkin
Coach Phil Etkin
Coach Ted LaRuffa

Olga Wagner, President of the Little League

Team Players:

Jack Drapkin, Matthew Etkin, Tyler Foxwell, Ocean Heintz,
Joseph Klein, Michael LaRuffa, Colin Rosenblum, Michael
Sedlack, Dante Smalls, Joey Torres and David Watkins.

PRESENTATION OF CERTIFICATES TO SPECIAL TOUCH BARBERSHOP

Mayor Barnicle on behalf of the Village Board presented Certificates of Appreciation to the owner/operators of Special Touch Barbershop, for their efforts in hosting a picnic at deHoyos Park for anyone who wished to attend.

MANAGER'S REPORT

Every morning that our Police officers prepare themselves for duty, just before they put on their blue uniform, they put on a vest. Those of us who are not in law enforcement cannot imagine the impact that vest has on their wives, children and family. On August 9th. Two of our finest was called to duty at the Veterans Administration office on Broadway. What should have be a routine call turned out to be a life threatening situation. One of our officers was slashed by a 74 year old Veteran. Had he not had on his vest, this could have been, life threatening. That officer is here tonight and I would like to personally thank him for his job performance. John Calvello thanks for a job well done.

In two weeks John Cavello and Dave Weiner the other officer present will be recipients of a medal of gratitude presented by the Mayor. Their patience and professionalism calmed a storm that could have easily exploded into front page news.

On Aug 30th Detective Doug Tunno will be receiving the "Juvenile Officer of the Year" award from the State of New York Police Juvenile Officers Association, at their annual conference in lake Placid. Detective Tunno was chosen from

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amongst hundreds of police officers that work with Juveniles across the state, for this prestigious award. Detective Tunno has served the village for over thirty-three years, spearheading such programs as the School Resource Officer Program and Youth Court. In addition to his regular duties as a detective, Doug serves as liaison between the police Dept. and the Monticello Central School District. The Village of Monticello recognizes Detective Doug Tunno outstanding performance and congratulates him for receiving recognition from the State as the "Juvenile Officer of the year". Thank you detective Tunno for making us all proud.

It should be noted each and every time our police officers make an arrest they jeopardize their lives and limbs. The joint impact patrol, undaunted by last week's occurrence, worked diligently to remove the perpetrators of criminal activity from our Village.

The total number of arrests made from Jan 1, to date is 621.

There were 86 felony arrests during this period of time.

206 drug related arrests

There were 45 DWI arrests

167 arrests involving either a suspended operator license or suspended registration.

112 arrests involving outstanding warrants.

16 Firearms have been removed from our streets.

Our building and code enforcement dept. have started the process of looking for a replacement for the position of code enforcement officer.

A diligent effort is being made to find a Developer who will qualify for a Grant, under the Restore N.Y. program. Several developers have been contacted and talks are under way.

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Amapro Family Fun Center has invited residence of Monticello to bring their children and participate in a fun day on Aug 31st from 10:00 am till 8:00 pm. in Liberty N.Y...

Activities such as golf, mini-golf and tee ball will highlight the day. George Matisco, advisor to CORE has arraigned this event.

There are times when residents of a community go above a beyond the call of duty regarding their participation in community activities. On Aug. 11, 2007 David McNeil and Rondale Payne of Special touch barber shop, at their own expense, hosted a Barbecue at DeHoyas Park. This well attended event demonstrates when good people do good things and good people get together, great time can be had. This event was a multi ethnic, non alcoholic, family orientated social event. Thank you David and Rondale for the positive sprit and good will, you brought to the Village of Monticello.

On Aug 7th The Village Manager and Deputy manager met with residents of Town and Country. Their concerns about expeditiously constructing a activity room were addressed. They will present their plan before our planning board.

The Village of Monticello has hired a police Dispatcher. Her name is Erin Wilson. We wish Erin the best and welcome her as a Village employee.

The Village has also hired a new police officer, his name is Wilson Carlos. We wish officer Carlos the best and welcome him to our police force.

On September 15, 2007 the Recovery Center is sponsoring a "Recovery walk". The walk starts at the Recovery Center, 396 Broadway, Monticello at 10 a.m. and ends at De Hoys Park (1.1 miles). The purpose of this walk is to demonstrate our support for those who have recovered, or are recovering from alcohol and other drug addictions.

Immediately after this event, the Boys and Girls Club is sponsoring a fun filled family event to raise community awareness. Their will be food, fun and games, sport activities and entertainment for the whole family. This

event begins at 11:00 a.m. and end at 4:00 pm...
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I'd like to thank the Mayor, Deputy Manager and the Police Chief for their assistance in convincing the DOT (Dept. of Transportation) to install a cut back in front of our Police Station. Our police force is appreciative of having the convenience of bringing prisoners into and out of the police station with the least amount of contact with the public.

On Sept 4, 2007 the Village of Monticello is sponsoring a Skate board contest a 1:00 p.m. This end of the summer "Blowout" will take place at our skate board park. Also it should be noted of Dept of public works will install a new piece of equipment at the park.

PUBLIC COMMENT

COMMENTS OF THE ACTING MANAGER'S SALARY

Mr. Mayor that ends my Manager's report, with your permission I would like to address our taxpayers from the podium regarding the acting Managers salary.

Scott on Saturday the 18th, I read your editorial in the Record. You need not apologize for your actions. I believe what you and Gordon did was motivated by principal. What makes our form of government so great, is that we, as individuals can agree to disagree, and when that disagreement can not be resolved through mutual negotiations we rely on our court system to render a decision.

Had past practices been followed the mayor would have been given a salary as acting Manager. The controversy in this instance revolves around the fact that Mayor drew a salary without board approval. The Mayor has acknowledged proper procedure did not take place. Nevertheless the mayor in good faith worked 5 months and is entitled to receive compensation for his labor. The matter has now been reviewed by the court and the decision of the court was that the mayor was entitled to a salary and that the board should decide what that salary should be. Tonight hopefully the board will recommend, vote on, and approve the Mayors salary.

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It is my recommendation as Village Manager that this board approve a salary of Two thousand dollars per month. The Mayor has received six thousand and therefore would be entitled to four thousand Dollars. This will put to bed a controversy that has the potential of further disrupting Village Business. I make no judgment as to right or wrong. As Village Manager, my opinion is based on a business decision. It is in the best interest of the Village of Monticello to pass a resolution acknowledging the Mayor's employment as part time village manager and compensating him for his services at the rate of two thousand dollars per month. It is also in the best interest of the Village to consult with its attorney and set forth a resolution to prevent this occurrence from ever happening again. I will do so as soon as this issue is resolved.

At this time I would like the Mayor to open the floor to public comment regarding this issue. It is important that our trustees be influenced by the opinion of our taxpayers.

Ron Hiatt, a Village resident and also a County Legislator representing the Town of Thompson indicated that he is here because the Village Manager and the Mayor asked him to attend this meeting. He felt it is not his place to tell anyone what to do, however, he explained the County has recently passed a resolution when management employees are required to fill a position for another management employee for an extended period of time, that they would be allowed to get the extra pay retroactive from the beginning. He felt that if someone is asked to do extra work they should get paid. He felt a policy should be put into place so this problem doesn't occur in the future.

Rosa Sheriff, a village resident questioned whether the rate of pay for the acting Village Manager's position based on a part time Mayor doing work as a part time Village Manager or was it based on a manager working full time?

The Mayor responded that it was based on part time.

Monis Brafman, a Village resident and former Trustee stated: "the Mayor is entitled to the additional funds as he is a decent, hard working man.

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Betty Friedland, a village resident indicated that she does not believe this is a question of the amount of money, but it is a question of how this came about. She felt that this is a question of procedure as the Board can't go into Executive Session and discuss something and then not come out and vote on the matter in open session. She also questioned why the Mayor was paid as Acting Village manager from August 1st when the former Village Manager Richard Sush did not leave the position to August 11th.

The Mayor responded that he started in a transition period, working with him to find out the daily duties.

Trustee VanDermark noted that the Board did try to work out a settlement prior to the lawsuit being filed.

Robert Hoose, Charlie Sabatino, Bob Kumis, Sam Wohl and Mark McLewen all village residents or property owners felt that the Mayor should get paid the \$2,000 a month.

William Culligan explained that Jim Barnicle is his step father; however, he is here as a village resident and felt there are bigger problems than this petty argument noting that there are many houses up for sale and many empty store fronts and the Board should be focusing on this community.

Carmen Rue, a village resident felt the County legislators should not be addressing this Board to tell them what to do as the Trustees do not go to their meetings to tell them what to do. She felt a good reason for them to appear at this Board is to tell the Village that the County has made the Village "whole" regarding delinquent taxes. Ms. Rue also felt that businesses and other youths were presented certificates, but nothing was given to the youths that spent a Saturday cleaning up the Village who deserve recognition as well. She requested that Trustee Schoonmaker read the following statement into the minutes:

At least twice, maybe three times, this Board has attempted to set a stipend for Mr. Barnicle's time when he was supposedly "acting" as Village Manager. Each attempt resulted in a deadlocked vote. I commend Trustee Jenkins and Trustee Schoonmaker for having the courage to stand for openness in government and for keeping a check on this Mayor who, if allowed, would run totally out of control?

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They were left with two choices: to roll over and play dead or to take action to prevent Mr. Barnicle from taking money which the Board had not authorized. They took the right action. It was Mr. Barnicle's arrogance that cost the Village money in this matter, not the two honest Trustees who attempted to reign in his improper self-dealing behavior.

At this point the Board ought to vote again, and hopefully get past the deadlock simply in order to allow our present Village Manager and his Deputy move forward, and get past the whole unfortunate period that Mr. Barnicle has held office. In all truth and fairness, Mr. Barnicle should rightly return every cent that he's been paid by the Village both in his capacity as Mayor and for "acting" as Manager for five months. Will he? I am sure he will not. He is only interested in enriching himself.

This is not a personal comment, just an observation: Mr. Barnicle hasn't accomplished a thing as Mayor or as Manager - other than to offend good residents and business owners with his arrogance, drive the Village deeper into debt than it has ever been, and leave Broadway in a state of decay. It will be a good day for Monticello when we elect a Mayor whose first and primary goal is serving the people, not filling his pockets. But for now, I agree that it is time to move on.

Howard Perlman, a village resident felt the Board should resolve the matter and give their attention to more important matters.

Trustee Jenkins explained that he could have brought 100 people to this meeting to speak against giving the Mayor the \$2,000 he requested, however, he did not ask anyone to speak. He felt these people who spoke for the Mayor this evening is about their own agenda since they do not come to Village meeting regularly. He felt this matter is not disrupting the business of the Village as is moving on. The Mayor did not want to appoint either Ray or John to their positions, however now he is taking credit for it. He indicated that he offered to serve as Acting Village Manager with no extra pay; however, the Mayor said he was not qualified. Trustee Jenkins questioned who makes him so qualified to do the job, but he can't do the job. He

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explained that he came to this meeting to settle the matter for \$6,000 but now the Mayor wants another \$4,000. He noted that the only ones that approved the \$2,000 pay increase were the Mayor and his Deputy Mayor, not the entire Board. He stated that, "I respect the public and their opinion, and I don't think this is disrupting the village, so on principle I can't let that money go.

Trustee Schoonmaker agreed and noted that he has listened to the public's comments but people can't go out and do whatever they want since this was done without authorization. He explained that government has a system of checks and balances in place so that rules are followed and certain procedures must be followed. The law suit was that payment was done without authorization by the Village Board and the judge turns the matter back to the Board of Trustees for ramifications.

The Village Attorney noted that a salary can not be give retroactively, so the resolution wording is "offers".

Trustee Jenkins felt the matter should be settled at \$6,000; however he would be willing to conclude the matter for \$8,000.

The Village Manager indicated that if the Board is willing to settle the matter for \$8,000, he would be more than willing to donate to the Village of Monticello the other \$2,000 and be done with it. He felt that too much time and effort has been put into this one matter and it should be finished.

The Village Attorney advise the Manager that this donation would be illegal.

The Clerk read aloud the following resolution:

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**RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF
MONTICELLO OFFERING A SALARY OF \$2,000.00 PER MONTH FOR THE
MONTHS OF NOVEMBER THROUGH DECEMBER OF 2006 INCLUSIVE, TO
THE ACTING VILLAGE MANAGER WHO WAS SERVING AS SUCH PURSUANT
TO ARTICLE 45 OF THE CODE OF THE VILLAGE OF MONTICELLO**

WHEREAS, New York State Village Law §3-300(3) provides that no person shall simultaneously hold an elective and an appointive office; and

WHEREAS, a village is authorized to supercede any provision of the New York State Village Law by adopting a local law with regard to issues relating to its property, affairs or government, unless the New York State Legislature has expressly prohibited the adoption of said local law (Municipal Home Rule Law §10(1)(ii)(e)(3); Op. Atty. Gen. (Inf.) No.98-8; Op. Atty. Gen. (Inf.) No.94-52); and

WHEREAS, on or about June 1, 1992, the Board of Trustees of the Village of Monticello passed Local Law 4 of 1992, which states:

In the event that the Village Manager is unable to serve by reason of death, resignation or other vacancy of office, the Mayor of the Village of Monticello shall serve in the capacity of Acting Village Manager and exercise the duties and responsibilities of that office until a permanent appointment is made. Code of the Village of Monticello §45-9; and

WHEREAS, in passing said Local Law 4 of 1992, New York State Village Law §3-300(3), was superceded; and

WHEREAS, the legislative intent of said law also makes clear that the positions of Village Manager and Mayor are separate and distinct;¹ and

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WHEREAS, on or about August 23, 1999, the Village Board authorized payment of Gary Sommers for serving as Acting Village Manager during a vacancy and Mayor/Acting Village Manager Sommers also received his pay as Mayor at the time, though no resolution was necessary; and

WHEREAS, according to opinions previously issued by the Office of the Attorney General, when a vacancy in an office must be filled, the person designated to fill said vacancy is entitled to the "emoluments" of the office which includes the entire salary. Op. Atty. Gen. (Inf.) No. 1962-95; Op. Atty. Gen. (Inf.) No. 1962-80; and

WHEREAS, no additional legislative action is necessary to pay the Acting Village manager pursuant to these provisions, as the monies for the salary of the Village Manager have already been appropriated (*See People ex rel. George B. Church v. Nelson K. Hopkins, Comptroller, etc.*, 10 Sickels 74, 55 NY 74 (1873)); and

¹Mayor John Diuguid who was the mayor in June of 1992 actually stated for the record, "... [t]o leave the position open, no job function of the manager can be performed, because they have been specifically given to the Village Manager by the State of New York." Minutes of Village Board Regular Meeting, June 1, 1992, p. 3. As such, the Mayor is not performing the duties of Village Manger *ex officio* (duties that are inherent in his position as Mayor), he is performing distinct and separate duties on an emergency basis until the vacancy is filled. Had the performance of the duties of Acting Village Manager been considered to be duties of the Mayor *ex officio*, then there would be a change in our form of government from the Mayor/Manager form of government to a Mayoral form of government. Such a change cannot be accomplished without, *inter alia*, a referendum.

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WHEREAS, the Board of Trustees has received an opinion from the New York Conference of Mayors regarding the increase or decrease of the salaries of elected officials. Said opinion is not on point because the Mayor's salary has been neither increased or decreased, and the Mayor is actually entitled to receive his salary as Mayor and the salary which has been appropriated for the Village Manager position; and

WHEREAS, the Mayor has indicated that he does not want to take the entire salary allocated for the Village Manager, and would reduce same to the amount of \$2,000.00 per month; and

WHEREAS, a Decision and Order of the New York State Supreme Court (Sackett, J.), has found that Acting Village Manager Barnicle is entitled to the salary with no requirement for additional budgetary appropriations; and

WHEREAS, the Board of Trustees of the Village of Monticello is desirous of settling this matter and saving the taxpayers money by agreeing to pay the Acting Village Manager less than the \$6,000.00 per month he may be entitled to, specifically \$2,000.00 per month for the months of August through December of 2006, inclusive; and

NOW, THEREFORE BE IT RESOLVED that the Board of Trustees of the Village of Monticello does hereby offer a salary of \$2,000.00 per month for the months of August through December of 2006 inclusive, to the Acting Village Manager who was serving as such pursuant to Article 45 of the Code of the Village of Monticello while simultaneously serving in the separate and distinct position of Mayor; and be it further

RESOLVED that upon acceptance by the Acting Village Manager, the Village Treasurer is authorized to issue a check for \$4,000.00, constituting the outstanding salary for the months of November and December 2006.

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A motion was made by Trustee Marinello, seconded by Trustee VanDermark, approved on a roll call vote as follows: Trustee Schoonmaker, nay; Trustee Jenkins, nay; Trustee Marinello, aye; Trustee VanDermark, aye; Mayor Barnicle, aye. Motion carried 3 ayes - 2 nays.

The Village Attorney explained that she got an opinion from NYCOM that the Mayor is entitled to vote on this matter.

The Mayor explained that the Board votes on the budget for their own salaries and voted a pay increase in the new budget the Mayor is allowed to vote on this resolution.

Trustee Schoonmaker stated that he offered a compromise to settle this matter and the Mayor has the nerve to take it upon himself to vote. At this time Trustee Schoonmaker left the meeting.

The Mayor noted that before the lawsuit was filed he went to each of the Board members and offered them to take \$1,500 to avoid court action and they refused.

Trustee Marinello confirmed that Mayor Barnicle did offer \$1,500 to settle the matter.

A motion was made by Trustee VanDermark, seconded by Trustee Marinello, unanimously approved on a roll call vote to recess the meeting for 5 minutes.

DEPUTY MANAGER'S REPORT - GREAT SILVER RIVER RESTAURANT

Deputy Manager Barbarite indicated that the Great Silver River Restaurant is soon to be opened. He noted that not only are they opened a five star restaurant, but they are bringing a spirit to the community by asking what they can do for the Village of Monticello. They have chosen to completely renovate "Joe's Park" by removing the blacktop and bricking the walkway, and rearrange some of the islands in the rear parking lot so there will be better access in and out of the service and pave the entire service road behind their restaurant up to the park. He further explained that in reference to the underground gas tanks the Village has agreed to extend to the new owners an

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easement so their gas tanks could be located in this park also, because the building covers the entire footprint of their property and there would be no way they could put above ground propane tanks around their building for both safety reasons and appearance reasons.

The Village Attorney noted that the Village has not formally voted on matter however the easement is in the process of being negotiated.

PUBLIC HEARING WITH RESPECT TO ADOPTION OF PROPOSED LOCAL LAW NO. 15 OF 2007 TO IMPOSE A SIX MONTH MORATORIUM ON NEW USED CAR SALES LOTS

Mayor Barnicle opened the public hearing at 8:35 p.m.

The Mayor explained that the Village is undecided of the scope of how we want to expand or limit new used car sales lots, so therefore, the Board would like to impose a six (6) month moratorium.

The Village Attorney explained that the moratorium will allow the Village to review the way the problem is address in the code.

As there were no further comments, Mayor Barnicle closed the public hearing at 8:39 p.m.

The Clerk was directed to send the local law to the County for a 239m review, and upon the County response the Board will vote on the matter.

RESOLUTION AUTHORIZING THE MAYOR OF THE VILLAGE OF MONTICELLO TO SIGN A "WATER SERVICE AGREEMENT" AND A "WATER DEVELOPMENT LICENSE AGREEMENT" BETWEEN CONCORD AREA LIMITED PARTNERS AND THE VILLAGE OF MONTICELLO

Our attorney and I have reviewed the Concord Associates Contract regarding a "Water Development License" and a "Water Service Agreement".

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The purpose of these contracts is to set forth a fair and equitable means of compensating the Village for water usage. I as Village Manager believe the contract in hand does just that? Therefore I recommend that the board vote in favor of signing said contract. The benefits are far reaching. Not only will the Village receive its inside usage rate for the commercial aspect of the project it will receive a 25% premium for the residential development. We will be selling bulk water at our inside usage rate or at a premium. All cost regarding design, construction, and installation and System improvements shall be paid by Concord Associates.

But this is much more than a water deal.

A project of this size in our backyard will surely bring back a middleclass we lost as our resorts faded into the sunset. Bringing back our middleclass will bring back business to Broadway, stimulate economic growth, and encourage developers to build affordable housing in the Village. Monticello does have a future, and it did have a past. Its past is etched in the minds of vacationers, waiters, busboys, carhops, and bellboys who fondly look back at our history as being the most memorable part of their lives. Lets be visionaries here today. The influx of jobs alone will stimulate our economy. If you coupled that with the potential of bring tens of thousands of tourist, visitors and vacationers to our back yard, we may be able to turn this village around.

On the other hand, and I recognize there are many doubting Thomas's out there, if this project does not go forward the Village will receive through this contract \$50,000.00 annually for three years without any cost or expense and \$25,000.00 guaranteed for the first year.

Tonight representing Concord Associates is Henri Zabata consultant and Kevin McManus water engineer. Besides comments, if anyone has any questions, please feel free to address Henri, Kevin or Danielle our attorney. Upon

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completion of public comment I would like a motion to be made establishing a resolution allowing the Mayor to sign the said mentioned Contracts so that these projects can proceed.

The Mayor explained that the \$25,000 is being paid to the Village so the Concord Executives (their designee) will come into the Village looking for water wells and if they don't strike a well in the first year, they go on to the second year and pay the Village another \$25,000 and if needed another \$25,000 for the third year. If they strike water in the first year the Concord does not have to go on to year two or three.

Kevin McManus, representing the Concord explained that they want to pay \$25,000 above the \$50,000 a year for the right to come on to the Village's property to improve wells to create water to put into their system. He explained that the premise of the contract is that the Concord would pay the Village \$50,000 to be a backup water source for them and at the same time they are developing wells of their own property which will take some time to be in operation. The Village already has a system that is in operation that can be added to in a shorter time frame than they can develop their own wells. He explained that the concept is that the \$50,000 is for backup service, but if the Concord exercises the right to improve the water system already has and than start putting that water into the Village's system and utilizing on their end (burning off) that the Concord residents would have to utilize more than \$50,000 a year in water before they stopped paying the Village the \$50,000 backup charge. If they become users they do not need backup anymore because they are rate paying uses of the water system.

Mayor Barnicle questioned when the start of water usage would begin?

Mr. McManus responded that the Concord is in the process now of rebuilding to become a sales and design center. They expect to have all their approvals in place and be able to open by the end of this or early next year. The

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Mayor noted that the money coming in could be used to apply for grants as matching funds so \$50,000 would then become \$100,000 which would be used to invest and improve our water system.

Dr. Hudes questioned whether adding on a large water user to the Village's existing plant will not cost the Village more money long term.

Mr. McManus responded that the concept is that the Village has a well field that has an extraordinary aquifer, so the Concord would improve the Village's well fields to allow for more ground water fed water sources into the water system as opposed to pulling more water off Kiamesha Lake. Their objective is not to have the Village pull more water out of Kiamesha Lake, but to drill water wells on the Village's well field and improve the system which would be paid for by the Concord.

Dr. Hudes questioned why the Concord is not using the existing water system that has been in place for many years?

Mr. McManus responded that the Delaware River Basin Authority limits the amount of water that can be taken out from Kiamesha by anyone. The present water company does not have the rights to draw the amount of water the Concord will need, since they have an antiquated system nor do have the rights to draw out the amount of water they will need. The Concord felt that the best approach would be to develop higher quality ground water sources and put that water into the system.

Harry Brant felt the Concord should be drawing from Kiamesha Lake.

Betty Friedland questioned at the height of the Concord's usage how many gallons will they be using? She questioned why the Concord wouldn't consider annexing into the Village which would give the Village some of their tax dollars.

Mr. McManus responded that they estimate 1.3 to 1.4 million gallons a day. He feels the Concord is a good neighbor and this is isn't a proposal that was ever considered.

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Trustee VanDermark indicated that he did not have time to read the revised contract.

Marc Biaz representing the Partnership explained that people ask why big department stores do not locate in this area. He explained that these companies do research and analysis of the area asking questions about the number of households per square mile, what projects were approved or disapproved, read the newspapers to get a sense of what is going on in that community before they make any kind of decision from a business prospective. This project has a residential component and a commercial component which has a critical mass and it is those critical masses that will support the stores that are locate here. He encouraged the Village Board to support this particular contract.

Bob Kunis agreed with Marc Biaz and felt it is a win, win for everyone and the Village should cooperate with them.

The Village Attorney explained that there is a water service agreement that calls for providing water to the Concord and in that is referred to a water development license that is actually another contract that would give permission to CALP to come on the Village's property to actually develop these water sources. She explained that what is before the Village Board at this time is the most recent draft that was printed this evening and if they do agree to sign it today, the final form would be in a form approved by the Village Attorney, but the contents of the agreement is up to the Village Board.

Trustee Marinello was concerned that this is not an updated contract and he wants to be assured that all their requests are included in the latest revised contract.

The Village Attorney indicated that whatever revisions the Board had requested have been made.

Trustee VanDermark felt that he did not receive a copy of the revised contract and he needs more time to read it over. He also questioned the Water Superintendent as to whether he has had a chance to read over the latest revised contract?

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The Water Superintendent responded that he has not reviewed the latest contract.

Trustee VanDermark was concerned that the Water Superintendent's concerns were met and he will not vote on this matter since the Board is not totally sure of the contracts content. He withdrew his motion.

The Mayor suggested that at the end of the meeting be recessed at the end of the business meeting until tomorrow at 8 a.m.

The matter was tabled until tomorrow morning at 8 a.m.

**RESOLUTION CORRECTING THE 2007/08 VILLAGE TAX ROLL -
SECTION 111 BLOCK 4, LOT 49**

WHEREAS, a charge for property cleanup and an administration fee was charged and relieved to 34 Liberty Street, however this was not the property that was cleanup; and,

WHEREAS, because the error occurred by the Village as it was in fact a Village owned property that was cleaned up.

NOW, THEREFORE BE IT RESOLVED, that the Village Board of the Village of Monticello does hereby correct the 2007/08 Village Tax Roll to remove the charges in the amount of \$1,814.37 from the tax bill and the Village Clerk is directed to send a corrected bill to each property owner.

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

**RESOLUTION CHANGING THE FIRST MEETING IN SEPTEMBER FROM
MONDAY, SEPTEMBER 3, 2007 TO TUESDAY, SEPTEMBER 4, 2007 DUE
TO THE LABOR DAY HOLIDAY**

WHEREAS, the Board of Trustees of the Village of Monticello hold their regular meetings on the first and third Mondays of each month; and,

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WHEREAS, since the first Monday of September falls on Labor Day.

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby change the first meeting in September from Monday, September 3, 2007 to Tuesday, September 4th at 7 p.m.

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

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF MONTICELLO SETTING TIME AND PLACE FOR A PUBLIC HEARING IN COOPERATION WITH THE TOWN BOARD OF THE TOWN OF THOMPSON REGARDING PROPOSED ANNEXATION FROM THE TOWN INTO THE VILLAGE OF PROPERTY AT 1 HAY STREET, TOWN OF THOMPSON SBL# 22.-1-12

WHEREAS, the Board of Trustees of the Village of Monticello has received a petition from the requisite number of owners for the annexation of certain real property designated as SBL 22.-1-12, at 1 Hay Street, in the Town of Thompson from the Town of Thompson into the Village of Monticello in accordance with NYS General Municipal Law § 703; and

WHEREAS, the Village Board of Trustees must hold a public hearing regarding said proposed annexation in a joint session with the Town Board of the Town of Thompson under NYS General Municipal Law § 704;

WHEREAS, after consultation with the Town Board of the Town of Thompson, the Board of Trustees of the Village of Monticello does wish to set a time and place for a joint public hearing with the Town of Thompson Town Board concerning said proposed annexation, so that the public may be heard;

NOW, THEREFORE, BE IT RESOLVED, that a public hearing be held by the Village Board of Trustees of the Village of Monticello in conjunction with the Town Board of the Town

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of Thompson with respect to the aforesaid proposed annexation at 7:00 p.m. on Tuesday, September 4, 2007, at AND 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 VanDermark, seconded by Trustee Marinello, unanimously approved on a roll call vote to adopt the above resolution.

RESOLUTION APPROVING PURCHASE OF REPLACEMENT DRY PIT SUBMERSIBLE SEWER PUMP FOR SEWER DEPARTMENT IN THE AMOUNT OF \$4,195.00

WHEREAS, the Sewer Department needs to replace an obsolete well pump at the Sleepy Hollow Pump Station; and,

WHEREAS, there is funds in this appropriation for the cost of this item in the 2007/08 fiscal budget; and,

WHEREAS, the installation of this pump will complete the replacement of both pump systems in this pump station.

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve the purchase of a replacement dry pit submersible sewer pump at the Sleepy Hollow pump station in the amount of \$4,195.00.

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 PURCHASE OF NEW GARBAGE TRUCK FOR THE SANITATION DEPARTMENT IN THE AMOUNT OF \$137,529.00

WHEREAS, the Sanitation Department needs a new garbage truck; and,

WHEREAS, there is funds in this appropriation for the cost of this item in the 2007/08 fiscal budget; and,

WHEREAS, this new vehicle is being purchase under the State Office of General Services (State Bid).

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NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve the purchase of a new garbage truck in the amount of \$137,529.00.

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 PURCHASE OF AN AUTOMATIC HYDRANT FLUSHER FOR THE WATER DEPARTMENT IN THE AMOUNT OF \$2,091.95

WHEREAS, the Water Department needs to purchase an Automatic Hydrant Flusher; and,

WHEREAS, there are funds in this appropriation for the cost of this item in the 2007/08 fiscal budget; and,

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve the purchase of an Automatic Hydrant Flusher for the Water Department in the amount of \$2,091.95.

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

RESOLUTION APPROVING PURCHASE OF A COMPUTER, PRINTER, HARD DRIVE, KEY BOARD, ETC. FOR THE WATER DEPARTMENT IN THE AMOUNT OF \$1,181.00

WHEREAS, the Water Department needs to purchase a new computer, printer, hard drive, key board, etc; and,

WHEREAS, there are funds in this appropriation for the cost of this item in the 2007/08 fiscal budget; and,

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve the purchase of a Computer, Print, Hard Drive, Key Board, etc. for the Water Department in the amount of \$1,181.00.

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

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF MONTICELLO SETTING A TIME AND PLACE FOR A PUBLIC HEARING WITH RESPECT TO PARTICIPATION IN THE "RESTORE NY" PROGRAM TO BE HELD ON TUESDAY, SEPTEMBER 4th AT 7:00 P.M.

WHEREAS, the Board of Trustees of the Village of Monticello is desirous of applying for grant monies available through the Empire State Development Corporation for the purposes of local rehabilitation, reconstruction and demolition projects; and

WHEREAS, the Board of Trustees of the Village of Monticello has determined that it is in the best interest of the Village of Monticello to apply for said funding for the purposes of revitalizing our downtown area; 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 participation in the "Restore NY" program, so that the public may be heard;

NOW, THEREFORE, it is hereby **RESOLVED**, that a public hearing be held by the Board of Trustees of the Village of Monticello with respect to participation in the "Restore NY" program at 7:00 p.m. on September 4, 2007, at Monticello 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 VanDermark, unanimously approved on a roll call vote to adopt the above resolution.

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EXECUTIVE SESSION

At 9:24 p.m., a motion was made by Trustee VanDermark, seconded by Trustee Marinello, unanimously approved on a roll call vote to move into Executive Session to discuss contract negotiations.

RECONVENING THE REGULAR VILLAGE BOARD

MEETING TO ORDER

Mayor Barnicle reconvened the meeting to order at 9:40 p.m.
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Roll Call

Upon call of the roll, the following were:

Present:

Absent:

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

Scott Schoonmaker, Trustee

Also Present: Ray Nargizian, Village Manager
John Barbarite, Deputy Village Manager
E. Danielle Jose, Village Attorney
Tim Havas, Deputy Village Attorney

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF
MONTICELLO TO APPROVE SETTLEMENT OF A CLAIM WITH GITLIN,
KNACK & PAVLOV**

WHEREAS, the Village of Monticello had previously utilized the services of Gitlin, Knack & Pavlov as the auditors for the Village of Monticello; and

WHEREAS, the services utilized were more extensive than what was originally contemplated in the written estimate; and

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WHEREAS, according to the estimate, there was a mechanism for payment for additional services; and

WHEREAS, according to Gitlin, Knack & Pavlov, specifically Andrew Pavlov, over \$100,000.00 in extra services were necessary and were performed; and

WHEREAS, in lieu of proceeding with litigation, Village Manager Ray Nargizian wishes to offer Gitlin, Knack & Pavlov, \$10,000.00 to settle the claim which would be payable upon receipt by the Village of Monticello of a General Release fully executed by all the principals of Gitlin, Knack & Pavlov; and

WHEREAS, the Board of Trustees of the Village of Monticello finds that it is in the best interest of the Village to offer Gitlin, Knack & Pavlov, \$10,000.00 for settlement of the potential claim;

NOW, THEREFORE, it is hereby **RESOLVED**, that the Village Board is hereby authorized to settle the claim of Gitlin, Knack & Pavlov, for the sum of TEN THOUSAND (\$10,000.00) DOLLARS; and it is further

RESOLVED, that, in the event the settlement offer is accepted, the Village Treasurer is hereby authorized to make payment to Gitlin, Knack & Pavlov, in the sum of TEN THOUSAND (\$10,000.00) DOLLARS to settle said claim upon receipt by the Village of Monticello of a General Release fully executed by all the principals of Gitlin, Knack & Pavlov.

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

RECESS

A motion was made by Trustee VanDermark,, seconded by Trustee Marinello, unanimously approved on a roll call vote to recess the Regular Village Board meeting to Tuesday, August 21, 2007 at 8 a.m.

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RECONVENING THE REGULAR VILLAGE BOARD

MEETING TO ORDER

Mayor Barnicle reconvened the meeting to order at 8:02 a.m.

Roll Call

Upon call of the roll, the following were:

Present:

Absent:

James Barnicle, Mayor
Victor, Marinello, Jr., Trustee
Brian VanDermark, Trustee

Scott Schoonmaker, Trustee
Gordon Jenkins, Trustee

Also Present: Ray Nargizian, Village Manager
John Barbarite, Deputy Village Manager
E. Danielle Jose, Village Attorney
Tim Havas, Deputy Village Attorney

**RESOLUTION AUTHORIZING THE MAYOR OF THE VILLAGE OF
MONTICELLO TO SIGN A "WATER SERVICE AGREEMENT" AND A "WATER
DEVELOPMENT LICENSE AGREEMENT" BETWEEN CONCORD AREA LIMITED
PARTNERS AND THE VILLAGE OF MONTICELLO**

WHEREAS, CALP owns and is developing the Concord Resort property (hereinafter "Concord Resort") in the Town of Thompson; and

WHEREAS, The Concord Resort is to be served by a central water supply system, pumping facilities, mains, and appurtenances to be constructed by CALP. The water supply system will be owned and operated by an entity that will hereinafter be referred to as "Concord Water"; and

WHEREAS, CALP intends to form a water-works corporation (hereinafter "Water Corp") pursuant to Article 4 of the Transportation Corporations Law that would own and operate Concord Water and/or work with the Town to form a new water district; and

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WHEREAS, The recently-approved Concord Resort Comprehensive Development Plan indicates that the Concord Resort, at full build-out, will require approximately 1.3 million gallons per day of drinking water;

WHEREAS, CALP intends to develop the water needed for the Concord Resort. CALP has had an extensive evaluation performed by its hydro-geological consultant, Charles Rich of CA Rich and Company. Its hydro-geological consultant believes that the entire 1.3 million gallons per day of drinking water may be obtained from the groundwater aquifer along the Kiamesha Creek as it passes through CALP's site, and CALP intends to develop the water needed for the Concord Resort from this source; and

WHEREAS, CALP has developed three wells that produce over 200,000 gallons of water per day. CALP will continue to develop, at its own expense, on-site water sources through the construction, testing, and approval of wells to provide water supply for Concord Water; and

WHEREAS, the approval process for water source development is lengthy (approximately 12 months) and involves several different agencies; and

WHEREAS, the Village has a water district near the Concord Resort; and

WHEREAS, the Village recognizes that it has an opportunity to enhance the dependability of its water supply and operate the water system of the Village in a more cost-efficient and convenient manner as the result of additional revenues that would be generated by this Agreement and the possibility of developing additional water supply resources; and

WHEREAS, appropriately designed interconnections between the Village's water system and Concord Water would improve the dependability of each system and provide water flow, in either direction, during an emergency or repair/maintenance scenario; and

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WHEREAS, the Village currently has excess capacity in its existing water supply that may be completely allocated after the Monticello Raceway is approved for gambling and several, already approved, contingent developments may initiate construction as a result (hereinafter the "Casino Developments").; and

WHEREAS, CALP intends, as the first phase of the Concord Resort, to initiate construction of a proposed 5-star Hotel/Spa and Clubhouse concurrent with the offering of first-class residential homes in July of 2007. This first phase of Concord Resort will need up to 350,000 gallons per day of water; and

WHEREAS, once the sales and construction activities have commenced in Fall 2007, it will be at least 10 to 12 months before there are any completed structures that will need a certificate of occupancy that requires an existing and approved water supply to serve the structure.; and

WHEREAS, in order to obtain supply water to CALP consistent with the above premises, it will be necessary for the Mayor of the Village to execute an agreement between CALP and the Village; and

WHEREAS, in order to execute an agreement between CALP and the Village it will also be necessary to sign a Water Development License Agreement to allow CALP continue to develop, at its own expense, on-site water sources through the construction, testing, and approval of wells on Village property at CALP's sole expense; and

WHEREAS, Board of Trustees of the Village of Monticello, in a resolution dated April 9, 2007, authorized the Village Manager to engage in negotiations with CALP for the provision of water services and a draft contract is attached hereto and made a part hereof, along with the within-referenced Water Development License; and

WHEREAS, environmental review pursuant to SEQRA has been addressed through the Town of Thompson in keeping with the doctrine against segmentation, with the records having been made available to the Village; and

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WHEREAS, the Board of Trustees of the Village of Monticello finds that it is in the best interest of the Village of Monticello to authorize the Mayor to sign an agreement with CALP to provide water service to CALP as stated above; and

WHEREAS, the Board of Trustees of the Village of Monticello finds that it is in the best interest of the Village of Monticello to authorize the Mayor to sign a license agreement with CALP to permit CALP to develop, at its own expense, on-site water sources through the construction, testing, and approval of wells on Village property at CALP's sole;

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Board of Trustees of the Village of Monticello

1. That the Mayor of the Village of Monticello shall be and hereby is authorized to sign an agreement with CALP to provide water service to CALP as stated above, the final form of which to be approved by the Village Attorney; and
2. That the Mayor of the Village of Monticello shall be and hereby is authorized to sign a license agreement with CALP to permit CALP to develop, at its own expense, on-site water sources through the construction, testing, and approval of wells on Village property at CALP's sole expense, the final form of which to be approved by the Village Attorney; and
3. That this resolution shall be effective immediately upon signature of the Village Clerk.

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

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ADJOURNMENT

At 8:22 a.m., a motion was made by Trustee VanDermark, seconded by Trustee Marinello to adjourn the Regular Village Board meeting.

EDITH SCHOP, Village Clerk