

MINUTES
REGULAR MEETING OF THE BOARD OF TRUSTEES
VILLAGE OF MONTICELLO, N.Y.
MONDAY, MARCH 24, 2008

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
E. Danielle Jose, Village Attorney
Tim Havas, Deputy Village Attorney
Douglas Solomon, Chief of Police
Clarence Decker, Water Superintendent
Bill Bertholf, Sewer Superintendent

MOMENT OF SILENCE - DON BLOCK

Mayor Barnicle asked for a moment of silence in memory of former Mayor and Manager Don Block who passed away this weekend.

PRESENTATION OF PLAQUE TO ALAN "MOOSE" REYNOLDS" RETIRED DPW SUPERINTENDENT

Mayor Barnicle presented a plaque on behalf of the Village Board to retired DPW Superintendent Alan "Moose" Reynolds who had worked for the Village in the Highway Department for 38 years.

APPROVAL OF MINUTES OF BOARD MEETINGS OF MARCH 10, 2008

A motion was made by Trustee VanDermark, seconded by Trustee Marinello, unanimously approved on a roll call vote to adopt the minutes of the meeting of March 10, 2008 as presented.

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MANAGER'S REPORT

Just a reminder Alan "Moose" Reynolds retired as of Feb 28, 2008. On March 28, Friday of this week friends of "Moose are gathering at Bernie's Holiday Restaurant in Rock Hill to celebrate and acknowledge his 38 years of service to the Village of Monticello. Please contact Bonnie at the Highway dept. if you plan to attend. Moose, thank you again for your dedicated service to the Village of Monticello.

The New York State Department of Transportation has scheduled a stakeholders meeting for the Route 17B Corridor Study. The purpose of these meetings is to provide an update on the progress of the study and to solicit comments regarding the draft recommendations developed. This meeting will take place Tuesday, April 1, 2008 at 1:30 p.m. at the Sullivan County Government center.

Village officials, our police dept, the fire dept. and mobile medic met with management of Regency Manor to discuss emergency procedures to gain access to the apt. complex should the building be closed. It was agreed that these services will be given a key to the complex in order to perform necessary services should an emergency occur.

Supreme Court Justice, the honorable Judge Ceresia from Albany visited our new temporary courthouse. He expressed his pleasure in the quality of the workmanship and the overall regal appearance of the courthouse. We thank the Judge for his support in helping the Village secure a \$30,000.00 Grant to subsidize construction.

On March 19, 2008 Glen Gidaly and Arnie Bernardini of Barton and Loguidice met with Village officials to discuss the Transportation Grant for sidewalks along Forestburg Rd. This grant application is being submitted by the County in our behalf.

On Fri. March 21, at 12:00 pm. Village officials were invited to attend the official announcement of a \$50,000 grant for the boys and Girls Club soon to be located at the old middle school.

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On Jan 22, 2008 I submitted my resignation as of March 31, 2008. At the Mayor's request I deferred making this announcement until after the Village election. Now that the election is behind us I formally inform this board of my decision. Thank you for affording me the opportunity to serve the Village it has been a challenging experience.

PUBLIC COMMENT

Remarks Regarding the Retiring Manager

Harry Brantz indicated that he was happy that Ray Nargizian submitted his resignation and felt that John Barbarite is the person that should be the Village Manager as he has the qualifications and is nominating him for the position.

Bob Kunis thanked Ray Nargizian for his one year service as Village Manager and the achievements he obtained during his tenure. He felt that it is unfortunate that most of the people who have businesses in the Village reside outside the Village, however their livelihood depends what happens here. He felt there are a multitude of problems that have to be addressed such as legal and law enforcement issues and a multitude of problems that have to be addressed in order to make the Village of Monticello once again the "flag ship" of Sullivan County. He felt the new officials need the support of all of us to achieve the kind of things we have to achieve.

The Mayor noted that the grant the Village is applying for is to help small businesses on Broadway to revitalize the downtown area in conjunction with the reconstruction of Broadway.

Revitalization of Monticello

Harry Brantz felt that the Village is dead noting all the vacant stores on Broadway and felt that the Board and the Chamber of Commerce have done nothing to encourage businesses to open and revitalize Broadway.

Increasing Taxi Medallions

Sureway Taxi owner Gary Putter explained that for more than 8 months and has been lobbying for 5 more medallions to be issued so that he can remain an open business in this Village. He was

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concerned that he was not made aware that the public hearing that was scheduled for the last meeting was cancelled. He did not see how the Village can attract business if they pay no attention to the people who are trying to get the Board's attention. He was concerned that when he spoke to the Mayor and then the Village Attorney and there were two completely conflicting stories and he does not know if he should believe the politician or the attorney.

Mayor Barnicle explained that the public hearing is scheduled for the April 7th meeting when the new Board will be seated.

RESOLUTION OF THE VILLAGE OF MONTICELLO TO AUTHORIZE HOLDING PUBLIC HEARINGS REQUIRED FOR PARTICIPATION IN THE New York STATE SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

WHEREAS, Title I of the Housing and Community Development Act of 1974, as amended, authorizes the Small Cities Community Development Block Grant (CDBG) Program; and,

WHEREAS, the Village intends to submit an application for funding under this Program for Fiscal Year 2008-2009; and,

WHEREAS, the rules and regulations of the above Program require that each applicant provide citizens with information concerning the range of activities that may be undertaken, the amount of funds available for such community development and housing activities, the Town's plan for minimizing displacement of persons and for assisting persons actually displaced as a result of activities assisted with CDBG funds.

NOW, THEREFORE, BE IT RESOLVED, that the Village of Monticello will hold two public hearings on:

DATE: April 7th 2008
DATE: April 14th 2008
TIME: 7:00 PM
TIME: 7:00 PM
PLACE: Village Hall
PLACE: Village Hall

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

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**RESOLUTION APPROVING THE PURCHASE OF STATOR AND ROTOR FOR
REPLACEMENT PARTS FOR PROGRESSIVE CAVITY PUMP #1 THE SEWER
DEPARTMENT IN THE AMOUNT OF \$2,345**

WHEREAS, the Monticello Sewer Department has a to purchase the stator and rotor to replace worn parts on Progressive Cavity Pump #1 at the Wastewater Treatment Plant; and,

WHEREAS, this item is necessary to properly operate the Progressive Cavity Pump #1 at the Wastewater Treatment Plant; and,

WHEREAS, the Superintendent has received three written proposals from vendors as required by the Village's Procurement Policy; and,

WHEREAS, there funds have been appropriated in the current FY budget; and,

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve the purchase the stator and rotor to replace worn parts on Progressive Cavity Pump #1 at the Wastewater Treatment Plant in the amount of \$2,345.

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 THE PURCHASE OF EMERGENCY LIGHTS AND
SIREN FOR THE POLICE DEPARTMENT'S CHEVY TAHOE IN THE AMOUNT OF
\$4141.00**

WHEREAS, the Monticello Police Department has a to purchase emergency lights and siren for the Police Department's Chevy Tahoe; and,

WHEREAS, this item is necessary to use this vehicle as a police emergency vehicle; and,

WHEREAS, as this equipment is being paid from a grant received by the Police Department; and,

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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 emergency lights and siren for the Police Department's Chevy Tahoe in the amount of \$4141.00.

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

RESOLUTION APPROVING THE PURCHASE OF A LIFT STATION DEGREASER FOR THE SEWER DEPARTMENT IN THE AMOUNT OF \$1,217.29

WHEREAS, the Monticello Sewer Department has requested the purchase of a Lift Station Degreaser; and,

WHEREAS, the Superintendent has received three written proposals from vendors as required by the Village's Procurement Policy; and,

WHEREAS, there funds have been appropriated in the current FY budget; and,

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve the purchase of a Lift Station Degreaser for the Sewer Department in the amount of \$1,217.29.

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 THE EMERGENCY LOADER REPAIR OF A LOADER ACCUMULATOR FOR THE HIGHWAY DEPARTMENT IN THE AMOUNT OF \$2,295.69

WHEREAS, the Monticello Highway Department has requested the purchase of a Loader Accumulator; and,

WHEREAS, the Superintendent has received one written proposal since only one vendor can repair the machine; and,

WHEREAS, there funds have been appropriated in the current FY budget; and,

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NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve the emergency loader repair to remove and replace the accumulator for the Highway Department in the amount of \$2,295.69.

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

RESOLUTION APPROVING THE PURCHASE OF A PAK MOR BUSHING FOR THE SANITATION DEPARTMENT IN THE AMOUNT OF \$1,184.84

WHEREAS, the Monticello Sanitation Department has requested the purchase of a Pak Mor Bushing; and,

WHEREAS, the Superintendent has received one written proposal since only one vendor can repair the machine; and,

WHEREAS, there funds have been appropriated in the current FY budget; and,

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve the purchase of a Pak Mor for Truck #12 for the Sanitation Department in the amount of \$1,184.84.

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

DISCUSSION ON REQUEST FROM SUREWAY TAXI FOR AN INCREASE IN TAXI RATES

The Mayor explained that the fare increase would be for both cab companies and since the last price increase the cost of gas has increased 75 cents per gallon.

RESOLUTION AUTHORIZING THE INCREASE OF TAXI FARES

WHEREAS, the Cab Companies within the Village of Monticello ("Village") have requested an increase of taxi fares by \$.50 per zone due to increases in gasoline prices which are perceived to be temporary; and

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WHEREAS, the Board of Trustees have discussed this matter and asked for public opinion of users of these cabs; and

WHEREAS, the Board of Trustees recognizes that the increase in gasoline prices may be temporary; and

WHEREAS, the Cab Companies within the Village agree to eliminate the increase in the event gasoline prices in the Village of Monticello fall below \$3.35 per gallon.

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello do hereby authorize all the cab companies within the Village of Monticello to increase their taxi fares by \$.50 for each zone as follows:

Zone	Increased Fare Amount
"A"	\$6.75
"B"	\$7.00
"C"	\$7.25
"D"	\$7.50; and

BE IT FURTHER RESOLVED, that the Board of Trustees will expressly rescind this authorization by resolution, in the event gasoline prices within the Village of Monticello fall below \$3.35 per gallon.

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

EXECUTIVE SESSION

At 7:33 p.m., a motion was made by Trustee Marinello, seconded by Trustee VanDermark, unanimously approved on a roll call vote to move into Executive Session to discuss personnel matters involving a particular people.

RECONVENING THE REGULAR VILLAGE BOARD MEETING

At 7:50 p.m., a motion was made by Trustee VanDermark, seconded by Trustee Marinello, unanimously approved on a roll call vote to move out of Executive Session into open session.

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**RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF MONTICELLO
SETTING THE SALARY THE OF HIGHWAY AND SANITATION SUPERINTENDENT
AT \$56,000.00 ANNUALLY RETROACTIVE TO HIS APPOINTMENT AS
SUPERINTENDENT UNTIL THE AUGUST 2008 BUDGET TAKES EFFECT**

WHEREAS, the Village Board has previously appointed Stanley Calhoun as Highway and Sanitation Superintendent on a probationary basis; and

WHEREAS, the Village Board is empowered by Section 45-8 of the Village Code to fix the salaries of officers and employees of the Village of Monticello; and

WHEREAS, the position of Highway and Sanitation Superintendent is a civil service position; and

NOW, THEREFORE BE IT RESOLVED, pursuant to Section 45-8 of the Village Code that the Village Board hereby sets the salary of the Highway and Sanitation Superintendent at \$56,000.00 annually retroactive to his appointment as superintendent until the August 2008 budget takes effect.

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

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF MONTICELLO
OFFERING A SALARY OF \$500 PER WEEK FOR THE WEEK OF MARCH 31,
2008 THROUGH APRIL 7, 2008 INCLUSIVE, TO THE ACTING VILLAGE
MANAGER WHO WAS SERVING AS SUCH PURSUANT TO ARTICE 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 supersede 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

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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

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

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, 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

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 \$500.00 per week; and

WHEREAS, a Decision and Order of the New York State Supreme Court (Sackett, J.), has found that the Acting Village Manager is entitled to the Village Manager's budgeted 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 \$1,500.00 per month he may be entitled to, specifically \$500.00 per week for the week of March 31, 2008, through April 7, 2008 at noon, inclusive; and

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby offer a salary of \$500.00 per week for the week of March 31, 2008, through April 7, 2008 at noon, 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

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RESOLVED, that upon acceptance by the Acting Village Manager and in the course of processing regular Village payroll for the aforementioned time period, the Village Treasurer is authorized to issue a check for \$500.00 constituting the Acting Village Manager's salary for the week of March 31, 2008, through April 7, 2008 at noon, inclusive.

A motion was made by Trustee VanDermark, seconded by Trustee Marinello, 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.

ADJOURNMENT

At 7:58 p.m., 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.

EDITH SCHOP, Village Clerk