

MINUTES
REGULAR MEETING OF THE BOARD OF TRUSTEES
VILLAGE OF MONTICELLO, N.Y.
WEDNESDAY, MARCH 21, 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:

Absent:

James Barnicle, Mayor
Gordon Jenkins, Trustee
Scott Schoonmaker, Trustee
Brian VanDermark, Trustee

Victor, Marinello, Jr., Trustee

Also Present: Ray Nargizian, Village Manager
John Barbarite, Deputy Village Manager
Danielle Jose, Village Attorney
Tim Havas, Deputy Village Attorney
Clarence Decker, Water Superintendent
Bill Bertholf, Sewer Superintendent
Arlene Glass, Grant Administrator
Caroline Hayes, Asst. Grant Administrator
Brenda Galligan, Treasurer

APPROVAL OF MINUTES BOARD MEETINGS OF MARCH 5, 2007

A motion was made by Trustee Jenkins, seconded by Trustee VanDermark, unanimously approved on a roll call vote to adopt the minutes of the meetings of March 5, 2007.

MANAGER'S REPORT

On Tuesday March 6, I attended the Gang awareness seminar held at the Lodge in Rock Hill. It was most informative. I learned how gangs recruit our children, what their colors

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and numbers mean their violent initiation rituals and their goals. I suggest any person with children take the time and attend this seminar should it be repeated.

Our police dept. once again should be commended on its "operation impact" program. Since the implementing of this program crime in the Village of Monticello has decreased. It has resulted in a total of 203 arrests.

32 Felony arrests
65 drug related arrests
18 DWI arrests
28 arrest s for outstanding warrants
5 illegal firearms have been removed from the streets of the Village

On Friday the 9th The Mayor, Betsy Conaty and myself met with Pat Michel Superintendent of school, to discuss the Boys and Girls Club coming to Monticello. The boys and girls club will occupy afternoon hours of our Students hence giving them something productive to do. This program should be in place Sept. of 2007. It will be at the old Middle School, centrally located in Monticello.

On Tuesday the 13th I attended a pre Grand Opening of Regency Manor. Monticello should be proud of this newly built Senior citizens facility.

On Friday the 16, the Village of Monticello had its first Comprehensive Emergency Management Plan put to the test. 200 N.Y. bound Shortline passengers were snowbound and stranded in Monticello. The Village opened its doors at the Ted Stroebale Center, fed and boarded all, and coordinated their departure. Special thanks to the Red Cross, Monticello Police dept, John Barbarite Village Deputy Manager, Albella's for supplying the pizza and the many others who helped. The majority of stranded persons were Students who were well behaved and appreciative.

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PUBLIC COMMENT

Police Department Comments

Harry Brantz felt that there are still many "drug houses" operating within the Village and this is contributing to the high crime statistics.

Crystal Ridge Estates

Harry Brantz felt the Village should hold additional public hearings on the Crystal Ridge Project regarding storm drainage runoff.

State of Emergency

Barbara Burton felt that the entire County is under a State of Emergency. She felt that counter productiveness must be untangled with oversight. She felt the problems are fixable.

Helping Clean-up Monticello

Smiley Sedonawick explained that there is a new community of people originally from Bosnia, Yugoslavia residing in Sackett Lake that is offering their help to clean up Monticello and make it more beautiful in anyway possible.

Mayor Barnicle responded that his door and the Village Manager's door is always opened to meet with their group to exchange ideas and come up with a plan

EXECUTIVE SESSION

At 7:10 p.m., a motion was made by Trustee Schoonmaker, seconded by Trustee Gordon, unanimously approved on a roll call vote to move into Executive Session to discuss a personnel matter involving a particular individual person.

RECONVENING THE REGULAR VILLAGE BOARD MEETING

At 7:21 p.m., a motion was made by Trustee VanDermark, seconded by Trustee Jenkins, unanimously approved on a roll

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call vote to move out of Executive Session and reconvene the regular Village Board meeting.

**PUBLIC HEARING FOR PARTICIPATION IN THE NEW YORK STATE
SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

Mayor Barnicle opened the public hearing at 7:22 p.m.

Grant Administrator Arlene Glass explained that she and Assistant Grant Administrator Caroline Hayes met with Village Manager Ray Nargizian and Deputy Village Manager John Barbarite to consider applying for a grant for the rental rehabilitation program. This grant would be aimed at low to moderate income owners to target dangerous conditions and code violations and help with enforcing the codes. The application will include a list of appropriate properties and examples of work that needs to be done. The application is due to be submitted by April 9th.

Betty Friedland questioned if anyone from the Village will be overseeing the work?

The Mayor responded that the work will be closely monitored.

Carmen was concerned that the grant funds would be going to the Town not the Village.

Grant Administrator Arlene Glass assured her that all the grant funds go to the Village.

As there were no other comments, Mayor Barnicle closed the public hearing at 7:22 p.m.

**RESOLUTION OF THE VILLAGE OF MONTICELLO TO AUTHORIZE
PARTICIPATION IN THE FY 2007 NEW YORK STATE SMALL CITIES
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

WHEREAS, Title 1 of the Housing and Community Development Act of 1974, as amended, authorizes the Small Cities Community Development Block Grant (CDBG) Program; and,

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WHEREAS, the primary objective of these grants is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low to moderate income; and,

WHEREAS, the Village wishes to undertake certain activities eligible for assistance under this program; and,

WHEREAS, in order to secure financial assistance under this Program an application must be filed with the New York State Governor's Office on Small Cities.

NOW, THEREFORE BE IT RESOLVED, that the Village of Monticello will submit an application for funding under this Program; and,

BE IT FURTHER RESOLVED, that the Mayor of the Village of Monticello be authorized and empowered to execute in the name of the Village all the necessary applications, contracts and agreements necessary to carry out the purposes outlined herein and those specified by the above Act.

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

RESOLUTION APPROVING PURCHASE OF SLEEVE AND PARTS FOR GRADER IN THE AMOUNT OF \$2,077.27

WHEREAS, the Highway Department is in need of Sleeves and parts for the Grader; and,

WHEREAS, there is funds in this appropriation for the cost of these parts; and,

WHEREAS, the Highway Department has received fax quotes from 3 vendors as required by the Village's Procurement Policy.

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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 sleeve and parts for the Grader in the amount of \$2,077,27.

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 TRASH PUMP AND WHEEL FOR THE WATER DEPARTMENT IN THE AMOUNT OF \$1,551.79

WHEREAS, the Water Department needs to purchase a Trash Pump and Wheel; and,

WHEREAS, there is funds in this appropriation for the cost of these items; and,

WHEREAS, the Water Department has received fax quotes from 3 vendors as required by the Village's Procurement Policy.

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve the purchase of a Trash Pump and Wheel for use in the Water Department in the amount of \$1,551.79.

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 AIR BLOWER FOR THE SEWER DEPARTMENT IN THE AMOUNT OF \$3,478.00

WHEREAS, the Sewer Department needs to purchase an Air Blower for the Oxidation Ditch Aeration; and,

WHEREAS, there is funds in this appropriation for the cost of this item; and,

WHEREAS, the Sewer Department has received fax quotes from 3 vendors as required by the Village's Procurement Policy.

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve the

purchase of an Air Blower needed for Oxidation Ditch Aeration for the Sewer Department in the amount of \$3,478.00.

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

Mayor Barnicle explained to the audience that the reason for all these types of resolutions for purchases of material over \$1,000, a policy was instituted several years ago that any purchase over \$1,000 must be approved by the Board.

RESOLUTION APPROVING PURCHASE OF BIO SYSTEMS B500 BLUE (ENZYMES) FOR THE SEWER DEPARTMENT IN THE AMOUNT OF \$2,949

WHEREAS, the Sewer Department needs to purchase a Bio Systems b500 Blue (Enzymes); and,

WHEREAS, there is funds in this appropriation for the cost of this item; and,

WHEREAS, the Sewer Department has received fax quotes from 3 vendors as required by the Village's Procurement Policy.

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve the purchase of Bio Systems B500 Blue (enzymes) for the Sewer Department in the amount of \$2,949.00.

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 QUINCY MODEL 108L SINGLE PISTON COMPRESSOR PUMP FOR THE SEWER DEPARTMENT IN THE AMOUNT OF \$1,250

WHEREAS, the Sewer Department needs to purchase a Quincy Model 108L Single Piston Compressor to replace damaged equipment; and,

WHEREAS, there is funds in this appropriation for the cost of this item; and,

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WHEREAS, the Sewer Department has received fax quotes from 3 vendors as required by the Village's Procurement Policy.

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve the purchase of purchase a Quincy Model 108L Single Piston Compressor to replace damaged equipment in the amount of \$1,250.

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

RESOLUTION AUTHORIZING PAYMENT #1 TO TAM ENTERPRISES FOR OF THE VILLAGE WATER PLANT FILTER REHABILITATION IN THE AMOUNT OF \$43,415.00

WHEREAS, TAM Enterprises was the low bidder pertaining to the rehabilitation of 2 sand filters at the Village Water Plant; and,

WHEREAS, TAM Enterprises was awarded the bid and the work has satisfactorily been completed to the satisfaction of the Water Treatment Plant Superintendent and the Village Engineer and the Village is holding the 5% retainage amount of \$2,285.00.

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve payment No. 1 in the amount of \$43,415.00 TAM Enterprises for the work completed for the rehabilitation of 2 sand filters at the Village Water Plant with a retainage amount of \$2,285 that the Village is still withholding.

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

RESOLUTION AUTHORIZING PAYMENT #5 TO GRANT STREET CONSTRUCTION FOR THE BROADWAY SEWERLINE REPLACEMENT PROJECT IN THE AMOUNT OF \$25,293.28

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

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WHEREAS, Grant Street Construction was awarded the bid and has completed the construction work on the project and the Village has been holding the 5% retainage amount of \$30,293.28; and,

WHEREAS, Grant Street Construction has requested a reduction of the retainage down to \$5,000: and,

WHEREAS, since the contract documents specify that retainage may be released 30 days after construction completion and acceptance by the Village and the Village Engineer has indicated that he has no objection to this request.

NOW, THEREFORE BE IT RESOLVED, that the Board of Trustees of the Village of Monticello does hereby approve payment No. 5 in the amount of \$225,293.28 o Grant Street Construction for the work completed for the construction on the Broadway Sewerline Replacement Project with a retainage amount of \$5,000 that the Village is still withholding.

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

PUBLIC COMMENT

A motion was made by Trustee Schoonmaker, seconded by Trustee Jenkins, unanimously approved on a roll call vote to reopen the public comment segment of the meeting.

Trustee Schoonmaker explained that everyone is aware that the Village Board has been in turmoil for several months over the issue of the Acting Manager/Mayor's salary payment without approval by the Village Board. The Village had originally asked for a written opinion from the Attorney General's Office, NYCOM or the State Comptroller's Office. At a certain time the Board was informed by the Village Attorney that the Attorney General's Office would not give an opinion because they don't interfere with local legislation and the Comptroller's Office also indicated the same and he was not sure whether NYCOM was ever contacted.

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Trustee Schoonmaker indicated that he contacted NYCOM himself to have an opinion as to whether it was legal or not for the payments to be made to the Mayor for serving as Acting Village Manager without authorization from the Village Board. He further indicated that he received a reply in writing to this inquiry and there appears to be a difference of opinion from the Village Attorney's opinion and NYCOM's General Council, the NYS Comptroller's and the Attorney General's opinion. He has written a letter to the Mayor asking that he return the money that he received while serving as Acting Village Manager, however, the Mayor has refused to return the \$6,000 he already was paid. Trustee Schoonmaker continued that based on the fact the Board was waiting for a written opinion from one of those offices on whether or not a resolution was necessary the matter was tabled until this written opinion was received. He indicated that the opinion he received from Attorney Wade Beltramo in the NYCOM Office of General Council when he was asked if it was legal to make such payments without a Board resolution was "no" it is not. Trustee Schoonmaker also showed this document to the Village's Deputy Attorney Tim Havas and he agreed with NYCOM's opinion. At the beginning of this meeting the Board went into Executive Session to try and resolve this matter and at this point the matter still can't be resolved. Trustee Schoonmaker indicated that he does not want the Village to hire an attorney or anyone else to represent the Board to incur any costs to the public to resolve this issue. He felt the Board has more than enough information on this matter from the State Comptroller's Office and the Attorney General's Office regarding their opinion and clearly both state it can not be done without Board approval. The authorization of the money was done without the approval of the Board, and it has been his contention from the beginning that it was not done properly whether the money was deserved or not. He understands the Mayor wants this matter to go to court to try and resolve this because in the opinion of the Village's Attorney, the opinion of NYCOM General Counsel means nothing. Trustee Schoonmaker felt the written opinion should be complied with and an email has been sent to the Board members asking the Mayor to return the money. At this time the Mayor has refused to return the money.

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The Mayor indicated that Trustee Schoonmaker has just violated executive session rules by deluging this information to the public.

Trustee Schoonmaker stated that he has done whatever he could to ensure and protect the taxpayers of this Village. He felt he has no other choice but to take the matter to Court, although he has asked the Mayor to officially step down because of his actions, because to him the Mayor shows clear and utmost disrespect for the Village taxpayers because they have gotten the written opinion that taking the money was improper without the Board's approval.

Trustee Jenkins indicated that he agreed with Trustee Schoonmaker that the Mayor should return the money so the Village can move on with other matter, as well as the Village Attorney recusing herself from this matter because she was the Mayor's appointment which creates a conflict.

Betty Friedland felt that Trustee Schoonmaker did not violate the executive session rules since this matter has been discussed in public numerous times. She also noted that earlier in the meeting the Mayor explained to the public that a resolution must be approved to expend purchases over \$1,000; however there was no resolution to give him additional money for serving as Acting Village Manager although the Mayor received \$6,000. Ms. Friedland continued that with respect to the Village Attorney, she is the attorney for the whole Board, and if there is going to be a lawsuit each party has to have their own attorney and pay for it out of their pockets including Trustees Jenkins and Schoonmaker and Mayor Barnicle. She felt it is a sad state of affairs when money is taken in this fashion without a Board resolution.

The Village Attorney agreed with Ms. Friedland.

Trustee Schoonmaker indicated that it has always been his intention to have a private attorney since he did not want this matter to be a financial burden on the taxpayers.

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Carmen Rue agreed with Ms. Friedland regarding passing resolutions for expenditures over \$1,000 and faulted Deputy Mayor Marinello and the Treasurer for releasing the money without a Board resolution. She felt that everyone that was involved in this payment is wrong.

Harry Brantz felt the \$6,000 is coming from the taxpayers and the people have the right to speak out.

Trustee Schoonmaker indicated that this was a discussion that never came to finality, so everyone is responsible, but he felt the only way to resolve this matter is through the courts.

EXECUTIVE SESSION

At 8:50 p.m., a motion was made by Trustee VanDermark, seconded by Trustee Jenkins, unanimously approved on a roll call vote to move into Executive Session to discuss contract negotiations, a litigation matter and a personnel matter involving a particular individual person.

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF MONTICELLO AUTHORIZING THE VILLAGE ATTORNEY TO NEGOTIATE WITH UPSTATE EQUITIES, LLP REGARDING ACQUISITION OF THE PROPERTY LOCATED ON FISK AVENUE AND MORE PARTICULARLY DESCRIBED AS VILLAGE OF MONTICELLO TAX MAP NO. SBL 113.-1-2 PURSUANT TO EMINENT DOMAIN PROCEDURE LAW §301

WHEREAS, the Board of Trustees of the Village of Monticello desires to acquire the property referenced above within the limits of the Village of Monticello; 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 repair and reconstruct the storm sewer system in, on, under and through said property within the limits of the Village of Monticello; and

WHEREAS, the property owner has been contacted to cooperate with the Village for the purposes of allowing an easement in, on, under and through said property to effectuate said public purpose; and

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WHEREAS, the property owner has failed to respond to said requests; and

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

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

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to article 8 State Environmental Quality Review Act (SEQRA) it has been determined by the Board of Trustees of said Village that said proposed condemnation is an unlisted action, and after having completed a short Environmental Assessment Form ("EAF"), it has also been determined that the proposed action would not have a significant effect upon the environment and could be processed by other applicable governmental agencies without further regard to SEQRA; and

WHEREAS, on December 5, 2005, the Board of Trustees of the Village of Monticello determined that it wishes to obtain by eminent domain the property located on Fisk Avenue and more particularly described as Village of Monticello Tax Map No. SBL 113.-1-2, owned by Upstate Equities, LLC, for the public project of repairing and reconstructing the storm sewer system in the Village of Monticello; and it is further

WHEREAS, the Board of Trustees of the Village of Monticello wishes to make an offer to the owners to provide "just compensation" with respect to proposed condemnation of the property referenced above;

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NOW, THEREFORE, it is hereby

RESOLVED, that the Village Attorney is hereby authorized to negotiate with Upstate Equities, LLP, regarding acquisition of the property located on Fisk Avenue and more particularly described as Village of Monticello Tax Map No. SBL 113.-1-2 pursuant to Eminent Domain Procedure Law §301.

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

ADJOURNMENT

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

EDITH SCHOP, Village Clerk