

MINUTES  
SPECIAL MEETING OF THE BOARD OF TRUSTEES  
VILLAGE OF MONTICELLO, N.Y.  
SUNDAY, DECEMBER 14, 2008

**MEETING TO ORDER**

Mayor Jenkins called the meeting to order at 10:02 a.m.

**PLEDGE TO THE FLAG**

**Roll Call**

Upon call of the roll, the following were present:

Gordon Jenkins, Mayor  
Theodore Hutchins, Trustee  
Victor, Marinello, Jr., Trustee  
Carmen Rue, Trustee  
Scott Schoonmaker, Trustee

Also Present: Jacob Billig, Village Attorney  
Douglas Solomon, Chief of Police

The Village Clerk stated that she personally did not notify the press. A notice was delivered to her house by a Monticello police officer, and then I left because she had a family commitment.

Trustee Rue responded that she notified the press by phone and emailed the notice to the press.

Trustee Hutchins questioned the Village Attorney as to whether proper notification was given?

The Village Attorney explained that he has no personal knowledge and he has seen no proof that the meeting is legally noticed. He asked that all her documentation be filed with the Village Clerk.

Trustee Hutchins thanked the members of the audience that is here on a Sunday, and apologized to community that had religious and personal obligations in that the Board just had a special meeting on Friday and less than 24 hours after that meeting the

Minutes - Special Village Board Meeting  
12/14/08

public is being called out for another special meeting that I am assuming is an emergency meeting when we have a scheduled meeting on Monday. He hoped that this is very important and should only be for an emergency that could not wait for the Monday meeting. He felt that special meetings should be called for something that is important to the community, since at Friday's meeting the Board could have spoken about contingency plans for residents that did not have electricity especially the seniors that might have had to sleep in the community center if someone was there to make the arrangements. Other pending issues are a 2 million dollar grant for the upkeep and rebuilding of the sewer department as well as litigations that we are incurring and complaints that our employees have that may incur possible litigations. He asked that the Board move into Executive Session to discuss this matter.

Trustee Schoonmaker indicated that possible litigation is not a matter for executive session.

The Mayor indicated that he will have this meeting run orderly and respectful.

Trustee Hutchins indicated that it is not possible litigation, it is litigation.

Trustee Rue explained that she called a special meeting along with Trustee Schoonmaker. The purpose of this meeting was a special meeting for the best interest of the Village and it was an emergency, yes. She yielded to Trustee Schoonmaker.

Trustee Schoonmaker felt that at this particular point I feel that it is imperative to appoint someone to replace Mr. Barbarite as Manager. At this point I would like to make a motion that Zach Kelson be appointed as full time interim Manager with the anticipation that there will be resumes where a system will be set up where a Manager will be interviewed and hired - give me a minute, I'm losing my train of thought, let me get my train of thought - That's pretty much it with the anticipation that the Village will continue to look for a Manager in place all the resumes will be acted upon accordingly.

Trustee Marinello seconded this motion.

Minutes - Special Village Board Meeting  
12/14/08

Trustee Hutchins explained that he does not know this gentleman Zach Kelson, but I am going to take the individual out and just talk about the position. On April 7, 2008 Trustee Rue stated and Trustee Hutchins read an excerpt from her statement as follows: But this position should not be political. Some would like to rush into hiring without advertising, interviewing, defining the job description, seeing what we require and what we will not tolerate within a manager, not to mention salary, vacation, sick leave, vacation benefits or anything else. I say give equal opportunity consideration to all applicants not just this one. Hiring a handpicked man, handing his this important job on a silver platter is bad policy. It smells too much like political corruption. The Board's choice of a Manager is serious thing that needs to be carefully discussed in public not in closed meetings held in diners or the smoke filled back room on some store. I talked to people around the Village everyday and I don't think they like it. If we vote to hire this man tonight (John Barbarite) it will be a political payoff. I don't agree with that. ...No one is ever entitled to be a Village Manager because of political favors or support. If we hire anyone that way we are selling out the Village and I am not ready to do that. If you do that shame on you. Please join with me a vote to select our next Village Manager using the right process.

Trustee Hutchins questioned whether anyone has discussed the payment of unemployment benefits. The former manager was getting about \$72,000 and now we are going to be paying an additional \$20,000 for unemployment insurance payment on top of that \$72,000, so we are asking the residents to get a manager for \$93,000 which is not fair to the taxpayers. When does the Board say enough is enough? With the Village Manager removed, the Mayor would assume the responsibility, the role of the Village Manager. If Mr. Kelson is the choice of the Board then he should be interviewed and if he remains for months in that position than he will move up on the priority list because he is doing the job already. The Board has not discussed his salary, what money remains in the budget to pay his salary, will he have a contract, etc. We, the Board, should really sit down and discuss this before we make a decision that may cost the Village more money. He felt that we should sit down as a Board and bring it to the table, and I believe the proper procedure is with Board approval. If the votes are already there, all we got to do is sit down so no one says we did it wrong. We are setting ourselves up for problems, problems that the community is going to pay for. We are responsible for making sure that their monies are in good hands. How we can come up with an individual in less than 48 hours behooves me and shame on us as

Minutes - Special Village Board Meeting  
12/14/08

a Board and he personally apologize to the community, but I am only one vote on the Board.

Trustee Rue called the vote.

Trustee Schoonmaker agreed that Trustee Rue is on the record making that statement, and at that particular time Mr. Kelson mentioned that he was interested in becoming the Village Manager or if we decided to hire a Village Manager that he would be interested in Village Attorney, and the Board said they would keep that in mind. I ran into Mr. Kelson yesterday and he said right now I am sure you read in the paper what happened, it's all over, and I said would you still be interested. He said yes, so I said OK and what would be your requirements. He wants no benefits, no reimbursements for mileage or his family and he knows that this is going to be a full time position with the anticipation of hiring a manager and he may be replaced and he is willing to take this on. His salary would have to be something that is met upon and I did not make any salary commitments. He said he would speak to a couple of other Board members and see what they come up with and I got a call that there was a meeting this morning. I was under the impression that Mr. Kelson is available and want to give his services and I am going to make the motion that we hire him as the Village Manager.

Trustee Hutchins indicated that he has to abstain from even taking a vote on something that he thinks is illegal. Trustee Schoonmaker has told us that he has met with Mr. Kelson by himself, agreed for some terms that he wants to persuade the Board to agree on, and apparently there must have been some kind of communication with Mr. Schoonmaker and some of the Board members that we are able to agree on without having a meeting, that we are okay with hiring him. I just want to make a public notice for the record that I do not have anything against Mr. Kelson, I am taking the personality out, and I am talking about the position. I abstain from voting on the motion that was made by Mr. Schoonmaker.

Trustee Rue said that Trustee Schoonmaker has communicated with the Board and she called the vote.

Minutes - Special Village Board Meeting  
12/14/08

Mayor Jenkins said that as far as I am concerned as a Mayor being on the Board I think I would assume the duties of the Manager and I think this meeting is illegal and I will talk to counsel about this meeting. Mr. Schoonmaker made a statement that he talked to three Board members and he has just admitted to the public out here that he talked to the Board and is this payback politics in this community. He sounds like crap and it smells here. Mr. Kelson is a good friend of three Board members here, and John is my favorite and he is out of the picture and we have to move forward. My recommendation is I can assume the Manager's job and we have to go out and advertise throughout the country, including the Times Herald Record, The NY Times, and Manager's Associations. We need a good qualified man in this office as of today that is not involved with this politics because the politics is what has ruined this Village. We have some serious issues that are happening as we speak in this Village. Me, as a Mayor and Mr. Barbarite have been building things here that no one in this Village has ever even asked me, "what are you doing" since I have been here eight months. Mrs. Rue has probably only come to Village Hall only three days and stayed here for probably three hours so she probably in eight months she has three hours in the Village. Trustee Marinello has come only two times and he only come at night because he has to sign the vouchers otherwise no one gets paid here. Trustee Schoonmaker is never here also. So what we have here is a dysfunctional Board and now we are going to pick Mr. Kelson, I know Mr. Kelson and he is involved with the Republicans and now we are playing with that politics again. I thought we could move on with Mr. Barbarite out of the picture and although he has done a fine job we have to move on. What happened to that whole democratic process? You cannot conspire and it sounds like a conspiracy with three Board members talking and I was not informed on any of this. Why did Mr. Schoonmaker not talk to me or TC Hutchins when he was talking to people hiring Mr. Kelson and it will be addressed by counsel?

Village Attorney Billig explained that the only notification that he had was an email response that this was about a person and again yesterday I spoke to Ms. Rue to get some more detail and she actually gave me a different personnel matter, not this one that she wanted to bring to a vote today. I did ask Carmen in the phone call would there be anything relative to replacing

Minutes - Special Village Board Meeting  
12/14/08

the Manager and there was not an affirmative answer one way or another it was just a general discussion. I have not had time to look at the code to see specifically to see what the code requires to replace the Manager. Secondly, I did hear and the tape will show that Mr. Schoonmaker a few minutes ago said he spoke to two other Board members prior to this meeting. Now, I am concerned and I am not going to profess myself if what opened meeting violations are or are not. I don't know if Mr. Schoonmaker is entitled to just to phone two Board members separately or did he speak to them together. If he spoke to them together and if he spoke to them separately does that de facto constitute something that should have been done? I don't know the answer to that question. I will also disclose that Zach's a friend of mine; he is a very good lawyer, has a very good practice and is a very capable individual. That is just my reaction to hearing this today, but clearly some of the process that Mr. Hutchin's talked about has been segmented around, it seems, in the last twenty four hours. However, I haven't researched any of this stuff in terms of those issues.

Trustee Hutchins stated that he takes the individual out of the play for this position, but the person who Mr. Schoonmaker stated that he spoke with Mr. Marinello and Ms. Rue and I have no problem with it, it is the process. Mr. Kelson may be the best thing smoking for the Village of Monticello, but I want the process, the process it which we do things we should do it right. It seems too much like we are hiding something, and I stated before that Mr. Jenkins called for an 8 o'clock meeting he was wrong and we are wrong for calling a 10 o'clock meeting to appoint an Village Manager less than 24 hours that the individuals to conspired to come up with a Village Manager.

Trustee Schoonmaker stated that, "Any member of this Board has the right to communicate with any other trustee he feels is necessarily to do as long as it is not done a quorum which constitutes three people. If I had spoken to Mr. Marinello and Ms. Rue at the same exact time about this matter, I believe it would have constituted an illegal meeting. What I did do was mention this to Victor and I mentioned it to Carmen, but at no time were we ever together nor was there a three way phone call it was a mere phone call and this is what the guy said what do

Minutes - Special Village Board Meeting  
12/14/08

you think we should do, it is your decision, end of story. I made no reference, I made no mention of what I was going to do, and here it is on the table, what you want to do."

Mayor Jenkins stated that he is saying that Trustee Schoonmaker polled the Board.

The Village Attorney said he just said he did.

Trustee Schoonmaker stated that, "He asked no question, no answer, just this is something to think about. Here is a man who offered his name for services, end of story."

Trustee Rue called the vote.

Mayor Jenkins asked Scott whether Mr. Kelson is a friend of his.

Trustee Schoonmaker responded that I know him the courthouse looking at him; I know he is an attorney in town.

Mayor Jenkins questioned Trustee Schoonmaker whether Mr. Kelson's name was mentioned some time ago that he was interested in the job and he wanted him.

Trustee Schoonmaker said he did not recall that.

Mayor Jenkins indicated that this is a true statement that Trustee Schoonmaker did want him in.

Mayor Jenkins questioned Ms. Rue as to whether he is a friend of hers.

Trustee Rue responded that she does not have to answer that, I have called for a vote.

Mayor Jenkins stated, "That Zach Kelson is personal friends of these Board members.

On a roll call vote as follows as to hiring of Zach Kelson as Manager; Trustee Schoonmaker, aye; Trustee Hutchins, abstain; Mayor Jenkins, abstain; Trustee Marinello, aye; Trustee Rue, aye.

Minutes - Special Village Board Meeting  
12/14/08

Mayor Jenkins asked that the Board go into Executive Session because he has trying to get a meeting for this whole week, but Board members will not come to two emergency meetings that he called, but since the Board is all present we have an issue with a sexual harassment suit with an employee and an individual in this Village. It will be in the newspapers when it comes out and it will be disturbing and it will be a lawsuit that will really ring the bell of this Village. I would like to discuss it with these Board members instead of they don't want to hear it because it is involving people that it will not look nice and pretty here. This Board should address it before the press gets it and questions why the Mayor did not address it. I like to go into Executive Session to discuss this sexual harassment lawsuit that the Village is facing.

#### **EXECUTIVE SESSION**

At 10:35 a.m., a motion was made by Mayor Jenkins, seconded by Trustee Hutchins, to go into Executive Session to discuss a sexual harassment issue on a roll call vote as follows: Trustee Schoonmaker, nay; Trustee Hutchins, aye; Mayor Jenkins, aye; Trustee Marinello, nay; Trustee Rue, nay; Motion denied. 2 ayes - 3 nays.

#### **ADJOURNMENT**

At 10:36 a.m., a motion was made by Trustee Rue, seconded by Trustee Marinello, unanimously approved on a roll call vote to adjourn the Special meeting of the Village Board.

---

EDITH SCHOP, Village Clerk



Trustee Schoonmaker

t

