

MINUTES  
REGULAR MEETING OF THE BOARD OF TRUSTEES  
VILLAGE OF MONTICELLO, N.Y.  
MONDAY, NOVEMBER 20, 2006

**MEETING TO ORDER**

Mayor Barnicle called the meeting to order at 7:00 p.m.

**PLEDGE TO THE FLAG**

**Roll Call**

Upon call of the roll, the following were present:

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

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

**APPROVAL OF MINUTES OF BOARD MEETING OF NOVEMBER 6, 2006**

A motion was made by Trustee VanDermark, seconded by Trustee Marinello, unanimously approved on a roll call vote to adopt the minutes of November 6, 2006 as presented.

**MAYOR/MANAGER REPORT**

Village Tree Lighting: December 4<sup>th</sup> @ 7pm @ "TSRC"...due to construction on Pleasant Street

Water Department Grant: \$35,000 for meter system to be read throughout the Village in 2 days vs. over a week. Phased in over several years, due to our costs.

Holiday Party: Albella's Restaurant on December 15<sup>th</sup>

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Village Holiday Food Drive: Bring food to DPW by 12/15...donated to the "Soup Kitchen" and United Way.

Skateboard Park: Fence complete today...donations for helmets and boards \$270.00...Henry Goode/\$100.00 and Kiwanis/\$270.00. Betsy will work on system for use with community's kids and an insurance waiver.

Kudos to our Water Dept. personnel...Dillon Road Pump Station/6:30 a.m. to 5 p.m. Saturday & our Garage Personnel...rehab of a garbage truck and p/u w/spare parts from other municipalities.

Old Sign removal: ride-withs uncovered a number of old, faded or outdated signs (Town of Thompson Litter Pluck). DPW will coordinate

Monticello Police Department: Bonacic Grant/Chief...2 new patrol cars/Chief

1. Garage Personnel: rebuilding garbage truck body: saving tens of thousands of dollars.
2. "Blooming Grove Staircase" Company: manufacturing has begun, will "gear up" to a 100% over time. Sign is being designed to fit our codes. Lot will have crushed stone for winter. Next spring, new façade and lot.
3. "Machine Shop" to open in vacant building across from monument biz on E. Broadway. 2 employees to begin hopefully will expand.
4. Rhulen Building: With Dept. of Labor approval and an "environmental company", who wins the bid, will begin a 3 phase clean-up of the corner property.
  1. Remove all debris on the outside of the building.
  2. Remove all interior asbestos from the basement.
  3. "Demolish" the existing building to ground level (Turick)  
Village Sewer/Water/Building Codes Dept.'s will monitor.
5. Pleasant St. Construction: new lights @ Village Hall, replacing utility pole illumination. Decorative lighting poles (15) will have 2'x 4' braces for future decorative flags.

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6. Regency Manor: sidewalks/Belgian curb , electric and underground services are in place, blacktop is underway. Exterior landscaping and building touches are being done.
7. Light @ W. Broadway...safety for residents, especially w/new housing.

### **PUBLIC COMMENTS**

#### **Support of Iraq War**

Harry Brantz indicated that he supports the Iraq War as democracy is very important.

#### **Dirty Water**

Betty Friedland brought in a dirty water filter from her home and noted that the recently constructed Rechlorination Station on the Forestburgh Road has not improved the quality of water coming into her home. She noted that she will continue to bring a dirty water filter to the meetings each time she changes it.

#### **Indian Casino Negotiations**

Betty Friedland distributed a copy of a letter sent by the Mayor in response to her questioning whether there are any ongoing negotiations with the Mohawk Tribe regarding opening a gaming casino at the Monticello Raceway since the Town and County have already in the process of finalizing their negotiations. She felt the Mayor's response was inadequate.

The Mayor responded that the Village is in negotiations with the Mohawk's and they are doing it in good faith for the best of the Village and representing the people of the Village.

Betty Friedland questioned if any Board member has sat in on these negotiations including Deputy Mayor Marinello or have they been kept apprized of these discussions with the County?

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The Board responded that they have not sat in these negotiations?

**Racino Subsidy**

Betty Friedland questioned why the County and Town are getting a larger part of the subsidy that is being given to all three municipalities when the Village is the host community?

Trustee Schoonmaker indicated that he has spoken to County Legislative Chairman Chris Cunningham who told him that the State has decided how the money is allotted.

The Mayor explained that Assemblywoman Aileen Gunther had explained that there was a formula that was derive from the State Offices that allotted the funding to each municipality.

**PUBLIC HEARING REGARDING ORDERING THE REMOVAL AND/OR DEMOLITION OF A STRUCTURE**

Village Attorney Jose explained the Village should reschedule the public hearing since the legal notice may have a defect as it appears that from our tax records the IDA owns the premises although they are not truly the owners they have an interest and the search she conducted came up with ABC Pacific Realty as the owner, when in fact their attorney Richard Newberg has presented the Village with a deed that it is Mountain Pacific Realty LLC that owns the property. She advised that this hearing be adjourned, prepare a new notice and reschedule the public hearing to the next meeting on December 4<sup>th</sup>.

Mayor Barnicle asked that this issue be tabled and discussed in Executive Session at the end of the meeting, at which time the Board will come out of Executive Session and make a decision.

Trustee Schoonmaker questioned Attorney Newberg as to whether he represents the owner of the premises?

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Attorney Newberg explained that the property is owned by the Sullivan County IDA in name only, the operator that has an agreement with the IDA is Mountain Pacific Realty, LLC. The notice that was served says the owner is ABC Pacific Realty which is a different entity and has nothing to with Mountain Mall.

Trustee Schoonmaker asked if Attorney Newberg can tell him what his client's position is on that fence.

Attorney Newberg responded that the Village has brought a proceeding for an unsafe structure and there is nothing unsafe about this fence that has been put up, which is state of the art and in great shape. The Village's unsafe building code refers to dilapidated, damage structures including fences and doesn't cover a situation where the fence is too close to the other building which is on someone else's property. He felt the proceeding to remove the fence under building doesn't have merit under that code. He felt the building that the Village is claiming doesn't have fire access borders Broadway and has a driveway on the other side. A property owner has a right to put up a fence on his property, which was put up and has nothing wrong with it. He felt it is not a fire hazard that there is a fence there because they can get in through the property of the property owner, and therefore it is not their violation. He noted that this is the majority of the defense that he would raise if they had had the proper notice.

Code Enforcement Officer Sue Flora responded that the fire code states that anything that blocks the fire access (which it does) is unsafe.

Trustee Schoonmaker questioned whether there is any compromise that can be reached by putting the fence back further so they can have an entrance way for emergency vehicles and firefighters to go through the back.

Attorney Newberg felt the fence could not be moved back. He did assure the Board that he will speak to his clients to see if there is a way to resolve the matter.

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**PUBLIC HEARING TO REVIEW PROPOSED LOCAL LAW NO. 10 OF 2006  
WHICH WOULD CREATE A SPECIAL BENEFITS ASSESSMENT WITH  
RESPECT TO THE CRYSTAL RIDGE PROJECT**

Mayor Barnicle opened the public hearing at 7:34 p.m.

The Village Attorney explained that the Planning Board for SEQRA purposes is probably the Lead Agency so this Board should not vote until the SEQRA is determined by the Planning Board.

Mayor Barnicle explained that Trustee VanDermark had some concerns with the four properties that are in the Town and not being annexed into the Village although they are contiguous and all the storm water will enter into the retention basin located in the Town and each of the other unit residences located in the Village will pay a fee to offset that cost of the Village maintaining that storm drain that is located in the Town.

Project Attorney Audrey Scott explained that this is a project located off of Hillcrest Avenue and Crystal Street with approximately 12.4 acres are in the Village and another 7.3 acres in the Town of Thompson so there are application for approval before both the Town of Thompson and the Village of Monticello's Planning Boards. In the Village the proposal is for 52 individual single family attached duplex dwellings and in the Town there are 4 lots with only three single family detached houses and the fourth lot is the one that the storm water basin will be located on and that that piece of property is a non-buildable lot and that lot will be dedicated to the Village. She explained that federal and state law require that when a new development is built no more storm water comes off the property that had previously been come off that property. She indicated that the way the developer intends to raise the money to fund that cost is by levying a tax on those properties only that benefits from that storm water basin and that will pay the cost of the maintenance.

Trustee Jenkins questioned why the property owners could not maintain this storm water basin?

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Attorney Scott responded that a homeowner's association would have to be formed and that this would add an extra level of complexity to the project.

Trustee VanDermark questioned why the property owner does not want to annex the entire parcel into the Village since they are contiguous, plus the parcel where the storm water basin would be located are on the complete opposite side of those three lots that are in between the Village property and what is planned? He felt that 90% of the development is within the Village, so why can't they just annex those other three parcels for the three single family homes which would make it a lot easier. He has been advised that the Planning Board has questioned this concern also.

Attorney Scott responded that this would create another procedure to go before the Village Board.

Trustee VanDermark felt that this is a simple procedure that only requires a joint public hearing before the Village Board and Town Board. Trustee VanDermark felt that the Village is being asked to take on a piece of property outside the village limits that the Village has to maintain. He noted that when a property is contiguous with the Village and wants to use Village services, the policy has been that the owner has to annex into the Village to get these services, and since the Village would be maintaining this storm water retention basin it would be considered municipal services.

Trustee Jenkins felt that developer should go through the process and annex into the Village.

As there were no further comments at 7:51 p.m., Mayor Barnicle adjourned the public hearing to the next meeting.

**RESOLUTION DECLARING VILLAGE OWNED VEHICLES SURPLUS AND AUTHORIZING THE VILLAGE CLERK TO ADVERTISE FOR BIDS FOR SURPLUS EQUIPMENT**

**WHEREAS**, the Police Department have vehicles longer needed by this department;

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**WHEREAS**, the Village has determined that this equipment is no longer needed; and,

**WHEREAS**, the Village of Monticello wants to advertise this equipment to the highest bidder.

**NOW, THEREFORE BE IT RESOLVED**, that the Board of Trustees of the Village of Monticello does hereby authorize the Village Clerk to advertise for bids to sell to the highest bidder the following surplus equipment:

	<u>Minimum Bid</u>
1987 Nissan Sentra	\$ 300.00
1995 Ford Windstar	\$ 750.00
1999 Ford Taurus	\$ 500.00
1999 Chev. Lumina	\$ 500.00
2000 Ford Crown Vic	\$ 1,000.00

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

**RESOLUTION APPROVING PURCHASE OF A MOBILE RADIO FOR USE BY THE MONTICELLO POLICE DEPARTMENT IN THE AMOUNT OF \$1,547.00**

**WHEREAS**, the Monticello Police Department is in need of a High Band Radio; and,

**WHEREAS**, there is money in this appropriation line (3120.421A) (Street Maintenance) in the FY 2006/07 Police Department budget; and,

**WHEREAS**, the Chief of Police is obtaining this equipment through State Bid.

**NOW, THEREFORE BE IT RESOLVED**, that the Board of Trustees of the Village of Monticello does hereby approve the purchase of a Mobile Radio in the amount of \$1,547.00 for the Monticello Police Department.

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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**RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF  
MONTICELLO SETTING A TIME AND PLACE FOR A PUBLIC HEARING  
WITH RESPECT TO ADOPTION OF PROPOSED LOCAL LAW NO. 11 OF  
2006 ENTITLED "FENCES"**

**WHEREAS**, the Board of Trustees of the Village of Monticello desires to add a Section to the Village Code governing fences in 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 regulate fences within the limits of the Village of Monticello; 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 proposed Local Law No. 11 of 2006 entitled "Fences" to the Village Code, 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 the aforesaid proposed Local Law at 7:00 p.m. on December 4, 2006, at Ted Stroebele Recreation Building, Jefferson 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 mad by Trustee Marinello, seconded by Trustee VanDermark, unanimously approved on a roll call vote to adopt the above resolution.

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

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

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

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**WHEREAS**, there are revenues that exceeded budgetary amounts and/or expenditures line items that may be reduced.

**NOW, THEREFORE BE IT RESOLVED**, that the following line items are increased/decreased as adopted, and the Village Treasurer is directed to make the following modifications to the annual budget: [See attached]

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

**RESOLUTION AUTHORIZING THE ISSUANCE OF \$40,000 BONDS OF THE VILLAGE OF MONTICELLO, SULLIVAN COUNTY, NEW YORK, TO PAY THE COST OF A SETTLED CLAIM RESULTING FROM A COURT ORDER ON PROCEEDINGS BROUGHT PURSUANT TO ARTICLE 7 OF THE REAL PROPERTY TAX LAW BY MONTICELLO SENIOR HOUSING ASSOCIATES FOR THE ASSESSMENT YEARS 2005 AND 2006 OF SAID VILLAGE**

**BE IT RESOLVED**, by the Board of Trustees of the Village of Monticello, Sullivan County, New York, as follows:

Section 1. For the specific object or purpose of paying the cost of a settled claim resulting from a court order on proceedings brought pursuant to Article 7 of the Real Property Tax Law for the assessment years 2005 and 2006 of the Village of Monticello, Sullivan County, New York, there are hereby authorized to be issued \$40,000 bonds of said Village pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid specific object or purpose is \$40,000, and the plan for the financing thereof is by the issuance of the \$40,000 bonds of the Village of Monticello, Sullivan County, New York, authorized to be issued pursuant to this resolution.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is five years, pursuant to subdivision thirty-three of paragraph a of Section 11.00 of the Local Finance Law.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including

renewals of such notes, is hereby delegated to the Village Treasurer, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Village Treasurer, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said Village of Monticello, Sullivan County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. There shall annually be levied on all the taxable real property in said Village a tax sufficient to pay the principal of and interest on such obligations as the same become due and payable.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the Village of Monticello, Sullivan County, New York, by the manual or facsimile signature of the Village Treasurer and a facsimile of its corporate seal shall be imprinted thereon and may be attested by the manual or facsimile signature of the Village Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Village Treasurer, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he or she shall deem best for the interests of the Village; provided, however, that in the exercise of these delegated powers, he or she shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Village Treasurer shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing

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and delivery of said bonds (and if said bonds are to be executed in the name of the Village by the facsimile signature of its Village Treasurer, providing for the manual countersignature of a fiscal agent or of a designated official of the Village), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Village Treasurer. It is hereby determined that it is to the financial advantage of the Village not to impose and collect from registered owners of such bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by Section 52.00 of the Local Finance Law, as the Village Treasurer shall determine.

Section 9. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 10. The validity of such bonds and bond anticipation notes may be contested only if:

1) Such obligations are authorized for an object or purpose for which said Village is not authorized to expend money, or

2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

3) Such obligations are authorized in violation of the provisions of the Constitution.

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Section 11. This resolution, which takes effect immediately, shall be published in full in the Sullivan County Democrat, the official newspaper, together with a notice of the Village Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

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 7:55 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 a Village personnel matter regarding a particular individual, sale of Village owned property, potential litigation and other personnel matters involving individual person.

#### **RECONVENING THE REGULAR VILLAGE BOARD MEETING**

At 10:25 p.m., a motion was made by Trustee Schoonmaker, seconded by Trustee Marinello, unanimously approved on a roll call vote to move out of Executive Session.

At 10:30 p.m. Mayor Barnicle reconvened the Regular Village Board meeting.

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

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

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

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

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

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

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

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

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

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

**THAT**, in the event that such owner, occupant or other person having an interest in said premises shall fail to contest such order and fail to comply with same, the

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Village Board will order the repair or removal of such building or structure by the Village and that the Village will assess all costs and expenses incurred in such removal or repair against the land on which such building or structure is located; and,

**THAT**, said hearing shall be held on December 4, 2006 at 7 p.m., at:

Ted Stroebele Recreation Building  
2 Jefferson Street  
Monticello, New York 12701

By order of the Board of Trustees of the Village of Monticello, dated November 20, 2006,

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

**ADJOURNMENT**

At 11:00 p.m., a motion was made by Trustee Marinello, seconded by Trustee Jenkins, unanimously approved on a roll call vote to adjourn the Regular Village Board meeting.

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EDITH SCHOP, Village Clerk