

SPECIAL MEETING OF THE BOARD OF TRUSTEES
VILLAGE OF MONTICELLO, N.Y.
THURSDAY, OCTOBER 22, 2009

MEETING TO ORDER

Mayor Jenkins called the meeting to order at 5:30 p.m.

PLEDGE TO THE FLAG

Roll Call

Upon call of the roll, the following were:

Present:

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

Also present:

Raymond Nargizian, Village Manager
Stacy Walker, Deputy Village Clerk
Robert Gaiman, Deputy Village Attorney

Absent:

Edith Schop, Village Clerk

Mayor Jenkins read a prepared statement indicating that he would proceed with conducting the meeting if he determines that the meeting is "a legal and valid" meeting under "the Public Officers Law and other empathical laws". A copy of the statement is on file at the Village Clerk's office for anyone wishing to review it.

Reading from his script, Mayor Jenkins asked why the meeting was called.

Trustee Rue replied that, in her capacity as a Village Trustee, in accordance with the Rules & Procedures of the Board of Trustees, she had called the meeting for the purpose of discussing a particular employee. She replied that she had provided in excess of 24 hours notice, and all members of the board were notified. She mentioned that Mayor Jenkins called her house yesterday and they discussed the purpose of the meeting. She also noted that she had notified the media that a special meeting would be held. Dan Hust of the Sullivan County Democrat was in the audience. Trustee Rue stated that she also received a call back from the Times Herald-Record indicating that they had received the notice as well

Still reading from his script, Mayor Jenkins asked who on the board had participated in calling this special meeting.

Trustee Rue answered that she called the meeting; and the full board was notified, as were the local media, in accordance with New York State laws and the Village Code.

Mayor Jenkins wondered what steps were taken to notify the public that the meeting would be held.

Trustee Rue asked Deputy Clerk Stacy Walker whether she had notified all the usual media outlets, as well as members of the Board of Trustees, of the date, time, and place of the special meeting. Ms. Walker replied that she had done so.

Mayor Jenkins said he felt the purpose of the meeting called by Trustee Rue, which he just convened and called to order, was not a sufficient to convene a meeting. He also expressed the feeling that the public and media were not given sufficient notice.

Trustee Rue replied that this was untrue.

Still reading from his statement which had been prepared in advance, the Mayor gave his opinion, which he said was based on the answers Trustee Rue had just given, that the meeting should not have been called. He also gave opinions about his powers as Mayor.

"Accordingly, I am leaving this location to avoid any suggestions that I am participating in or condoning the illegal action that may occur by other board meetings," the Mayor announced. Continuing his prepared statement, he said he had decided to file a lawsuit.

Trustee Hutchins announced "I adopt the Mayor's statement" and asserted that he would abstain on any matter coming before the board at tonight's meeting, explaining that he was remaining only in order to witness the meeting, but he would not take part in any actions take because he felt the meeting was illegal.

However, subsequent to making these statements, Mayor Jenkins and Trustee Hutchins reconsidered, both remaining through the entirety of the meeting, each making and/or seconding motions, and taking active part in debate not just on the matter for which the meeting was called, but also other unrelated matters which they felt were lawful to bring before the board at the present meeting.

After the Mayor finished reading his statement, Trustee Rue replied that John Barbarite was a good writer. She stated for the record that this meeting was convened pursuant to the Rules & Regulations of the Board of Trustees of the Village of Monticello and the Monticello Village Code, and was lawfully convened under the Rules & Regulations of the Village of Monticello Board of Trustees, the Village Code, and applicable state laws.

Trustee Schoonmaker requested citations for the statutory authority supporting the Mayor's statement.

Mayor Jenkins replied that "With all due respect to the board, this is a statement coming from the Mayor, and this is a document. This is my statement, and the board can address it later, or whatever the board wants to do they can address it."

Trustee Schoonmaker said he respected the Mayor's statement, but again asked about the basis, citation, or source of the Mayor's information and representation that the meeting was unlawful.

Trustee Rue asked for the opinion of the Deputy Village Attorney concerning the lawfulness of the meeting.

Mayor Jenkins said he does not have to explain himself and Trustee Schoonmaker should read what this says.

Mr. Gaiman said that the Mayor had indicated he was challenging who has authority to call a meeting. He said he understood the Mayor planned on filing a lawsuit, so the Court would decide who can call a meeting. A second issue, Mr. Gaiman, said, was that the Mayor had inferred that an employee who is an officer of the Village might going to be terminated. Mr. Gaiman said that the mandates of the Public Officers Law must be followed, but we haven't gotten to that issue yet.

Trustee Schoonmaker state he wanted to reinforce here and now that there was no intention on his part to terminate any employee of the Village at this point, and he wanted this on the record because there are no grounds to terminate anybody.

Trustee Rue referred Mr. Gaiman to read Article 5 of the Rules & Procedures of the Village Board.

Trustee Hutchins said he would like to make a motion that Mr. Gaiman be paid the money that a full-time Village Attorney would be paid the same amount as the former Village Attorney, who recently resigned, was paid.

Trustee Rue pointed out that the notice of the present meeting had specified that the subject of the meeting was to discuss one particular purpose, and increasing the Deputy Village Attorney's pay could wait until a regular meeting.

Trustee Schoonmaker said he would like an outside opinion on the matter.

Mr. Gaiman said that by operation of law when the Village Attorney resigns, the Deputy Village Attorney assumes the duties of Village Attorney.

Mayor Jenkins seconded the motion, expressing the feeling that Mr. Gaiman's salary should be increased.

Trustee Schoonmaker said he would like to table the motion to the next regular board meeting in order to review that section of the Village Code and to get an opinion from NYCOM.

Trustee Hutchins urged passing his motion to increase the attorney's immediately at the present meeting, and if the board wished to reconsider and reduce it at some future time that could be done.

Trustee Hutchins said he would like to amend his motion to say that Mr. Gaiman would be retroactively paid upon getting the information. However, he then wondered who would do the research, and what question would be asked of NYCOM.

Trustee Schoonmaker pointed out that the Village Board has the right to set the Village Attorney's salary.

Trustee Schoonmaker and Trustee Marinello both said they would prefer to wait to get an opinion from NYCOM.

Mayor Jenkins announced that it was his statement that Mr. Gaiman is the acting Village Attorney and the board should accept his advice because he is competent and should be paid, and that's where he stands.

Mr. Gaiman said he had no problem waiting for a NYCOM opinion, but he would like to be paid retroactively.

Trustee Hutchins asked for a roll call vote.

On the motion was made by Trustee Hutchins, seconded by Mayor Jenkins, failed on a roll call vote as follows: Trustee Schoonmaker, no; Trustee Marinello, no; Trustee Rue, no; Trustee Hutchins, aye; Mayor Jenkins aye. Motion failed 3 nays - 2 ayes.

Trustee Hutchins asked to go into Executive Session. Trustee Rue replied that she saw no need for that.

Trustee Hutchins said that when the board adopted the 2009-2010, the board made a mistake by not giving a raise to Village Justice Josephine Finn. "Since we are in the black," Trustee Hutchins said, Judge Finn should receive a 4% annual increase.

Trustee Schoonmaker asked if she was under contract. Trustee Hutchins said no.

Trustee Schoonmaker said the matter should be discussed in executive session, but he did not wish to discuss it tonight.

Trustee Hutchins said the board chooses to give department heads increases and it is "unfair and unjust" and "maybe discriminating that we don't treat all of our department heads the same."

Trustee Rue said she would prefer to table the matter until the Treasurer could give an opinion.

Trustee Schoonmaker said the board had decided not to give a 4% raise to elected officials. However, if the board felt that the Village Justice should get an increase he had no objection.

Mayor Jenkins said he would like to table the matter and make the decision in executive session. Trustee Rue said she had no objection to Trustee Hutchins' resolution.

Trustee Marinello pointed out that it was Trustee Hutchins brought Justice Finn's name and salary up public for discussion; and he himself had done nothing but listen to the discussion, and he wanted that fact noted in the record.

Trustee Hutchins called for a roll call vote.

The motion made by Trustee Hutchins, seconded by Trustee Schoonmaker, was approved on a roll call vote as follows: Trustee Hutchins, aye; Trustee Schoonmaker, aye; Trustee Marinello, aye; Trustee Rue, aye. Mayor Jenkins, no vote.

Mayor Jenkins asked what are we here for.

Trustee Rue said she spends a lot of time in Village Hall and has heard complaints from the public that when they come for such matters as delivering plans for the Planning Board, and she had spoken with the Manager about this, that when they come to deliver plans for the Planning Board, they are told their plans must be submitted 14 days in advance. However, when they come to deliver their plans, the Village Clerk is often not present at Village Hall.

Trustee Rue made a motion, preceded by a statement addressed to the Village Manager, as follows:

"It has been brought to our attention that you spoke with Village Clerk Edith Schop on Tuesday, October 20th regarding her intentions of her position and duties as Village Clerk for the Village of Monticello as she has not been fulfilling her responsibilities. At that time, she told you that she did not have to answer to you because she had given the Village Board a proposal for her to work part time that the Village Board had not acted on.

"The fact that the Village Board did not act upon the proposal, indicates clearly the intent of the Board. As Mrs. Schop feels the need for an actual action to take place, I hereby make the motion that the proposal by Mrs. Schop for her

position as Village Clerk to have part time hours and schedule is not approved. Furthermore, Mrs. Schop as indicated by Village Law 4-402 and Village Code 63-12 will continue to work the hours stipulated which are clearly indicated from 8:30 AM until 4:30 PM."

The motion was seconded by Trustee Marinello.

Trustee Hutchins wondered if there have been formal or written complaints, or if they are verbal or hearsay. The Village Manager replied that there have been no written complaints, adding that they have not been hearsay, and people have been complaining.

Trustee Hutchins said two proposals had been given to the board by Mrs. Schop. He expressed the feeling that if the rest of the board was ready to make a decision, apparently there must have been meetings held, because the board has never discussed Mrs. Schop's proposal, and therefore it's illegal.

Trustee Rue replied that it had been discussed in executive session, and that every member was present, including Trustee Hutchins, and it was now necessary to follow up that discussion in executive session by a vote of the board.

Trustee Hutchins replied, "You're talking about an executive session!"

Trustee Rue said that Mrs. Schop also told her that she had spoken to each individual board member, so Trustee Rue felt it was necessary to ask the Manager to make clear that Mrs. Schop's proposal to work part-time had not been accepted. "We have to make this decision. According to our Village Code and the Village Law, she has to work from 8:30 to 4:30 and not part-time. We have a full-time, in our Village Code it says we have a full-time Village Clerk."

Trustee Hutchins said he would like to make sure he is not discriminating against the person Trustee Rue mentioned, and if one employee is required to work 8:30 AM to 4:30 PM, then all every employee should work the same schedule, or it would be discriminatory.

Trustee Hutchins then added, "I'm ready to vote on it!"

Mayor Jenkins stated that this matter should be discussed in executive session and because no one wants to go in executive so it appears to him that some people have been meeting in secret and he felt that was illegal. Mayor Jenkins accused three board members of meeting secretly and that the deal had already been done.

Mayor Jenkins said he would entertain Trustee Rue's motion. He asked if there was a second. Trustee Marinello seconded the motion, which was accepted by the Mayor.

Trustee Rue said she had a statement to make first. She said the Mayor, Trustee Hutchins, former Village Manager John Barbarite, and Mrs. Schop, have been holding secret meetings and not inviting the rest of the board.

The Mayor replied, "I think Mrs. Rue, again, is slanderous toward the Mayor and the board."

Trustee Hutchins expressed the feeling Trustee Rue might be slandering Mr. Barbarite. Trustee Rue replied that she herself had recently seen the Mayor, Trustee Hutchins, and Mr. Barbarite meeting together, and she had seen them go to the court house.

Trustee Hutchins, and then the Mayor, called for a roll-call vote on the question for which the meeting had been called by Trustee Rue and convened by the Mayor.

The motion made by Trustee Rue, seconded by Trustee Marinello, was approved on a roll call vote as follows: Trustee Schoonmaker, aye; Trustee Hutchins, nay; Mayor Jenkins, no vote; Trustee Marinello aye; Trustee Rue aye.

Mayor Jenkins said he would like to adjourn the meeting.

Trustee Rue said she would like to read a statement and distributed copies to the board, the Deputy Clerk, Attorney, and media. Trustee Schoonmaker asked that Trustee Rue not read the statement into the record. Mayor Jenkins said he would like to read Trustee Rue's statement because he doesn't like to have hidden secrets in the Village. Trustee Rue said she would give it to the press herself, but out of respect for Trustee Schoonmaker's request she would not read it out loud.

A copy of Trustee Rue's statement is filed with the office of the Village Clerk for anyone wishing to read it. It is also posted on Trustee Rue's website at carmenrue.com.

Trustee Schoonmaker expressed concern that only one person has a key to get Village stationery out of the Village Clerk's closet.

Trustee Hutchins replied that the matter should be discussed in executive session. Trustee Hutchins wanted to know if Mr. Mack had a key to the closet, or if the Village Manager had a key. The Manager said he did not.

Trustee Hutchins made a motion to go into executive session.

Trustee Schoonmaker said all he wants is for the Village Manager to be in direct supervision of the Village employees.

Trustee Rue replied that stationery is not a proper matter for executive session. She asked Ms. Walker if she had a copy of the key to the Clerk's closet. Ms. Walker said she did not.

Mr. Gaiman gave his opinion that as chief executive officer of the Village the Village Manager already has that authority, so no decision by the board was needed.

Trustee Hutchins said Trustee Rue said she should give up the key. Trustee Rue replied that she did not have the key; "I'm not the clerk. Ask the Clerk."

Trustee Schoonmaker made a motion that the Manager have direct supervision over the Village Clerk and the day-to-day operations of her job descriptions and job duties.

Mr. Gaiman said the Village Manager has that power already. Trustee Marinello agreed.

Trustee Rue seconded the motion, because some people don't understand it.

Trustee Hutchins expressed the opinion that Mr. Gaiman was wrong; that the Village Clerk is supervised by the Mayor.

Mayor Jenkins said he had no knowledge about the key or the contents of the Village Clerk's closet.

Trustee Schoonmaker asked Mr. Gaiman to repeat his opinion that it is already in the Village Law and Village Code that the Village Manager supervises the Village Clerk. Mr. Gaiman replied yes.

Trustee Schoonmaker and Trustee Rue said she believed the matter might need to be clarified.

Mr. Gaiman clarified that the Village Clerk is appointed by the Mayor, subject to approval by the Board of Trustees. But once the Clerk is appointed, he said, she is a public officer, but still an employee of the Village. Mr. Gaiman also gave his opinion that under the Village Code and Village Law, the Village Manager has the authority to conduct and direct investigations. The Manager can not fire the Clerk, but has the power and ability to make sure the Village Clerk shows up, does her job.

Trustee Schoonmaker asked if the Manager has authority to take the Clerk's keys or not allow her to use the Village computers if he feels it appropriate, when an employee is an investigation.

Trustee Marinello asked Mr. Gaiman if the Village Manager has authority to delegate some of the powers of the Village Clerk to the Deputy Village Clerk.

Mr. Gaiman replied that the Manager may not take away the Clerk's statutory authorities, but he does have authority to direct the day-to-day operations of all employees of the Village; including to make sure that they show up during office hours.

Mayor Jenkins asked if Mrs. Schop has legal recourse against the Village for discussing her business in public. Mr. Gaiman said he preferred not to answer.

Mayor Jenkins said he was attempting to establish a record.

Trustee Schoonmaker said he is not trying to harass anybody, but he believes these are matters that had to be resolved.

Trustee Hutchins again raised the issue of raising the pay of the Deputy Village Attorney.

Trustee Rue said she had no objection to paying the Deputy Village Attorney his due for acting as Village Attorney, pointing out that all employees should be treated fairly.

Trustee Rue asked if Trustee Hutchins thought it was fair for Deputy Clerk Walker to do her own job, as well as the job of the Village Clerk

Trustee Hutchins if he wanted to make a motion about taking the Village Clerk's keys.

Trustee Marinello said this was not what Trustee Schoonmaker had said; Trustee Schoonmaker and Trustee Rue concurred, stating that the matter of the keys was for discussion only and had been resolved by the advice of the Deputy Village Attorney.

ADJOURNMENT

At 6:48 p.m., a motion was made by Trustee Rue, seconded by Trustee Schoonmaker, unanimously approved on a roll call vote to adjourn the Special Village Board meeting.

STACY WALKER, Deputy Village Clerk