

# VILLAGE OF MONTICELLO



January 1, 2014

Rachael L. Krizanek, Principal Examiner  
Division of Local Government and School Accountability  
NYS Office of the Comptroller  
110 State Street, 15th Floor  
Albany, New York 12236

Re: **Response to Report of Examination (Appendix B)**

Dear Ms. Krizanek:

During my tenure as Village Trustee, questionable financial information has come to my attention. A few times over the last few years I requested that your offices perform an audit of Village of Monticello operations. I have made numerous telephone calls and written memos expressing my specific concerns. I would like to thank the Comptroller's Office for performing this most recent audit.

As requested, please accept the following as my response to your examination dated December 2013.

I must preface my response by stating that, as a Board member, my agreement with the examination findings does not mean I have been complicate or condone the Board's actions. My record is clear. I am confident that my participation, as difficult as it has been, has contributed to exposing our problems in order to effect corrective action.

As a Trustee and Board member, I have worked tirelessly to oversee Village operations. As can be readily evidenced by my website, [carmenrue.com](http://carmenrue.com) I have been honest, forthright and transparent regarding all Village issues. I have, much of the time, been a minority of one on a five-person board since the day I took office. It is therefore hard to accept being characterized with the same brush as

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the other board members. Where possible, and with appropriate confirmation by the records, I would appreciate insertion of the verbiage, “*a majority of the Board of Trustees*” be used in your report.

Repeatedly, I asked, both in writing and on the record at meetings, for reports from department heads, and repeatedly I was denied this information as an elected Village Trustee, by order of the Mayor/Acting Village Manager/Budget Officer, and was told multiple times by department heads and by the Treasurer that they were under orders not to provide me with information that I told them was necessary to the performance of my duties as a Trustee.

Without hesitation, I agree with your observations and findings and acknowledge their significance. I accept the reprehensible truth and responsibility that the majority of the Board of Trustees did not do its duty, and “did not properly oversee Village operations.” My hope is, that as a result of this report, financial control issues noted will be addressed and corrected. The previous audit performed by the NYS Office of the Comptroller received May 2013 contained many observed deficiencies. The audit response written by the Village’s out-of-county contract attorney, selected by the Mayor, denied or explained away a majority of your comments. Accordingly, no meaningful improvements were made to the Village’s control structure or its policies and procedures as a result of the OSC audit. I sincerely hope the findings of this audit will be addressed and a corrective Action Plan implemented, with review procedures to ensure the changes implemented are operating as revised.

An audit of this nature effectively reviews compliance with the control mechanisms in place to ensure the system is operating as designed and according to specified policies. Upon determining systems are inaccurate and controls are circumvented, a summary judgment is made that proper oversight has not been provided by the Board of Trustees.

Significantly, the report does not make clear that Monticello follows the Village Manager form of government. The Village Manager is charged with the responsibility of running day to day operations. The job includes following and enforcing the internal controls and the policies and procedures of the Village, and serving as Budget Officer.

The form of government, however, is not the reason for the lack of oversight or dysfunction. An organization is only as good as the people running it. Our village has unfortunately been plagued with cases of nepotism and political favoritism. There have been many examples of unethical behavior by

the Mayor, board members, officers and executive employees. We have had an extraordinary turnover of village managers. We have been inundated with lawsuits. The report did not mention that a previous Village Clerk, a fellow Trustee, and a Village Manager were all tried and convicted of felonies in the performance of their official duties. Our Mayor is presently embroiled in heated legal and racial controversies that impact decisions made by "the majority of the Board."

Taken as a whole, the multitude of discrepancies and variances, that have continued unchecked, provide basis that the Board did not properly oversee operations. To me, this suggests that if the Board does not change the manner and composition of its membership, its ability to accomplish oversight and an improved control environment will be difficult to accomplish. Clearly, failing to operate in an open and ethical manner, hiring out-of-county counsel, enacting questionable laws, giving warranted raises, and appointing one's fiancée as a Trustee are just a few examples of decisions that have eroded the Board's ability to operate with credibility and effectiveness.

An important error appears on page 8 of the OSC report, wherein it is asserted that, "No public hearing was scheduled and no Board meetings or discussions were held" [referring to the process of adopting a budget]. In actuality, we started meeting with department heads in April, and the process was nearly completed by early June. It was agreed that a meeting and public hearing would be held on June 21<sup>st</sup> to pass the adopted budget. However, the Mayor/Acting Manager/Budget Officer ordered the Clerk to cancel the meeting because he said the Treasurer was going to absent. I have documents and records of these meetings. The Mayor abused his powers to sabotage the budget process, preventing the Board of Trustees from adopting a final budget in order to retain his hold on power and his \$36,000.00 annual salary as Acting Village Manager.

Another example of the Mayor's abuse of power was his failure to pay two year's late fees on delinquent taxes on properties he and Trustee Rochelle Massey jointly own, as well as allowing another member of the Board of Trustees a similar privilege. What corrective action does the OSC recommend in order for the Village to be made whole for these amounts? Does this particular action or inaction appear to constitute a possible crime, or malfeasance in office?

Yet another example took place after the conclusion of the present OSC audit, when the Mayor signed contracts, without appropriate bids and in violation of the Procurement Policy and New York State law, to demolish a municipally-owned building, acting together and in concert with the Code

Enforcement Officer who oversaw the operation. This crime has thus far resulted in the arrest of six low-level laborers who were caught by the NYS DEC in the act of illegally dumping asbestos-laden waste on private property adjacent to a Town-owned well, with further investigation of culpability said to be ongoing by the DEC and other authorities. (This Code Enforcement Officer was recently given an undeserved and unbudgeted raise, by a three-member majority of the Board.) The asbestos-laced debris pile, now known in the community as “Mount Jenkins”, is awaiting clean-up. No funds were ever budgeted or approved by the Board of Trustees for these misappropriations.

What corrective action does the OSC recommend with respect to the statement on page 8 of your draft report which states: “**...out of 18 building permits from that period tested, we could not trace 14 permits totaling \$3,566 to a deposit slip or bank statement deposit**”? Where did the money go and who is responsible? If OSC does not know the answer, and the Board of Trustees does not know, to what Agency will this matter be referred for investigation and correction?

In the course of answering the above question or collateral thereto, is the OSC aware, or is the OSC willing to refer for appropriate investigation by an outside Agency, how many construction projects overseen and inspected by the Code Enforcement Officer were performed by the construction company that he and/or his brother own, and if appropriate permits were issued to and charges collected from the Code Enforcement Officer's construction firm?

Your office's examination exposes a host of problems in need of correction. Considering that the most important responsibility delegated to the Board has not been met by a majority of its members, I believe we must implement a top-down approach to correcting the problems noted. The Board of Trustees must first get its affairs in order, and operate ethically and transparently, for the best interest of the taxpayers and residents of the Village of Monticello.

The Board is a political entity. Its members are elected. Historically, I have been unsuccessful at persuading "the majority of the Board" to cure many known problems. Here, I would like to point out that we must fix the problems, not the symptoms of the problems. I believe there is a lack of honest, competent appointees and employees in key positions, which inhibits our ability to progress and improve. Unfortunately, but honestly, our Village operations are grossly out of control because the Board and management are grossly out of control.

I must also interject another item of dysfunction that has developed within the upper echelon of our village government. Due to “the majority of the board” vs. me, the minority, I have not been privy to many items of information which should be available to all Board members. Numerous specific requests I have made for relevant and pertinent information, necessary to the performance of my duties, have been denied. Due to personal alliances and favoritism, executive administrative controls are flagrantly discounted and disregarded. I have been powerless to effect any change and have been personally slighted by many personnel including my fellow Board members. Indeed, so severely did this discrimination persist that I was forced to turn to the NYS Division of Human Rights not just for redress over the denial of information to which I was lawfully entitled and needed in order to carry out my job, but also the fact that these denials were tainted by an environment of racial, ethnic, and other hostility by the Mayor and some of his appointees to buttress their power and control.

I question the competence and experience of key employees. I believe the hiring practices surrounding appointments and key employees must strictly adhere to prescribed policies and procedures. Certain employees and officers have been hired with no resume submitted or references checked. Domicile requirements change like the wind to accommodate hand-picked appointees. This behavior must stop. Following and enforcing prescribed procedures must start at the top.

In keeping with the above, I believe the Village should have an updated Policy and Procedure Manual. An employee flowchart hierarchy should be developed and each position and function defined. Job functions and descriptions should be documented and used in conjunction with each and every employee’s annual review. Most importantly, Village hiring practices must demand the highest level of competence and integrity. Segregation of responsibilities and enforcing approval procedures are critical to any fiscal control environment. An understanding and awareness of each officer’s ethical responsibility to perform his/her sworn duties must override any personal relationship. This is not presently the case in the Monticello village government.

An item that unfortunately does not appear to have received notice in your recent audit report is the lack of administrative controls surrounding Village operations at the executive level. Minutes of meetings of the Board of Trustees and other Village proceedings are inadequate and often do not provide a proper basis for historical records. As a result, audio files of meetings of the Board of Trustees archived on carmenrue.com were accessed, allowing auditors to listen to a recorded version of our Village proceedings. Despite this inadequacy, our Clerk/Tax Collector recently received a

substantial *unbudgeted* raise, even though Village property tax bills went out a month late, just five months ago. Our Code Enforcement Officer, who now spends much of his time chauffeuring the Mayor around (due to the loss of the Mayor's driver's license), was just given almost a \$15,000 raise. I disagree with the “majority of the Board” on the supposed justification for these raise and how they were given.

In certain cases, it is hard to differentiate inadvertent errors with control weaknesses. I would hope many of the large variances and differences are a result of posting errors and improper knowledge and usage of the system. Other items, however, involve certain individual transactions which deserve to be closely scrutinized and investigated for legitimacy. Additionally, in many instances I have questioned the classification of certain expenses and transfers which did not appear proper. Often, my requests for information or supporting documentation go unanswered. I am routinely disrespected and disparaged as an elected official for asking questions and questioning the actions of our employees.

The disorganization and lack of controls extend beyond the financial systems in the Village. A substantial number of complaints and issues have arisen as a result of improperly issued and recorded building permits, missing or altered property records, etc. Official required reports have gone out late damaging the Village’s credibility. Certain financial variances reported in your examination are due to control weaknesses at high-level department functions.

More than two years ago, a local law passed by a “majority of the Board” was filed in Albany. Subsequently, it was discovered that the version of the law approved by the board was not the version filed in Albany. The law had to go through the development process and get filed again. While I do not wish to cite irrelevant issues that the village has faced, it is clear that fundamental procedures are not followed at the highest levels. Is it the lack of controls or specific personnel that are the weakness?

On many occasions I have questioned the financial data and reports that have been provided by the Treasurer. On one hand, I question her competence, on the other hand, she is (was) a highly paid, mayor appointed, official who should have understood her job and performed it properly. We have identified too many procedural, posting and classification errors. We must ascertain the exact cause of these problems and correct them. We must focus on the problem, not symptoms. Unquestionably, the competency levels and training of our management needs improvement.

I am not knowledgeable about accounting or computer systems. I do question, however, the software program the Village uses to control its finances. As I have previously noted and discussed, the Report Date (per see) is not printed on the report heading. Only a knowledgeable, trained user would be able to understand the date context of the reports. In addition, it appears to allow improper postings and provides insufficient audit trails. I do not know if the system is unable to generate requested information or if the system's users do not know how to generate the requested information. I have made past assertions that important village information has been withheld from my preview purposefully.

The existing computer system is complex and costly to maintain. Considering the status of our existing financial records, now or very soon, may be an opportune time to convert to a modern and simpler system. I suggest too much time is devoted to fighting with the system for input and output. We could do more with less if our computer software were easier to work with. Other similar communities using the same software does not certify a software product is good or a proper fit for this Village. I feel comfortable our present CPAs could assist with improved software if deemed appropriate. An update and redesign of our Chart of Accounts should be part of the system conversion. I do acknowledge that any system is only as good as the people operating it.

I find myself addressing the reasons and solutions for your assessment that, "The Board did not properly oversee Village operations." Discussing the individual players and personnel is reserved for executive sessions and I will respect that finding. The affairs of the Village government have been permeated by politics and personal favoritism. There are possible legal issues both implicit and explicitly referenced in the report. I defer to the appropriate experts to evaluate those items.

As noted in the report's comments, among the most important Board deficiency was the fact that, "no action to correct issues outlined in our prior report of examination(s) or the management letter from the Village's CPA." The mayor instructed his hand-picked outside counsel to respond to this OSC audit. His counsel's response discounted and explained away a majority of your recommendations. I found this reprehensible. It appears that part of the Board's oversight problem involves poor decision making and governance at the highest level of our village government.

I believe the amount devoted to legal fees between August 2011 to now, *approximately a quarter of a million dollars*, to legal fees – much of which was not properly vouchered or reviewed by any member

of the Board of Trustees – should be given due notice and scrutiny in your report. I believe the purpose of this legal billing, and precisely what services were provided to the Village of Monticello and/or to the Mayor/Acting Village Manager, warrants close examination.

In line with the above, I strongly suggest our CPAs, who have demonstrated an understanding of the system, be designated to assist with the Village's response to your examination, not an out-of-county lawyer preferred by the Mayor to protect his personal interests. In addition, the CPAs should be tasked with developing a practical Action Plan to resolve the discrepancies and design procedures to ensure they do not perpetuate. There is little doubt the findings of our CPA's first audit will correspond with the OSC findings. I would like to propose that the CPA's work-papers and testing results be made openly available to the OSC if requested.

As noted, an important control weakness is that our financial information and prior CPAs reports were extremely late being issued. Management cannot effectively operate or make responsible decisions with outdated and incorrect information. I know our new CPAs have been diligent with their current audit, and that they have the next two 'late' certified audits planned. I am confident they are prepared to assist the Village getting its accounting records accurate and timely.

A critical and pertinent item that did not come within the scope of your examination was the current financial position of the Village. Since December 12, 2012, when I published on my website the memo "Ringin' The Alarm Bell On Monticello's Fiscal Crisis : A State Forensic Audit, And Accountability Must Be Our Priorities", I have predicted the imminent insolvency and default by the Village. Page 11 of the OCS audit shows our General Fund Total Balance was out (less) by \$932,998. Although there is no contingency plan in place, I believe the Village should consider and plan for a situation wherein the village is unable to meet its obligations before the end of the current fiscal year.

Page seven of your report discusses the significant prior period adjustments which I brought to the OSC attention over a year ago. **I have only one question regarding these and all the observed differences and variances noted in your examination; have they all been reconciled and explained-out sufficiently to the Office of Comptroller's satisfaction?**

I would hope any unresolved or open items in the OSC examination will be shared with our CPA firm for appropriate follow-up.



I also have trouble with the excuse given on page seven, “...because bank reconciliations were not timely or accurate.” An inaccurate bank reconciliation is highly improper, unacceptable, and a significant control weakness. Is the responsible officer incapable of performing the bank reconciliation or not provided sufficient time to accomplish the task?

A few months ago, I reviewed a report showing our Capital Projects Fund. Not being familiar with the report’s information, I submitted written questions. I was answered, to the effect, that Debits are on the left and Credits are right and that everything was satisfactory in the report. Page eleven shows Capital Fund differences: a (\$2,440,000) difference in Transfers, a \$2,000,000 difference in Revenues, and \$1,780,038 difference in Expenses. Discrepancies of this amount warrant questioning and straightforward responses. At this point, only when outside professionals assure me that a balance is correct will I feel confident it is correct.

A prior period adjustment was also explained as a reconciliation timing difference between the Village’s records and a required an outside agency report. It seems reasonable that a prior period adjustment can only be posted on the books that omitted the original adjustment item. I am not an accountant, and rely on the OSC and our financial professionals. I can only ask questions.

Page nine states: “failure of the Board members to perform many of the fundamental duties of their positions has resulted in significant government-wide dysfunction.”

I cannot imagine a more disheartening characterization of the Board’s performance. I suggest that a change in the Board’s membership will happen in the near future. Perhaps this change will provide the catalyst and leadership to promote positive change and an improved control environment and competency levels.

Since the first day I took office there has been heated controversy surrounding the Village Manager position. Appointed by the majority of the Board as "Acting Village Manager, the Mayor has broad and pervasive powers over village operations. He has appointed a number of inexperienced and unprofessional managers to run the village. The immediate past Village Manager was convicted of felony Official Misconduct. Presently, the Mayor, held in place by a majority of the Board, is the

Acting Village Manager. This effectively circumvents the Manager form of government required by Article 15-A of the former Village Law, which governs Monticello. What can be done?

I am but one Board member. I sought the present audit, and am grateful that your office has responded. I participated actively throughout the course of the audit, providing information and records that I had been able to secure to your staff. I respectfully submit and agree, the lack of oversight is a result of "a majority of the Board" not performing their responsibilities. I will continue to make myself, and any information in my possession, available to your office and other authorities to ensure that my duties as a Trustee are carried out to the best of my personal ability.

Thank you for your office's assistance.

Respectfully,

A handwritten signature in black ink, appearing to read "Carmen Rue", with a long horizontal flourish extending to the right.

Carmen Rue, Trustee  
Monticello Village Trustee