

**VILLAGE OF TUXEDO PARK  
BOARD OF TRUSTEES MEETING  
NOVEMBER 16, 2005  
7:30 P.M.**

Present: Mayor David C. McFadden  
Deputy Mayor Russell Vernon  
Trustee Christopher Hansen  
Trustee Nancy Hays  
Trustee Oliver Parker

Clerk Deborah Matthews

Also: Richard Morrow, Deputy Chief Culhane, John Ledwith, Police Officers Ken Sanford and James Ascione, Peter Regna, Sally and Chris Sonne, Lucy Edwards, Glorvina Schwartz and friend, Alan and Sue Heywood, Susan Goodfellow, Bryan Colwell, Peter Simonetta, Patrick Orr, Mary Graetzer, Jim Hays, Sheila Pompan, Mary Jo and Claude Guinchard, Celeste and Bruce Gebhardt, Bob Swanson, Claudio Guazzoni, David du Pont, Chiu-Yin Hempel, Richard Witte, Jake and Michele Lindsay, Mark Shefts, Jim Jospe, Robert Bero, and others.

Mayor McFadden called the meeting to order and asked Deputy Chief Culhane to lead the Pledge of Allegiance.

**MINUTES**

A motion was made by Mayor McFadden that the minutes of the October 13, 2005 Special Board of Trustees Meeting be approved.

Vote of the Board: Trustee Hansen – aye  
Trustee Parker – aye  
Trustee Hays – aye  
Deputy Mayor Vernon – aye  
Mayor McFadden – aye

The motion was passed by a 5-0 vote.

A motion was made by Mayor McFadden that the minutes of the October 19, 2005 Regular Board of Trustees Meeting be approved.

Vote of the Board: Trustee Hays – aye  
Trustee Parker – aye  
Deputy Mayor Vernon – aye  
Trustee Hansen – aye  
Mayor McFadden – aye

The motion was passed by a 5-0 vote.

A motion was made by Mayor McFadden that the minutes of the November 14, 2005 #2 Fuel Oil Bid Opening be approved.

Vote of the Board: Deputy Mayor Vernon – aye  
Mayor McFadden – aye  
Trustee Hansen – aye  
Trustee Hays – aye  
Trustee Parker – aye

The motion was passed by a 5-0 vote.

A motion was made by Deputy Mayor Vernon that the Village Clerk be authorized to advertise for re-bidding of #2 fuel oil since only one bid was received, and that the bid opening date be set for Wednesday, November 30, 2005 at 2:00 p.m.

Vote of the Board: Trustee Parker – aye  
Trustee Hays – aye  
Mayor McFadden – aye  
Trustee Hansen – aye  
Deputy Mayor Vernon – aye

The motion was passed by a 5-0 vote.

#### **APPOINTMENT TO PB/BAR**

Mayor McFadden announced his appointment of Charlotte Worthy, AIA, 51 Clubhouse Road, to the PB/BAR filling the unexpired term vacated by Rob Norden. Charlotte's term will expire June 2006. Charlotte is a new resident and a member of the TAC Committee. Attached is a copy of the law, which grants the Mayor the single authority to make appointments to fill vacancies of unexpired terms.

#### **REPORTS**

**POLICE** – A copy of the synopsis is attached. A discussion was held on fines for false alarms.

**DPW** – A copy of the report is attached. Mr. Morrow reported that the Water Department has repaired 4 of the 5 water leaks that were found by the Orange County sponsored leak detection company.

#### **COMMITTEE REPORTS**

**ENVIRONMENT AND WILDLIFE COMMITTEE**– Sheila Pompan, Co-Chair, reported that with the bear problem in the Park, the Committee recommends the Village install bear proof containers at the Wee Wah Beach so that weekend residents can deposit their trash. The Board asked that she report next month with specific information and prices.

**EMERGENCY DISASTER ADVISORY COMMITTEE** – Deputy Mayor Vernon reported that two members (he and Joe Hamamji) are attending a NYS Incidence Command course in order to get the proper certification to run emergency operations.

#### **UNFINISHED BUSINESS**

**STERLING FORGE** – Mayor McFadden wrote a letter to the Town of Tuxedo stating the Village’s negative position on the Sterling Forge Estates project. A copy is attached.

**WEBSITE POLICY** – A discussion was held on the proposed policy. A copy of the final policy is attached.

A motion was made by Mayor McFadden that the Website policy be adopted as presented.

Vote of the Board:       Trustee Hansen – aye  
                                  Deputy Mayor Vernon – aye  
                                  Trustee Hays – aye  
                                  Mayor McFadden – aye  
                                  Trustee Parker – aye

The motion was passed by a 5-0 vote.

**TUXEDO DAM** – Trustee Parker reported that he is still researching materials regarding the Tuxedo Lake dam liability. He should have some information for next month’s meeting.

**LOCAL LAW INTRODUCTORY NO. 4 OF 2005** – Mayor McFadden introduced legislation that would require attendance at meetings for members of the Planning Board/Board of Architectural Review. Feedback from the PB/BAR has been positive. A copy of the proposed law is attached.

A motion was made by Mayor McFadden that a public hearing be held on Local Law Introductory No. 4 of 2005 on Wednesday, December 21, 2005 at 7: 30 p.m. in the Village Hall.

Vote of the Board:       Deputy Mayor Vernon – aye  
                                  Trustee Hansen – aye  
                                  Trustee Parker – aye  
                                  Trustee Hays – aye  
                                  Mayor McFadden – aye

The motion was passed by a 5-0 vote.

**TUXEDO CLUB DOCK** – Mayor McFadden read his statement regarding the Tuxedo Club Docks. He summarized by saying that he sought legal advice to rescind the approval to clear the way for a Public Hearing and new vote, but in the Village Attorney’s opinion, the legality of the prior board’s motion should be decided in the courts.. A copy of Mayor McFadden’s statement and Mr. Sweeney’s opinion of November 16, 2005 are attached. Trustee Hansen read his statement in which he details his disagreement with many of Mr. Sweeney’s November 16<sup>th</sup> comments. He also stated that Trustees Hays and Parker, as members of the prior Board, should propose new legislation that would incorporate their decision or re-examine their action. A copy of Trustee Hansen’s statement is attached.

**AGENDAS** – In response to a question raised at the last meeting, Mayor McFadden stated that he researched the rules regarding the timeframe for posting agendas and found that they can come out the day of the meeting. A copy of the rule is attached.

**MEETING WITH SUBDIVIDERS** – Mayor McFadden read into the record his statement regarding meetings with subdividers (Lou Heimbach/Sterling Place and Tuxedo Partners) and reiterated the fact that they were for introductory purposes only. He further stated that he is opposed to the Sterling Place project. A copy of his statement is attached.

**TRANSITION ADVISORY COMMITTEE** – Mayor McFadden read his statement regarding the reason why the PB/BAR is not serving on the TAC, which includes, a) the legality of more than two members meeting at the same time without public notice, and b) Sam Bornstein’s position that Local Law No. 2 is illegal. A copy of his statement is attached as well as the October 3, 2005 e-mail from Sam Bornstein.

## **PUBLIC COMMENTS**

Docks: Geoff Isles stated that he does not agree with Mr. Sweeney’s opinion regarding the Tuxedo Club docks and that he had previously submitted a letter regarding his position. A copy of the letter is attached.

Historical Society: Chris Sonne as president of the Historical Society announced that they are proposing to publish a book on the historical houses in the Park. The project will be funded through donations and he asked if it could be mentioned on the Village’s website.

Water, Deer, Bear: Alan Heywood asked why his tap water is brown. Mr. Morrow stated it is probably isolated within his house as no other calls were received. If anyone has a problem at any time, it should be reported immediately to the Village Office so the Water Department can investigate. Mr. Heywood also asked that bear proof containers be placed at the Wee Wah and that a proper assessment of the deer be taken.

Avian Flu: Claudio Guazzoni left information regarding Avian Flu and asked that the information be posted on the Village’s website.

## **NEW BUSINESS**

### **PB/BAR ATTORNEY**

A motion was made by Mayor McFadden that Richard Golden, Esq. of Burke, Miele & Golden, Goshen, NY, be appointed as the Attorney for the PB/BAR at a rate of \$225.00 per hour, replacing Michael Donnelly, Esq., who will continue as the attorney for the BZA. Mr. Golden’s term will expire June 2006.

Vote of the Board: Deputy Mayor Vernon – aye  
Trustee Hansen – aye  
Mayor McFadden – aye  
Trustee Parker – aye  
Trustee Hays – aye

The motion was passed by a 5-0 vote.

A discussion took place confirming ongoing Village policy that attorney’s fees for PB/BAR and BZA matters are typically charged back to the applicants. A copy of Mr. Golden’s proposal is attached.

**BUILDING DEPARTMENT HOURS** – A discussion was held on the letter dated September 23, 2005 from Civil Technologies & Engineering, outlining the need to have an increase in building inspection hours. Mayor McFadden stated that before any decision is made by the Village, input will be considered from the PB/BAR and the other Trustees. A copy of the letter is attached.

**DEVELOPER'S AGREEMENT** – Attorney Donnelly and the PB/BAR recommend the Village have a Developer's Agreement when dealing with subdivision applicants. A sample will be obtained for presentation at the next Trustees meeting.

**STERLING FOREST, LLC** – A discussion was held on the letter dated November 4, 2005 that was received from Sterling Forest, LLC, demanding the Village supply water to the Sterling Place subdivision located next to the Village's sewer plant. A copy is attached. Mr. Sweeney's opinion letter of October 20, 2005 is also attached. Mayor McFadden noted that he is not in favor of selling water to Sterling Place.

#### **LEVY UNPAID WATER**

A motion was made by Deputy Mayor Vernon that the Village Clerk be authorized to send to the County of Orange Commissioner of Finance the attached list of unpaid 2005-2006 Village taxes in the amount of \$134,987.60 for re-levy onto the January 2006 Town/County Tax Bill.

Vote of the Board:           Trustee Hansen – aye  
                                  Mayor McFadden – aye  
                                  Deputy Mayor Vernon – aye  
                                  Trustee Hays – aye  
                                  Trustee Parker – aye

The motion was passed by a 5-0 vote.

#### **EXEMPTION OF COUNTY TAXES ON WATER FACILITY PARCEL**

A motion was made by Deputy Mayor Vernon that the Village of Tuxedo Park request from the County of Orange the exemption of County Taxes on Village water facilities located in the Town of Tuxedo known as Section 13-3-12 for the year 2007.

Vote of the Board:           Trustee Parker – aye  
                                  Trustee Hays – aye  
                                  Mayor McFadden – aye  
                                  Trustee Hansen – aye  
                                  Deputy Mayor Vernon – aye

The motion was passed by a 5-0 vote.

**FIRE AND SAFETY ADVISORY COMMITTEE DRAFT LETTER** – Mayor McFadden stated that the committee is drafting a letter that will be sent to property owners regarding the trimming of trees and shrubs along their property where the overgrown vegetation is interfering with emergency vehicle access.

#### **APPOINT FIRE COMMISSIONER**

A motion was made by Deputy Mayor Vernon that Louis DeBrino, III and Joseph Tripoli be re-appointed Commissioners on the Board of Fire Commissioners of the Tuxedo Joint Fire District, for a term running January 1, 2006 through December 31, 2011.

Vote of the Board:           Trustee Hansen – aye  
                                  Deputy Mayor Vernon – aye  
                                  Mayor McFadden – aye  
                                  Trustee Hays – aye

Trustee Parker – aye

The motion was passed by a 5-0 vote.

#### **APPOINT DPW EMPLOYEE**

A motion was made by Deputy Mayor Vernon that Franke Lunde be appointed to the full time position of Motor Equipment Operator in the Department of Public Works, at a salary of \$22.84 per hour as per the union contract, effective October 17, 2005. Mr. Lunde replaces Robert Marsh who retired September 30, 2005.

Vote of the Board:           Trustee Parker – aye  
                                  Trustee Hays – aye  
                                  Mayor McFadden – aye  
                                  Deputy Mayor Vernon – aye  
                                  Trustee Hansen – aye

The motion was passed by a 5-0 vote.

**NEW WEBSITE CONTRACT** – A discussion was held on switching the Village’s current website hosting vendor, Delaney Computer Services, Inc. (a.k.a. Deluge Interactive), to a new hosting vendor called GovOffice.com. Mayor McFadden presented copies of the proposed contract to the Trustees.

A motion was made by Mayor McFadden that the Village’s website be hosted by vendor GovOffice.com, with prices as reflected in the attached proposal.

Vote of the Board:           Deputy Mayor Vernon – aye  
                                  Trustee Hansen – aye  
                                  Mayor McFadden – aye  
                                  Trustee Parker – aye  
                                  Trustee Hays – aye

The motion was passed by a 5-0 vote.

#### **PUBLIC COMMENTS**

Peter Regna: Commented on the Mayor’s meetings with subdividers and the PB/BAR/BZA application of the Deputy Mayor.

Bob Swanson: Asked for confirmation that the rumor is false regarding the replacement of the Tuxedo Park Police with a security force. Mayor McFadden stated that the rumor is false and no grievances have been filed.

#### **BUILDING PERMITS**

A motion was made by Deputy Mayor Vernon that approval be given to the change in the original swimming pool plan for Seth Denberg, Turtle Mountain Road, Tax Map No. 103-1-18, to include the installation of a rock formation and the replacement of wood fencing around the pool with aluminum fencing as stipulated by the Planning Board/Board of Architectural Review and approved at their November 1, 2005 meeting.

Vote of the Board: Trustee Parker – aye  
Trustee Hays – aye  
Mayor McFadden – aye  
Trustee Hansen – aye  
Deputy Mayor Vernon – aye

The motion was passed by a 5-0 vote.

A motion was made by Deputy Mayor Vernon that the building permit application of Kurt & Pam Graetzer, 63 Clubhouse Road, Tax Map No. 107-1-59, for renovations to include a new roof, new doors, and removal of an existing window at a cost of \$6,500 be approved.

Vote of the Board: Trustee Parker – aye  
Trustee Hays – aye  
Mayor McFadden – aye  
Deputy Mayor Vernon – aye  
Trustee Hansen – aye

The motion was passed by a 5-0 vote.

A motion was made by Deputy Mayor Vernon that the building permit application of Claude & Mary Jo Guinchard, 122 Turtle Point Road, Tax Map No. 103-1-3, for installation of a front driveway gate at a cost of \$10,000 be approved.

Vote of the Board: Trustee Parker – aye  
Trustee Hays – aye  
Mayor McFadden – aye  
Deputy Mayor Vernon – aye  
Trustee Hansen – aye

The motion was passed by a 5-0 vote.

A motion was made by Deputy Mayor Vernon that the building permit application of Glorvina Schwartz, 75 Ridge Road, Tax Map No. 106-1-66.21, for a bathroom addition at a cost of \$50,000 be approved.

Vote of the Board: Trustee Hansen – aye  
Mayor McFadden – aye  
Deputy Mayor Vernon – aye  
Trustee Hays – aye  
Trustee Parker – aye

The motion was passed by a 5-0 vote.

A motion was made by Deputy Mayor Vernon that the building permit application of Thomas & Alyssa Wilson, 24 Pine Hill Road, Tax Map No. 106-1-56.11, for installation of a new terrace, low walls, French doors, and relocation of windows at a cost of \$75,000 be approved.

Vote of the Board: Trustee Parker – aye  
Trustee Hays – aye  
Mayor McFadden – aye  
Trustee Hansen – aye

Deputy Mayor Vernon – aye

The motion was passed by a 5-0 vote.

A motion was made by Deputy Mayor Vernon that the building permit application of Projector 80 (Steve Hellman), 104 East Lake Road, Tax Map No. 106-1-2.1, for landscaping, a retaining wall, and steps at a cost of \$75,000 be approved.

Vote of the Board:       Trustee Hansen – aye  
                                  Mayor McFadden – aye  
                                  Deputy Mayor Vernon – aye  
                                  Trustee Hays – aye  
                                  Trustee Parker – aye

The motion was passed by a 5-0 vote.

**AUDIT OF CLAIMS** – Bills in the amount of \$234,593.24 for the General Fund, claim numbers 11-1 to 11-83, and \$9,825.40 for the Water Fund, claim numbers W11-1 to W11-13 were audited and ordered paid.

**ADJOURNMENT TO EXECUTIVE SESSION**

A motion was made by Mayor McFadden, seconded by Trustee Hansen that the Board adjourn to Executive Session at 9:15 p.m. to discuss litigation and an employee matter. The vote was 5-0 in favor of adjourning.

**ADJOURNMENT**

A motion was made by Mayor McFadden that the meeting be adjourned at 11:30 p.m. The vote was 5-0 in favor of adjourning.

Respectfully submitted,

Deborah A. Matthews  
Village Clerk-Treasurer