

**VILLAGE OF TUXEDO PARK  
BOARD OF TRUSTEES  
AUGUST 17, 2005**

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

Clerk: Deborah Matthews

Also: John Ledwith, Deputy Chief Culhane, Richard Morrow, James Sweeney, Esq., Peter Regna, Sam Bornstein, Chiu-Yin Hempel, Rob Norden, Andy Siegel, Pat Hall, Paul Brooke, Zahara Sanandaji, Joan Alleman and friend, Jake Lindsay, Claude and Mary Jo Guinchard, Jim Hays, Howland Rogers, Susan Goodfellow, Mary Graetzer, Sally Spooner and Ed Stolz, Ulrich Pendl, JoAnn Hanson, Kathy Norris, Peter Humphrey, Jim Burger, Hilda McGlew, Alan and Susan Heywood, Meg Vaught, Jennifer Cacioppo, Greg Libby, Charles Cathcart, and others

Mayor McFadden called the meeting to order at 7:30 p.m. and led everyone in the Pledge of Allegiance.

**MINUTES**

A motion was made by Mayor McFadden that the minutes of the July 20, 2005 Reorganization Meeting be approved.

Vote of the Board: Trustee Hansen - aye  
Deputy Mayor Vernon – aye  
Trustee Hays – aye  
Trustee Parker – 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 July 20, 2005 Regular Monthly Trustees meeting be approved as amended.

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

The motion was passed by a 5-0 vote.

A motion was made by Mayor McFadden that the minutes of the July 27, 2005 Special Trustees Meeting 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.

**PUBLIC HEARING ON:**

**LOCAL LAW INTRODUCTORY #2 – PROVIDING FOR A BOARD OF ARCHITECTURAL REVIEW SEPARATE AND APART FROM THE PLANNING BOARD and**

**LOCAL LAW INTRODUCTORY #3 – ESTABLISHING CERTAIN STANDARDS AND GUIDELINES FOR APPLICATIONS BEFORE THE BOARD OF ARCHITECTURAL REVIEW.**

Mayor McFadden circulated a sign in sheet for those wishing to comment during the public hearing. The sheet includes a space for the speaker's name, affiliation and type of speaker. He read the *Guidelines for Public Comment & Public Hearings*. The hearing was opened at 7:40 p.m.

**Speakers:**

1. Sam Bornstein, PB/BAR Chairman – opposed to splitting the PB/BAR  
Comments based on letter dated August 15, 2005 previously circulated to the Board. He distributed a letter written by Village Engineer/Building Inspector Eugene Ninnie expressing his views on separating the Boards. He also distributed a copy of an e-mail he received from the NYS Department of State Land Use Specialist.
2. Peter Regna, Deputy PB/BAR Chairman – opposed to splitting the PB/BAR  
He is also very concerned about other changes within the Village that have been proposed or implemented by the new Administration, such as incorporating the Beautification Committee into the Garden Club and the Costello settlement.

In response to the dissolution of the Beautification Club, Mayor McFadden stated that 90% of the recommendations came from Garden Club members, including the Tuxedo Road guiderail and he felt the projects should be turned over to the Garden Club. However, because of phone calls and pressure from Beautification Committee members, the President of the Garden Club in a letter asked that the Club not be involved. Mayor McFadden received said letter and approved it for public circulation. In addition, Mayor McFadden said the Costello case was settled because the Village had already spent \$10,000.00 in legal fees and was facing upwards of \$50,000.00 - \$100,000.00 in additional legal fees with an uncertain outcome.

3. Paul Brooke, Prior PB/BAR Chairman and former PB/BAR applicant – in favor of splitting the PB/BAR and establishing guidelines.  
An application that he had before the PB/BAR did not get approval and he felt the process was anecdotal, negative, and unfriendly as well as a waste of time and emotionally draining. Also the absence of guidelines by the BAR provided a barrier to enhancing his property.

4. Howland Rogers, former Mayor of Tuxedo Park – believes everything should be discussed in public and everyone should be honest. He is very much interested in the well being of Tuxedo Park.
5. Susan Goodfellow, former Trustee and Mayor of Tuxedo Park – asked that the Board not vote on splitting the PB/BAR but take time to think through the issues, policies, procedures, membership, roles, training, and possible conflicts of interest that require Deputy Mayor Russ Vernon to recuse himself from voting on Local Laws 2 and 3 of 2005. (Deputy Mayor Vernon currently has an application before the (PB/BAR.)  
  
Deputy Mayor Vernon stated that he carries out his duties with honesty and integrity, and he will not recuse himself from voting. He will vote the way he believes is in the best interest of the Village not in his best interest.
6. Zahra Sanandaji, Resident and applicant to PB/BAR – opposed to splitting the PB/BAR Asks that the Board carefully look at the qualifications of the members they will be appointing to the Boards and is concerned about developments.
7. Joan Alleman, Resident - wants Board to carefully consider the ramifications of splitting the PB/BAR. She wants to remind the Mayor and Trustees that the Village is on the National Register of Historic Places and is significant in the history of the United States.
8. Andy Siegal, PB/BAR Secretary, Resident and former applicant – opposed to splitting the PB/BAR  
Feels two Boards will be double the expense for applicants and make the process longer. How will the coordination of records and minutes between the two boards be done so nothing slips through the cracks.
9. Jake Lindsay, former Trustee and applicant to the PB/BAR – opposed to splitting the PB/BAR  
Questions legality of Local Law #2 in that the wording as presented in July has been significantly altered and embellished. Because of the sewer moratorium, and the way the Village code is written, if split, the PB will have 5% of the current workload (Chapter 85 for subdivisions). The Village Code needs to be significantly amended first to have a meaningful result. Members are being appointed with no designated term of office. He asks that the Board delay the vote or vote it down.
10. Claude Guinchard, Resident and former applicant – in favor of splitting the PB/BAR Believes in historical preservation of the Park and feels there are other residents who are qualified to serve on the boards.
11. Mary Jo Guinchard, Resident and former applicant – in favor of splitting the PB/BAR Commented on remarks of other speakers. Experience with PB/BAR regarding stable project necessitated bringing in her lawyer. Opinions of experts hired by the PB/BAR were ignored.
12. James Hays, Resident – opposed to splitting PB/BAR  
Feels the Board is being too hasty and it's causing anxiety in the community. Asks that the Board have a well-reasoned argument to support the decision for splitting and asks that they not vote tonight.

13. Alan Heywood, Resident – opposed to splitting the PB/BAR  
Repudiated comments made about the Beautification Committee, as he was a member. Also feels Board is being too hasty, and that Deputy Mayor Vernon has a definite conflict of interest and should recuse himself.
14. Uli Pendl, Resident – opposed to splitting PB/BAR  
Urges the Board to go slow and think about it for another two months. Feels the Mayor's occupation is a conflict of interest in selecting members for the Boards.
15. JoAnn Hanson, Resident – opposed to splitting PB/BAR  
Has a background in real estate and zoning. She feels grants written by professionals are a good idea. A procedure letter should be created to give to applicants in the interim. The term of the existing PB/BAR members should be honored. There are talented residents with backgrounds relevant to the two boards that could serve. Terms shouldn't be at the pleasure of the Trustees or Mayor and should exceed one year. Asks the Board to take their time and not proceed in haste.
16. Kathy Norris, Resident and former applicant – opposed to splitting PB/BAR  
The procedure is long and difficult but the benefit is preservation of the Park. Feels there are residents in the Park who qualify for membership on the boards. Grants should be looked at closely since some may negate the restricted roads of the Village. Feels there is a law against splitting the boards. Also feels Village Office should be running the website.  
  
Attorney Sweeney stated that there is no law in New York State against splitting the PB/BAR and the Board is within its right to divide it. There is no illegality in splitting. However, what the policy positions are behind splitting the boards, are something else, i.e. they are subjective.
17. Mary Graetzer, Resident – opposed to splitting PB/BAR  
Asks that the Board take time to consider the proposed legislation and discuss more extensively in public meetings.

Mayor McFadden thanked everyone for his or her comments.

### **CLOSE HEARING**

A motion was made by Mayor McFadden, seconded by Deputy Mayor Vernon that the public hearing be closed at 9:25 p.m.

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

The motion to close the hearing was passed by a 5-0 vote.

### **REPORTS OF OFFICERS AND COMMITTEES**

**POLICE** – A copy of the synopsis is attached.

**DPW** – A copy of the report is attached. A proposed municipal highway equipment sharing agreement was previously distributed to the Trustees and to Mr. Sweeney for his opinion.

**ENVIRONMENTAL AND WILDLIFE COMMITTEE** – No report.

**FIRE AND SAFETY COMMITTEE** - A discussion was held on the trimming of brush and trees where they extend from residents' properties into the roadway. Mayor McFadden stated that David du Pont volunteered to coordinate the Fire Department and Richie Morrow to do a trial run with the fire truck and a DPW truck from the front gate to the Tuxedo Park School to see where trees need to be trimmed.

**WEE WAH RECOGNITION LETTER** - Mary Graetzer stated that she has a draft that she will leave with the Board for their review.

**CONSULTANT POSITIONS** - Trustee Parker and Deputy Mayor Vernon have discussed the subject of consultant positions and they recommend a list be maintained of people who have expertise in the various fields, but no one should be appointed as an agent of the Village. Mayor McFadden and the other Trustees were in agreement.

**VILLAGE BOAT CLUB DOCK** - Deputy Mayor Vernon met with Greg Libby, Village Boat Club, to review the Club's proposal to add a 5'x18' dock to the existing dock, making it a seasonal "T". Since the dock would extend 5' into the lake and is 6' longer than the code allows, a variance by the BZA will be needed before the project goes before the PB/BAR. Trustee Vernon recommended the project be placed on the September Trustees agenda for a vote.

**ST. MARY'S AUTO SHOW** - Trustee Hansen reported that he met with Father Cromey and Joshua Bewlay, who have done events in the past. The September 3<sup>rd</sup> event is a fundraiser for the church and will be limited to the Hamlet with no outside advertising. Traffic and safety concerns have been addressed.

**SOS FUELS** - Trustee Hansen stated that he has drafted a letter stating the reasons the Village opposes the proposed 30,000-gallon propane tank in the Hamlet. Mayor McFadden will finalize the letter and send it to the Town of Tuxedo Zoning Board.

**FARMER'S MARKET LETTER** - Mayor McFadden stated the letter is not completed.

**WEBSITE POLICY** - Trustee Hansen reported that he and Trustee Hays met and went through all the issues regarding the website. They need to have one more meeting before putting the proposed policy before the Trustees for a vote. Mayor McFadden stated some changes have already been made: Policy for cookies, use and privacy, access to the site for posting by the Village Clerks, security sensitive information and commercial establishments were removed

**AGENDA ITEM 10a and 10b** – Attorney Sweeney informed the Board that they do not have the power to appoint to any board, someone who does not live in the Village, either by State or Local Law. In addition, membership terms of the BAR must be changed by Local Law since Local Law established them.

## **PUBLIC COMMENT**

A motion was made by Deputy Mayor Vernon that the floor be opened for public comments on anything in Item #6 of the Agenda.

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

The motion was passed by a vote of 3 ayes and 2 abstentions.

Alan Heywood: Questioned paving of Wee Wah Road. Richie stated he is in the process of paving several roads in the Village. Mayor McFadden asked for a list to post on the website.

Susan Goodfellow: Suggests an annual road review regarding brush and maintenance. She is still concerned about the website privacy policy and the Village Office does not have a copy of the web provider's contract. On August 22<sup>nd</sup> the Town is having a continuation of the hearing on the Sterling Forest Project. She also feels a public comment period at the end of the meeting would be helpful.

Uli Pendl: Asked what was wrong with the old website, what did the new website cost, what is the monthly cost, and who is maintaining the website?

In response to Mrs. Goodfellow's comments, Mayor McFadden stated that there is no contract for the website and that the Village could appoint a safety officer or have the Police Chief cite safety violations. The Town hearing is posted on the website. In response to Mr. Pendl's comments, Mayor McFadden stated that he donated the website to the Village at no cost, that the monthly cost is \$100, the same as the old website, and he is volunteering his time to post the items.

A motion was made by Deputy Mayor Vernon, seconded by Trustee Hansen that public participation be closed.

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

The motion was passed by 5-0 vote.

**UNFINISHED BUSINESS** – None

**NEW BUSINESS**

**DISCUSSION ON PROPOSED LOCAL LAWS #2 AND #3**

Mayor McFadden detailed the various reasons why it would be in the Village's best interest to split the PB/BAR and to have a set of guidelines. He feels it's time to open the process and get other people involved. The current combination of the two boards causes confusion for applicants and delays the process. In addition, the application of the SEQRA process needs to be greatly improved. He stated that he has tried to reach out to the PB/BAR members to discuss the issues.

Peter Regna expanded upon the work involved in the process of the PB/BAR.

Chiu-Yin Hempel also spoke about the amount of time, work, and dedication involved in serving on the PB/BAR.

A motion was made by Trustee Parker, seconded by Trustee Hays that Local Law #2 be tabled for further consideration.

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

The motion was defeated by a vote of 3 nays and 2 ayes. Local Law #2 was not tabled.

The debate continued on the main motion.

Deputy Mayor Vernon stated that the intent of the Board is not to dismiss the current members of the PB/BAR. He thinks the PB/BAR should be split, especially in light of all the planned subdivisions, not only in the Village but also in the Town and in close proximity to the Village.

Susan Goodfellow thinks the Board should take more time and think things through.

Trustee Hays stated that there has not been enough discussion.

Trustee Parker stated that the issue is splitting the community down the middle and there is too much controversy.

Trustee Hansen stated that the intent is not to have a change in people or standards. The purpose of the separate BAR is to make sure standards are preserved and values in the community are increased.

After further discussion, the debate was concluded.

## **MOTIONS**

A motion was made by Mayor McFadden that Local Law #2 (Providing for a Board of Architectural Review separate and apart from the Planning Board) be approved.

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

The motion was passed by a 3-2 vote.

A motion was made by Mayor McFadden that Local Law #3 (Establishing certain standards and guidelines for applications before the Board of Architectural Review) be approved.

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.

A motion was made by Mayor McFadden that Local Law #2 become effective 6 months from August 17th or February 17, 2006.

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

The motion was passed by a vote of 3 ayes and 2 abstentions.

Attorney Sweeney stated that he will go through the entire Village Code and prepare the wording for those sections that are affected by the splitting of the PB/BAR. The changes will require a local law to amend. He will have it ready for public hearing prior to the effective date of Local Law #2, which is February 17, 2006. The Board was in agreement.

A motion was made by Mayor McFadden that Agenda Items 10d, 10e, and 10f be tabled because they are a part of Item 10c.

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

The motion was passed by a 5-0 vote.

## **BUILDING PERMITS**

A motion was made by Deputy Mayor Vernon that the building permit application of Douglas Brown, 18 Patterson Brook Road, for renovation to an existing carriage house and construction of a detached garage at a cost of \$650,000 be approved.

Vote of the Board: Trustee Hansen – aye  
Trustee Parker – aye  
Trustee Hays – aye  
Mayor McFadden – 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 Peter & Barbara Humphrey, 40 Camp Comfort Road, for the installation of an air conditioner compressor at a cost of \$11,000 be approved.

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



The motion was passed by a 5-0 vote.

A motion was made by Deputy Mayor Vernon that the building permit application of Robert Klimecki, 8 Old Park Road, for installation of a 4' high fence, water fountain, and window replacement at a cost of \$5,000 be approved and that a final cost of construction statement be submitted.

Vote of the Board: Mayor McFadden – aye  
Trustee Hansen – 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 Zahra Sanandaji, 78 Pine Road, for replacement of a garage door at a cost of \$900 be approved.

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

The motion was passed by a 5-0 vote.

#### **BUDGET TRANSFER**

A motion was made by Trustee Hansen that Budget Transfers be made as follows: \$30,000 from 51104A (Street Maintenance Contractual) and \$100,000 from 90108A (NYS Employees Retirement) to 31204A (Police Contractual).

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

The motion was passed by a 5-0 vote.

**AUDIT OF CLAIMS** – Bills in the amount of \$272,808.90 for the General Fund, claim numbers 8-1 to 8-91 and \$56,294.54 for the Water Fund, claim numbers W8-1 to W8-15 were audited and ordered paid.

#### **ADJOURN TO EXECUTIVE SESSION**

A motion was made by Mayor McFadden to adjourn to Executive Session to discuss a specific personnel matter. The vote was 5-0 in favor of adjourning.

**PERSONNEL**

A motion was made by Deputy Mayor Vernon that the resignation of Part Time Police Officer Michael Canavan be accepted.

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

The motion was passed by a 5-0 vote.

A motion was made by Deputy Mayor Vernon that Patrick McLoughlin be appointed to the position of Part Time Police Officer at the rate of \$19.50 per hour, effective September 12, 2005, contingent upon Deputy Mayor Vernon interviewing Mr. McLoughlin and approving the appointment.

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

The motion was passed by a 5-0 vote.

**ADJOURNMENT**

A motion was made by Mayor McFadden that the meeting be adjourned at 12:15 a.m. The vote was 5-0 in favor of adjourning.

Respectfully submitted,

Deborah A. Matthews  
Clerk-Treasurer

\*For detailed comments, please refer to the tape recording for this meeting.