

**VILLAGE OF TUXEDO PARK
BOARD OF TRUSTEES
NOVEMBER 15, 2006
7:30 P.M.**

Present: Mayor David McFadden
Deputy Mayor Christopher Hansen
Trustee Lawrence Darby
Trustee Oliver Parker
Trustee Houston Stebbins

Clerk: Deborah Matthews

Also: John Ledwith, Richard Morrow, Celeste Gebhardt, Chris & Sally Sonne, Susan Goodfellow, Mary Graetzer, Tom Salierno, Jake & Michele Lindsay, Lucy Edwards, Kathy Norris, Alan & Sue Heywood, Bryan Colwell, Linda Miller, Geoff Isles, Lesley deVore, Uli Pendl, Sheila & Gary Pompan, Curtis Roberts, Ray Mino and David Getz (representatives of Robert Dow), Village Attorneys John Mineaux and Jim Roemer, Guest Attorneys Donald Prutzman and Drayton Grant.

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

PUBLIC HEARING – Local Law Introductory No. 9 of 2006 – Uniform Building Code

A motion was made by Mayor McFadden, seconded by Trustee Stebbins that the public hearing be opened at 7:35 p.m. The vote was 5-0 in favor.

The notice of public hearing was published in the Times Herald-Record on Friday, November 20, 2006. (A copy is attached.)

Clerk Debbie Matthews read a statement which summarizes the purpose and intent of Local Law Introductory No. 9 of 2006, a copy of which had been distributed to the Trustees for review prior to the September 27th Board of Trustees meeting.

Trustee Stebbins noted that the proposed local law has not been reviewed in comparison to the current Village Code.

A discussion followed.

It was agreed that by the next meeting the Planning Board, BAR, Building Inspector and Village Attorney should give suggestions to the Trustees as to what is inconsistent or should be adjusted.

The vote on the local law was tabled until the next meeting.

A motion was made by Mayor McFadden, seconded by Deputy Mayor Hansen that the public hearing be closed at 7:40 p.m. The vote was 5-0 in favor of closing the hearing.

REPORTS

POLICE – A synopsis is attached. Inquiry was made of recent vandalism in the Village and renewal of expired vehicle tags.

DPW – A copy is attached. A discussion was held on grinding brush and chips, selling mulch, better policing at the Racetrack, replacing sections of the guide rail on Tuxedo Road, and reimbursement for work on a broken water pipe at the Tuxedo Club.

#2 Heating Oil Prices: Mr. Morrow is attempting to get the Village onto the NYS Registry in order to enable us to purchase #2 heating oil at NYS bid pricing. The heating oil bids received on November 14th were \$1.9828 from SOS Fuels and \$1.974 from Panco. The NYS prices through Bottini Fuels is approximately 30¢-40¢ less per gallon.

ADVISORY COMMITTEES

VIAC – Michele Lindsay gave a report on the ongoing projects of the Committee. They would like to present some recommendations to the Trustees at a later date. She also stated that Eric Honor is Co-Chair but cannot attend the Trustees' meeting. Therefore, she agreed to attend and give the reports.

WILDLIFE – Sally Sonne announced there are two new members of the Committee – Alan Yassky and Charles Neuhauser. The Committee is looking into deer overpopulation. She also thanked Dena Steele for organizing the bear information presentation by the NYSDEC

BUILDINGS PERMITS

Dow: David Getz and Ray Mino, representing Robert Dow, explained that they have an application before the BAR for a lap pool but need Trustee permission to install a fire hydrant connected to the pool.

A motion was made by Mayor McFadden that permission be granted to Robert & Christina Dow, 120 Ridge Road, to install a fire hydrant as per the requirements of the fire department and the Village water department and that their building permit application for construction of a lap pool with the first hydrant at a cost of \$100,000 be approved.

Vote of the Board: Trustee Parker – aye
Trustee Darby – aye
Deputy Mayor Hansen – aye
Mayor McFadden – aye
Trustee Stebbins – aye

The motion was passed by a 5-0 vote.

A motion was made by Mayor McFadden that the building permit application of Michael Schmidtberger & Margie Sung, Cannon Hill Road, for revisions to their previously approved renovation plans be approved as amended.

Vote of the Board: Trustee Stebbins – aye
Deputy Mayor Hansen – aye
Mayor McFadden – aye
Trustee Darby – aye
Trustee Parker – aye

The motion was passed by a 5-0 vote.

A motion was made by Mayor McFadden that the building permit application of Sheila & Gary Pompan, 30 East Lake Stable Road, for the replacement of three windows at a cost of \$7,000 be approved.

Vote of the Board: Trustee Parker – aye
Trustee Darby – aye
Mayor McFadden – aye
Deputy Mayor Hansen – aye
Trustee Stebbins – aye

The motion was passed by a 5-0 vote.

STOP WORK ORDERS – none

PUBLIC COMMENT PERIOD

Speakers: Mary Graetzer (read written statement), Geoff Isles, Susan Goodfellow (also read written statement), Jake Lindsay, Michele Lindsay, Kathy Norris, Alan Heywood, Uli Pendl

Comments: Website relative to Residents Classified, the posting of police and DPW monthly reports, and deer drive information, concerns about possible favoritism shown to Tuxedo Club regarding docks, unpaid Town resident water bills need to be addressed and stricter policy in place, who has ownership of meeting videotapes, reimbursement of transcription costs, custody of Village documents, need for the Village to have its own Assessor, writing style on website changed, who is writing the information, is the videotape being put on the website, TP tags being left on cars when traded in, security concerns, Petition of Fox Hill residents not to do deer drives in that area, request for Trustees to attend Town meetings, Town budget going up 5% for Village residents and 3.86% for Town residents, how many times has the Financial Advisory Committee met in the last 6 months, who and why were the Albany attorneys hired, who owns the video camera, what happens to the Scandisk.

TRUSTEE RESPONSES

Mayor McFadden stated that the police and DPW reports are always available under FOIL and putting them on the web allows people who cannot get to the office to read them. He asked Mrs. Graetzer to join the Website Committee and she declined.

Trustee Darby stated that he and Trustee Stebbins met with representatives of the Tuxedo Club in an attempt to have an exchange of information and to receive more information. He also met with the Village Boat Club to discuss their issues.

Mayor McFadden stated that anyone can videotape a meeting and this ruling was approved by the Trustees at the July 19, 2006 Reorganization Meeting in the Rules of Procedure. Transcription of the tapes was done in anticipation of a lawsuit and he paid the fees. He will discuss reimbursement with the Trustees in Executive Session.

Mayor McFadden and all members of the Board stated that they have other obligations and do not always have the time to also attend Town meetings. Because Uli Pendl and Alan Heywood attend the Town meetings Mayor McFadden asked if they would be willing to report back to the Trustees and they declined.

Mr. Ledwith noted that the TP vehicle tags that were ordered by the Police are at the printers, but does not know if the Police have picked them up.

VILLAGE RECORDS

A discussion was held about the Mayor's authority to request that records be moved from the Village Office, who is responsible for custody of the records, and who has authority over the records. The Village Attorney stated the Mayor or anyone with authority over the Village Clerk (who is the official records keeper) does have that authority.

A motion was made by Trustee Darby, seconded by Trustee Stebbins that the records of the Village located in the Village Office should not be removed from the custody of the Village Clerk unless approved by the majority of the Trustees.

Vote of the Board: Trustee Parker – aye
Trustee Darby – aye
Deputy Mayor Hansen –aye
Trustee Stebbins – aye
Mayor McFadden – nay

The motion was passed by a 4-0 vote.

UNFINISHED BUSINESS

SEQRA – Local Law Introductory No. 7 of 2006 – Fences

Mayor McFadden stated that the Board needs to do a SEQRA review regarding the proposed law.

A motion was made by Mayor McFadden that the Board adopt a resolution declaring Local Law Introductory No. 7 of 2006- Fences- as Type I action and that the Board of Trustees will act as lead agency for SEQRA.

Vote of the Board: Trustee Stebbins – aye
Deputy Mayor Hansen – aye
Trustee Darby – aye
Trustee Parker – aye
Mayor McFadden – aye

The motion was passed by a 5-0 vote.

LOCAL LAW INTRODUCTORY NO. 8 OF 2006 – Board of Ethics – Mayor McFadden stated that he continues to support creating a BOE. A short discussion followed. The matter was tabled.

POLICE AND TRAFFIC GUARD CONTRACTS

Mayor McFadden previously circulated to the Trustees the final draft of the new contract (June 1, 2006-May 31, 2007) for the Full Time Police Officers and Traffic Guards that were negotiated by him and Michael Richardson (Labor Consultant) and approved at the October 18th BOT Executive Session. Trustee Darby requested that Village Attorney Roemer review the contracts before the Mayor officially signs them. The Trustees were in agreement.

TUXEDO CLUB DOCKS

Mayor McFadden made a recommendation that the Board of Trustees' resolution approving the 2005 permit for the Tuxedo Club docks expansion be rescinded. He said letters from several residents have been received also supporting this recommendation and an opinion from the Village Attorney saying the permit was granted incorrectly. He also stated that a vote to rescind the 2005 permit does not exclude the Tuxedo Club from submitting a new permit application for docks, however the process would entail amending Village law and would include public hearings to amend Village Law. Deputy Mayor Hansen referenced the letter he presented as evidence to the Trustees at the October 18th meeting which included a list of the docks at the Tuxedo Club, the number of boats listed at the docks and photographs of the docks from 1991 and 1992. A lengthy discussion followed and included whether or not allowing the Club additional docking facilities requires a change to Village Code Section 65-6(I).

A motion was made by Mayor McFadden that the Board of Trustees adopt a resolution declaring that a certain resolution adopted by a 3-2 vote of the then sitting Board of Trustee on May 18, 2005 which approved the construction of additional docks by the Tuxedo Club is declared and is hereby null and void on the grounds that Section 65-6.1 of the Village Code states that "the Tuxedo Club is restricted from expanding its docking and mooring facilities beyond the number in existence on September 19, 1991" and that accordingly the Board was without any authority to so act.

Vote of the Board: Deputy Mayor Hansen – aye
Mayor McFadden – aye
Trustee Darby – nay
Trustee Parker – nay
Trustee Stebbins – nay

The motion was denied by a vote of 3-2.

A further discussion was held on the need for clarification of the additional evidence from the Tuxedo Club. Trustee Darby made a request for the Village Attorney to write the Tuxedo Club asking for their opinion regarding whether or not the Club is in violation.

A motion was made by Trustee Darby, seconded by Trustee Stebbins that the Village Attorney write the Tuxedo Club a letter adducing the evidence that has been made available to the Board which appears to indicate that there is a violation of Section 65-6, indicating that the Board of Trustees is proposing to revoke its prior resolution on the basis that there appears to be a violation of Section 65-6, and asking them to respond as to why the Board should not do so.

Vote of the Board: Trustee Hansen – aye
Trustee Stebbins – aye
Trustee Darby - aye
Trustee Parker – aye
Mayor McFadden – didn't vote

The motion was passed by a 4-0 vote.

REAL PROPERTY ASSESSMENTS FOR FISCAL 2007

A discussion was held on the pros and cons of re-hiring John Ledwith to be the interim Assessor and Andy Jackson as Assessor Consultant for the coming fiscal year. By NYS law, assessments for villages with a fiscal year beginning June 1st must have a completed tentative assessment roll by January 31st. Mayor McFadden stated that a Civil Service conflict may exist with Mr. Ledwith being Building Inspector and Assessor simultaneously. Trustee Stebbins said that the option of finding a replacement at this point in time is not feasible.

A motion was made by Trustee Stebbins, seconded by Mayor McFadden that John Ledwith be appointed as acting Assessor for 2007, term ending June30, 2007, at a rate to be determined by the Trustees and that Andy Jackson be appointed to act as Assessor Consultant as in past practice.

Vote of the Board: Trustee Parker – aye
Trustee Darby – aye
Deputy Mayor Hansen – aye
Trustee Stebbins – aye
Mayor McFadden – abstain

The motion was passed by a 4-0 vote.

DEER DRIVES – Sally Sonne, Chairman of the Wildlife Committee, gave an overview of the deer drives that are to begin on November 19th. They are conducted privately by an independent group of people who are licensed by NYS with shooting done outside the Village limits.

Clerk Debbie Matthews read a statement from Philip Lobkowicz which encourages re-activation of the deer culling program. A copy is attached.

Mayor McFadden stated that a letter was received on November 13th from Tuxedo Reserve objecting to hunting on their property. On November 15th a letter was received from Tuxedo Reserve, addressed to Chris Sonne, following up Mr. Sonne's letter to them of November 9th, in which Tuxedo Reserve is willing to allow the hunters access to the 50.26 acres conservation buffer that is attached to their Northern Tract. A copy of the letters is attached.

Trustee Stebbins expressed concern over possible liability issues relating to the deer drives, including the posting of deer drive information on the Village's Website.

A discussion followed.

VILLAGE ATTORNEYS AND LOCAL LAWS – Trustee Stebbins asked that local laws not be voted on by the Trustees unless the Village Attorney has reviewed the language first. Trustee Stebbins asked that counsel also review the laws to make sure they are in compliance with NYS requirements, especially the proposed renewal of the pre-existing fence law. Mayor McFadden said the Village Attorneys write all of the proposed laws.

NEW BUSINESS

MEET ATTORNEYS

Trustee Darby explained that there are issues before the Trustees that involve SEQRA, complicated environmental topics, litigation, and other issues on which the Board would like additional expert, professional advice. Also, in the ongoing Lindsay-Regna litigation, he believed that, because of possible conflicts of interest and other reasons, the Board of Trustees should have separate representation for the Village from Mayor McFadden. He and Trustee Stebbins contacted several environmental and litigation attorneys and concluded that Drayton Grant and Donald Prutzman were the best choice for the Village. Trustees Darby and Stebbins asked one of each special competence to be present at the meeting.

Drayton Grant of Grant & Lyons, LLP of Rhinebeck, NY and New York City, Environmental Attorney, stated her credentials and her special competence in environmental law. Her rate is \$175 per hour.

Also introduced was Donald Prutzman, Esq. of Tannenbaum Helpert Syracuse & Hirschtritt, LLP, of New York City. Mr. Prutzman stated that he has experience in a number of defamation lawsuits but also stated that he could not recall his record in those cases. He further stated that he did not have any experience representing municipalities in defamation cases. He stated that he would reduce his rate to \$400 per hour for the Village.

A discussion followed.

The Board will meet with the attorneys in Executive Session and discuss the issues further.

APPOINT CHAIR OF PLANNING BOARD

Mayor McFadden announced that he is appointing JoAnn Hanson, 92 Mt. Farm Road, as “hold over” Chairwoman of the Planning Board, term expiring June 30th, 2007, replacing Chairman Claude Guinchard who is relocating to Texas for professional reasons.

TUXEDO FIRE DISTRICT BOARD OF FIRE COMMISSIONERS

A motion was made by Mayor McFadden that Gardiner Hempel, 14 Butternut Lane, be appointed to serve on the Tuxedo Fire District Board of Fire Commissioners commencing January 1, 2007.

Vote of the Board: Trustee Parker – aye
Trustee Darby – aye
Mayor McFadden – aye
Deputy Mayor Hansen – aye
Trustee Stebbins – aye

The motion was passed by a 5-0 vote.

LEVY UNPAID VILLAGE TAXES

A motion was made by Mayor McFadden that the Village Clerk be authorized to send to the County of Orange Commissioner of Finance the attached list of unpaid 2006-2007 Village taxes in the amount of \$140,412.49 for re-levy onto the January 2007 Town/County Tax Bill. (A copy is attached.)

Vote of the Board: Deputy Mayor Hansen – aye
Mayor McFadden – aye
Trustee Darby – aye
Trustee Parker – aye
Trustee Stebbins - aye

The motion was passed by a 5-0 vote.

SECURITY PROCEDURES FOR CONTRACTORS AND VENDORS – Mayor McFadden began a discussion about ways to address potential crime, safety, speeding, bonding, etc., of contractors and vendors working in the Park,. The Trustees asked that Richie Morrow, the Police Department and the Building Inspector provide information that may address these issues. The matter was tabled.

DUCK CEDAR INN – A discussion was held on lien procedures. The file on unpaid water bills for the Duck Cedar Inn was given to the Village Attorney to begin lien proceedings. The Trustees asked John Ledwith to compile a list of all Town residents’ unpaid water bills that are over one year old and start lien proceedings on them.

LEGAL AND ENGINEERING SERVICES FOR BAR AND PB APPLICANTS – A brief discussion was held. The matter was tabled.

TABLE 8g-8p, 9a-9c, and 10 – These items on the agenda will be tabled until the next BOT meeting.

ADJOURNMENT TO EXECUTIVE SESSION

A motion was made Mayor McFadden, seconded by Deputy Mayor Hansen that the Board adjourn to Executive Session at 11:45 p.m. to discuss the Lindsay-Regna and Sterling Place lawsuits and a specific employee matter. The vote was 5-0 in favor of adjourning.

REOPEN REGULAR SESSION

A motion was made by Mayor McFadden, seconded by Trustee Stebbins that the regular meeting be reopened at 12:30 am. The vote was 5-0 in favor of re-opening.

APPOINT ATTORNEYS

A motion was made by Trustee Darby, seconded by Trustee Stebbins that Donald Prutzman of Tannenbaum Helpert Syracuse & Hirschtritt be engaged to advise the Village in the Lindsay-Regna matter.

Vote of the Board: Trustee Parker – aye
Trustee Stebbins – aye
Trustee Darby – aye
Mayor McFadden – nay
Deputy Mayor Hansen – nay

The motion was passed by a 3-2 vote.

A motion was made by Trustee Darby, seconded by Trustee Stebbins that Drayton Grant of Grant & Lyons be engaged to advise the Village on environmental matters relating to Sterling Place litigation.

Vote of the Board: Deputy Mayor Hansen – aye
Mayor McFadden – aye
Trustee Stebbins – aye
Trustee Darby – aye
Trustee Parker – aye

The motion was passed by a 5-0 vote.

POLICE APPOINTMENT

A motion was made by Mayor McFadden, on the recommendation of Sgt. Sanford, that Rodney Krinke be hired as a part time police officer at \$20.00 per hour, effective November 14, 2006.

Vote of the Board: Trustee Parker – aye
Trustee Darby – aye

Trustee Stebbins – aye
Deputy Mayor Hansen – aye
Mayor McFadden – aye

The motion was passed by a 5-0 vote.

ADJOURNMENT

A motion was made by Mayor McFadden that the meeting be adjourned at 12:45 a.m. The vote was 5-0 in favor of adjourning.

Respectfully submitted,

Deborah A. Matthews
Village Clerk-Treasurer

Approved at the December 20, 2006 BOT meeting.