

**VILLAGE OF TUXEDO PARK
BOARD OF TRUSTEES
MAY 21, 2012
7:00 P.M.
At St. Mary's Church**

Present: Mayor Thomas Wilson
Deputy Mayor du Pont
Trustee Alan Heywood
Trustee Liane Neuhauser
Trustee Robert Zgonena

Clerk: Deborah A. Matthews

Also: Session 1: Jeff Voss (DPW Superintendent), Carl Stone (W&S), Richard Messer (W&S, 9:05 p.m.), Richard Golden, Esq. (8:50 p.m.)
Chris Doyle, Allied Biological
Kelly Nolan, Watershed Assessment Associates
Doc Bayne, Susan Goodfellow, John Kilduff, Michele Lindsay, JoAnn Hanson, Lesley de Vore, Mr. & Mrs. Mittleman, Loretta Davis, Mr. & Mrs. Kroeber, Joan Alleman, Mary Diem, Malina Nealis, Anne Gwathmey, Mary Rose Stevens, Kristian Matthews, Jim & Nancy Hays, Mary Graetzer, Meg Vaught, Jane deCasteja, Mr. & Mrs. Gluck, Jack & Audrey Perry, Jane Garafano, Larry Darby, Kathy Norris, Siovbhan Hansen, Ann Zgonena, Barbara Regna, Claude & Mary Jo Guinchard, Aubrey deBordenave, Sue Heywood, and many others.
Session 2: John Ledwith, Rick Golden, Esq., Meg Vaught, Mary Graetzer, Mary Grimmig, Susan Goodfellow, Bonnie Takeuchi, John Kilduff, Ann Zgonena, Anne Gwathmey, Susan Shapiro, and others.

The first half of the meeting was held in St. Mary's Church to accommodate the number in attendance.

Mayor Wilson called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

Presentations by Doc Bayne, Allied Biological and Watershed Assessment Associates

Mayor Wilson opened the meeting by stating that given the recent events regarding the mulch pile in the Town of Tuxedo, the fish kill at Four Corners Pond, and evidence of an unknown runoff into Wee Wah Lake and Tuxedo Lake, the Board felt it would be helpful for residents to see and hear some of the results of the various water testing that has been going on.

Doc Bayne Presentation

Doc Bayne, former Environmental Educator of Sterling Forest State Park, gave a 30-minute presentation he titled "The Mystery of The Four Corners Fish Kill", which was sponsored by the Sterling Forest Partnership and the Friends of Sterling Forest State Park. Through photographs, he detailed the results of his fact finding mission as he traveled up the Ramapo River, up the

Warwick Brook, past Four Corners Pond, to the Mulch Pile, wood pile, and beyond.

Following the presentation, Mayor Wilson read aloud portions of Town Supervisor Peter Dolan's April 23, 2012 letter to the DEC in which the Supervisor states that the Town's investigation has indicated the "proximate cause" of the fish kill was the removal of beaver dams by the Palisades Interstate Park Commission, which lead to oxygen deprived waters and in turn killed the fish. However, Doc Baynes' presentation showed photographs of beaver dams still in place. The Mayor stated that Jim Hall of the Palisades Interstate Park Commission had attended Mr. Bayne's initial presentation held in the Town and explicitly denied these claims stating that PIPC did not remove any dams.

Watershed Assessment Associates Presentation

J. Kelly Nolan, Aquatic Biologist and Director of Environmental Services at WAA, stated that WAA had not been asked to indentify the source of the 'pollutants' in the Four Corners Pond, Warwick Brook, Patterson Brook and the stream that flows past the Potting Shed into Tuxedo Lake. However, they have determined that the cause is excessive organic material entering the stream which in turn causes an excess of growth, particularly algae, weeds and slimes. Photosynthesis occurs with the algae during the day and it produces a ton of O₂, which goes into the water column. However, at night when the photosynthesis stops, plants still perspire and they consume O₂ and the supply becomes depleted, thus explaining why fish kills typically occur in the pre-dawn hours. He indicated that the white foam present on the streams is a natural occurrence unlike the orange and discolored foam. He asked if any DEC or other state officers were present.

Mayor Wilson responded that he had spoken with the DEC and that that they have been very cooperative, although Willie Janeway could not be present at the meeting. The Mayor has confidence in the DEC. He pointed out that according to State law, the DEC is the Trustee for New York State and its natural resources and that they have issued a notice of Violation to the Town, and now the Village needs to rely on them to do the investigation. The Village can only step forward with legal action after they have given the DEC sufficient time to do their work. This is one of the reasons why it is so important that the Village conduct its own studies, documenting what is happening, so that if it becomes necessary, they will have evidence proving that the DEC has not done enough.

Mr. Nolan commented that the reason he had asked is because he felt that Mr. Bayne's presentation was quite powerful and that it would be a benefit to have the DEC view it.

A question and answer session followed with audience participation.

Adjourn the Meeting to the Village Office

A motion was made by Mayor Wilson, seconded by Deputy Mayor du Pont that the meeting be adjourned at 9:15 p.m. and be reconvened at the Village Office. The vote was 5-0 in favor.

Reconvene the Meeting at the Village Office at 9:35 p.m.

A motion was made by Deputy Mayor du Pont, seconded by Trustee Heywood that the meeting

be reconvened at 9:35 p.m. The vote was 4-0 in favor. (Mayor Wilson was temporarily delayed on his return from St. Mary's Church.)

White Buffalo Invoice

A motion was made by Deputy Mayor du Pont, seconded by Trustee Heywood that the Board authorize the payment of the balance due on White Buffalo's February 2012 invoice in the amount of \$6,486.20.

Vote of the Board: Trustee Neuhauser – aye
Trustee Zgonena – aye
Trustee Heywood – aye
Deputy Mayor du Pont – aye

The motion was passed by a 4-0 vote.

Levy Unpaid Village Water Accounts

A motion was made by Deputy Mayor du Pont, seconded by Trustee Neuhauser that unpaid water bills of Village residents be levied onto their 2012 Village Tax bill in accordance with the schedule provided, which totals \$18,070.36.

Vote of the Board: Trustee Neuhauser – aye
Trustee Zgonena – aye
Trustee Heywood – aye
Deputy Mayor du Pont – aye

The motion was passed by a 4-0 vote.

Mayor Wilson returned at 9:40 p.m. and Deputy Mayor du Pont turned the meeting back over to his control.

Susan Shapiro - Environmental Attorney

Mayor Wilson introduced Susan Shapiro, an environmental attorney, who had approached him at the end of the presentation at the Church and, at the Mayor's request agreed to briefly address the Board.

Ms. Shapiro has an office in Spring Valley and the primary focus of her recent work has been water related issues. She was part of the legal team who brought litigation against the DEC under the Clean Water Act for thermal pollution in the Hudson River because of Indian Point.

In regard to questions that had been asked at the Church about the Village moving forward with any legal action, she explained that there are two processes within the DEC, one being an informal discussion phase that is presently occurring. Then all the evidence must be collected, organized and presented to the DEC. The chemical testing results of the water would be important as it's not the quality of the processed water product that's in question, but the quality of the water before processing. She also suggested that the trucks going to and from the mulch

pile should be followed to determine whether they are bringing Ash trees in from outside the area. In addition, she suggested a letter writing campaign be initiated, encouraging residents to send their letters not only to the DEC but also to Governor Cuomo as individual letters create political pressure. If the Village does move forward in going to court, besides the compiled evidence, it would also be helpful to prove to the DEC that the Town has been providing false information.

Allied Biological Presentation

Chris Doyle, Allied Biological, outlined a new procedure and a proposal for copper sulfate application in Tuxedo Lake to treat the blue-green algae bloom. DPW Superintendent Jeff Voss had contacted him, and they coordinated the water sampling, testing, timing, and level of treatment needed. Since the person certified to apply chemicals previously hired by the Village is no longer certified by NYS, Mr. Voss asked Allied Biological to assist. NYSDEC regulations have changed and the Village now needs to obtain a Notice of Intent from the Federal Government. The application fee is \$50, and the Village would be the designated operator. (The Village doesn't have to use Allied Biological for the copper sulfate applications.) Allied, on behalf of the Village, is in the process of completing the necessary paperwork and will then assist the Village in the application of the copper sulfate on Tuxedo Lake, using the current Village supply (1,000 lbs of 'rock' type) and the Village's equipment and boat at a cost of \$1,225. Mr. Doyle presented the Trustees with a proposal for an Algae Management Program that includes Option A-treating the lake using the Villages product and boat for \$1,225 for a one time application and Option B-Allied would become the certified applicator for the Village when needed at a cost of \$3,450 per treatment using Allied's equipment and boat and the newer 'dust' type product (which goes into a water tank, is dissolved in the water, and then is sprayed out). The Village also needs to obtain a Pesticide Management Discharge Permit. Allied will provide Jeff with a link to the NYSDEC website so that he can complete the application, or if he cannot answer the questions asked, Allied will complete and submit the application for \$285.

A motion was made by Mayor Wilson, seconded by Deputy Mayor du Pont that the Board approve the proposal of Allied Biological for "Professional Consulting Services for Lake Management Studies for Tuxedo Lake, Wee Wah Lake and Pond #3" dated February 7, 2012 at the rates described in their proposal with the change in paragraph three, the phrase "shall be an open-ended proposal" be stricken and the amended sentence to read "This proposal and services are a limited assignment, to be conducted upon request only, for which Allied Biological will be paid its usual and customary hourly rates".

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

A motion was made by Mayor Wilson, seconded by Deputy Mayor du Pont that the Board approve the Allied Biological proposal for the Algae Management Program dated May 21, 2012.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

A motion was made by Mayor Wilson, seconded by Deputy Mayor du Pont that the Board approve the Allied Biological proposal for "Professional Lake Management Services for Phytoplankton and Zooplankton Surveys for Tuxedo Lake" dated February 7, 2012 which will consist of Baseline Phytoplankton Sampling of individual phytoplankton identification collected by the Village at a cost of \$105 per sample.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Declare Surplus Police Equipment and Purchase New

A motion was made by Mayor Wilson, seconded by Trustee Neuhauser that the attached list of (five) 5 Mossberg Shotguns be declared surplus equipment to be sold at fair market value and that the Police Department be authorized to purchase two (2) new Remington 870P Max Shotguns at a cost of \$821.74 each.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Appoint Deputy Clerk to the Village Justice

A motion was made by Mayor Wilson, seconded by Trustee Heywood that, at the request of Village Justice David Levinson, the Board appoint Alice Confield of the Town of Woodbury to the position of Deputy Clerk to the Village Justice of the Village of Tuxedo Park, effective May 21, 2012.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Tuxedo Club Request to Hold Fireworks

A motion was made by Trustee Wilson, seconded by Deputy Mayor du Pont that the Board approve the request of the Tuxedo Club to hold their fireworks display on Tuesday, July 3, 2012 at about 9:30 p.m. with a rain date of July 7, 2012, subject to the Club putting up floating rope by June 1st to protect the Milfoil area .

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Budget Transfers

A motion was made by Mayor Wilson, seconded by Deputy Mayor du Pont that the Board approve the budget transfers for the General and Water Funds as outlined in the attached schedule prepared by the Village Clerk.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Water Account Adjustment

John Ledwith requested the Board waive the remaining penalties that have accrued on the water account of Jorge Minano. In March 2010 Mr. Minano had an account balance of \$9,116.25 (\$4,262.16 principal and \$4,854.09 in penalties). Under a Village amnesty plan, a payment schedule was put in place in 2010, and since that time he has consistently made timely payments and has paid \$12,346.26 (\$7,558.42 principal of old and new water charges and \$4,747.84 penalties). The current balance on the account of \$5,904.12 consists entirely of penalty charges.

A motion was made by Mayor Wilson, seconded by Deputy Mayor du Pont that the Board agree to waive the penalties on the water account (#62) of Jorge Minano in the amount of \$5,904.12 and that the account be considered paid in full and current.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Public Comment

Susan Goodfellow gave a brief update on the Eurasian Milfoil removal program and thanked the Board for approving the Allied Biological proposals.

John Kilduff inquired about testing of the drinking water and whether evidence of contamination was found in the streams entering Tuxedo Lake. Mayor Wilson stated that the drinking water is tested regularly and that stream samples had been taken and are being tested for over 120 different contaminants. The stream results are due within the next couple of weeks.

Wee Wah Beach Club

A discussion was held regarding the condition of Wee Wah Lake, the condition of the Wee Wah Dam, whether the Beach Club will be able to have swimming this year, and their request to waive the 2012 license fee.

A motion was made by Mayor Wilson, seconded by Trustee Neuhauser that the Wee Wah Beach Club Agreement with the Village be amended to reflect a waiver of the summer 2012 license fee that it pays to the Village.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Wee Wah Dam

A brief discussion was held on the dam repairs. An estimate was received from the Village Engineer regarding the secondary spillway repairs for \$75,000, which does not contribute towards the long-term solution.

Audit of Claims

Bills in the amount of \$113,125.28 for the General Fund, claim numbers 5-1 to 5-85; \$31,129.21 for the Water Fund, claim numbers W5-1 to W5-22; \$63.80 for Capital Projects, claim numbers CP5-1; and \$19,518.98 for Professional Fees, claim numbers PF5-1 to PF5-10 were audited and ordered paid.

Adjourn to Executive Session

A motion was made by Mayor Wilson, seconded by Trustee Neuhauser that the Board adjourn to Executive Session at 10:25 p.m. to discuss the litigation of Adam vs. Town of Tuxedo. The vote was 5-0 in favor.

Adjournment

A motion was made by Mayor Wilson, seconded by Deputy Mayor du Pont that the meeting be adjourned at 10:50 p.m. The vote was 5-0 in favor.

Respectfully submitted,

Deborah A. Matthews
Village Clerk-Treasurer