

**VILLAGE OF TUXEDO PARK
BOARD OF TRUSTEES MEETING
NOVEMBER 15, 2017
7:00 P.M.**

Present: Mayor David McFadden
Deputy Mayor Alan McHugh
Trustee Allen Barnett
Trustee Paul Gluck
Trustee John Moon

Clerk: Deborah Matthews

Also: Jeff Voss, John Ledwith, Chief Melchiorre, Meg Vaught, Lili Neuhauser, Inger Grueterich, Jim & Nancy Hays, Fred Rella, Tom Salierno, Dena Steele, Kathy Norris, Rob Zgonena, Claudio Guazzoni and others.

Mayor McFadden made a motion to open the meeting at 7:01 p.m., seconded by Deputy Mayor McHugh. All in favor. Mayor McFadden led the Pledge of Allegiance.

DPW Report

DPW Superintendent Voss reported: 1) completed paving on Circuit Road and West Lake Road, 2) continued to patch potholes where needed prior to road resurfacing, 3) picked up leaves from gutters throughout the Village, 4) cleared wind fallen trees off the roadways, 5) installed sanders on the trucks, 6) installed reflectors on poles along West Lake Road, and 7) Mr. Voss met with Chief Melchiorre regarding the painting of road lines. They determined that only the double yellow center lines will be done, nothing on the sides.

Mayor McFadden asked that Mr. Voss work with Trustee Barnett to put together a long-term road improvement plan for the 10 worst roads in the Village.

Police Report

Chief Melchiorre gave a synopsis of October Police activities. In response to a question regarding rumors of break-ins, the Chief stated that there were two reported around Halloween, one being unfounded. His department is working closely with outside agencies.

A discussion was held regarding resident access to the Wee Wah Beach area during the times when the Beach Club is not in operation. The Chief stated that he will review the Wee Wah Beach Club rules and regulations and report back to the Board.

Committee Reports

Dam Construction: Deputy Mayor McHugh reported that as of today, the Village is \$1.7 million into the project and roughly 65% complete. Construction is moving along quickly and the contractors are trying to get as much of the concrete work done before the weather turns, and

their goal is to have this work completed by year-end. The largest impediment to date has been a section of the spillway where they removed the capstones and found massive deterioration in the wall. Work had to be halted and the top 8' of the wall knocked down. The anticipated cost-overage of roughly \$30k is due to the unforeseen condition. Deputy Mayor McHugh reminded the Board that when they went out to bid on the project, there was a built-in cost over-run of \$220k in the bid price of \$3.6 million, and they are well within this limit. The parapet wall has gone up with two sections completed and the stone facing has begun. However, the contractors have been asked to put this on hold should there be inclement weather as the facing can be completed in the springtime along with the installation of the bluestone caps. The focus is on getting the concrete poured and having structural rigidity of the dam. There is also an issue with a knife-gate valve, which could ultimately affect the timing of completion.

Tree City USA: Grant Writer Fred Rella stated that the application is due by December 31st but a resolution for the application is not required. However, a resolution is required for the Board to authorize the Mayor to sign the application.

A motion was made by Mayor McFadden, seconded by Deputy Mayor McHugh that the Board, without objections, authorize the Mayor to sign the application for Tree City USA.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Mayor McFadden inquired whether grants are available for computers for the Village Office and Police Department. Mr. Rella stated that computer grants are only available for the Police and he will contact the Mayor to discuss.

Town of Tuxedo -Tuxedo Farms

Trustee Gluck reported that the Town Board met on Monday evening and continued the public hearing on Tuxedo Farms, then closed the hearing. A vote on the waivers of certain requirements under the Special Permit is scheduled for Thursday, November 16th at 6:00 p.m. The Town Board will accept written comments through November 16th.

A brief discussion was held.

Building Department Report

Building Inspector Ledwith gave a synopsis of his monthly report. In response to Mayor McFadden's request, Mr. Ledwith gave an update of the booth construction. He stated that he has been gathering estimates and construction ideas. He and Mayor McFadden met with Pat Hines (McGoey, Hauser & Edsall), with the goal of converting the proposed engineering contract for the booth from an hourly basis to a lump sum fixed fee contract.

Update Water Rate Schedule

The water rate schedule printed in 2007 has been updated to reflect the current per gallon water rates for residential and commercial customers as well as the capital fee for each.

Public Comments

Rob Zgonena: Asked who the current assessor is and stated that he has been trying to obtain an assessment on each of the parcels in his recently subdivided property. He isn't in agreement with using the same assessment as the Town's assessed value. Deputy Mayor McHugh stated that currently there is no assessor, that he is aware of the situation, and that the matter is being worked on.

Rob Zgonena: Stated that he is going to file an application with the BZA to appeal the BAR decision on the McFadden boathouse application. He asked that the BZA filing fee of \$1,600 be waived. He feels the fee is an excessive burden for a person to bear in order to bring a claim to the BZA in order to show that the BAR has failed to properly execute provisions in the code.

Attorney Nugent responded that he is unaware of any prior waivers by the BZA, and that there is no distinction in the code between a procedural appeal and one that is substantive. A waiver of the fee could be considered if a hardship was proven. He further stated that the fee is paid to the Village, and advised that he does not feel the Board has sufficient information currently before them to waive the fee. Trustee Moon commented that if there was a shown need, there should be a procedure for moving forward.

Mayor McFadden indicated that the Board is not in a position to provide an answer tonight as there is no sufficient information before them, and Mr. Zgonena's request for waiver of the fee is denied.

Other comments:

- *What is the status of the Solitude Lake Management reports and public presentation.
- *What is the status of a lakes committee.
- *Open Houses in the Village jeopardizes the integrity of the gates.
- *Can the Village preserve the portion of the Corduroy Road which has been exposed due to the work on the dam.
- *The south gate house is empty at this time.
- *What is the status of allowing AirBnb's in the Village.

Responses:

- *Open Houses will be discussed later in conjunction with signage in the Village.
- *Not all the data has been received that Solitude needs to compile their report.
- *Solitude continues general management issues and assessment of the management plan.
- *The Corduroy Road will be investigated and once the lake begins to refill naturally over the next two months, it should help.
- *The south gate house is currently being used to store emergency cots, but there has been inquiries about renting it again.

*A poll of the audience indicated that the majority are against AirBnB's in the Village.

Claudio Guazzoni: Distributed a copy of a FOIL request he had submitted to the Records Access Officer which is now overdue. He asked when he would receive a response.

Attorney Nugent responded that the majority of what was requested appears to be various lists and if lists do not already exist, the Village does not have to create them to fulfill a FOIL request. If the other requested documents are available, the Village Clerk will forward them to Mr. Guazzoni within the next few days. The Board stated that they would ensure Mr. Guazzoni received a response to his request.

OLD BUSINESS

Budget

Trustee Barnett reported that to date, 48% of revenue for the Water Fund has been collected in 42% of the budget year, ahead of schedule. In the General Fund, 91% of revenues have been received within 42% of the budget year. In response to a question on Police overtime, Deputy Mayor McHugh responded that the Chief has been monitoring it and it is spot on.

Public Comments

Comments:

*What is an RFP for assessor.

*Where will the information be available.

*An upward movement in the budget would have an exponential effect on the Village residents if the tax legislation is passed and deductibility of State and Local taxes are eliminated.

Responses:

*RFP means Request for Proposal.

*When completed by Trustee Moon and available, it will be posted on the Village website, emailed to certified assessors on the Orange County Real Estate Assessment webpage, advertised in the newspaper, and an eligible candidate list obtained from the Orange County Department of Human Resources.

NEW BUSINESS

Fyke Nature Preserve Request

A motion was made by Mayor McFadden, seconded by Deputy Mayor McHugh that the Board grant permission to the Fyke Nature Association for them to do their annual Christmas bird count in the public areas of the Village on Saturday, December 16, 2017, which will take approximately two hours, from 10:00 a.m. to 12:00 noon.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Extend Sterling Carting Garbage/Recycling Contract

A motion was made by Mayor McFadden, seconded by Deputy Mayor McHugh that the Village, as confirmed by Sterling Carting, exercise its option to extend our current residential garbage and recycling material collection and disposal contract under Article 2-Term, Paragraph 2.2, at a price equal to the current contract, and that the renewal will be for the period of December 1, 2017 through November 30, 2018, leaving the Village the option for one additional one-year renewal.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Appoint Fire Commissioner

A motion was made by Mayor McFadden, seconded by Trustee Gluck the Board, upon the recommendation of the Board of Fire Commissioners of the Tuxedo Joint Fire District and vetted by Gardiner Hempel, appoint Edward "Benji" Brennan as a Commissioner in the Tuxedo Joint Fire District for another five-year term commencing January 1, 2018.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Extend Mirabito Energy #2 Fuel Oil Contract

A motion was made by Mayor McFadden, seconded by Trustee Moon that the Board request an additional extension of its #2 Fuel Oil contract, (original bid term 10/1/15-9/30/17) with the current provider (Mirabito Energy), for a period of 90 days to include the same terms as agreed to in the 10/3/17 granted 60-day extension (10/1/17-11/30/17).

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Assessor Position

Trustee Moon reported that he has been working on an RFP for the position of Assessor, referencing the NYS template (which is 84 pages). A brief discussion was held on whether or not the position of assessor should be separate from a person/company doing a reassessment of the Village. It was determined that it should.

A motion was made by Trustee Moon, seconded by Deputy Mayor McHugh that the Board authorize Village legal counsel, in conjunction with Trustee Moon and/or other designee of the Village Board, to prepare a draft Request for Proposal for the Position of Assessor in the Village to be presented to the Village Board for review and approval.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

A motion was made by Trustee Moon, seconded by Deputy Mayor McHugh that the Board authorize Village legal counsel, in conjunction with Mr. Ledwith and/or other designee of the Village Board, to prepare a draft Request for Proposal for Village Reassessment Services to be presented to the Village Board for review and approval.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Discussion of Signage Policy

A brief discussion was held regarding the Village Code as it pertains to signs within the Village.

Levy Unpaid Village Taxes to Orange County

A motion was made by Mayor McFadden, seconded by Trustee Moon that the Village Clerk be authorized to send to the County of Orange Commissioner of Finance the attached parcel list of unpaid 2017-2018 Village taxes totaling \$109,946.12 for levy onto the January 2018 Town/County Tax Bill of each parcel, and that the parcel list has been compared to the original tax warrant/tax roll and found to be correct.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Audit of Claims

Bills in the amount of \$357,468.87 in the General Fund, claim numbers 11-1 to 11-95; \$80,667.73 in the Water Fund, claim numbers W11-1 to W11-15; and \$438,040.80 in Capital Projects, claim number CP11-1 to CP11-2 be audited and ordered paid.

Approve Minutes

A motion was made by Trustee Gluck, seconded by Mayor McFadden that the minutes of the September 13, 2017 regular Board of Trustees meeting be approved.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote

A motion was made by Trustee Gluck, seconded by Mayor McFadden that the minutes of the October 18, 2017 regular Board of Trustees meeting be approved.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote

Adjourn to Executive Session

A motion was made by Trustee Gluck, seconded by Trustee Barnett that the Board adjourn to Executive Session at 8:20 p.m. for a discussion of a settlement on pending litigation, a discussion regarding matters leading to the employment of a particular person in the Police Department, and a discussion of collective bargaining negotiations.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Exit Executive Session and Reopen Regular Session

A motion was made by Mayor McFadden, seconded by Deputy Mayor McHugh that the Board exit executive session and reopen regular session at 8:35 p.m.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Authorization for Representation

A motion was made by Trustee Moon, seconded by Deputy Mayor McHugh that the Board approve the following resolution which authorizes special counsel to continue to represent the Village of Tuxedo Park in a proceeding pending in the Orange County Supreme Court:

WHEREAS, the Village of Tuxedo Park (“Village”) is currently represented by Special Counsel, FEERICK LYNCH MacCARTNEY & NUGENT PLLC to represent the Village in certain legal matters; and

WHEREAS, the Village requires legal representation in a proceeding entitled Madden v. Village of Tuxedo Park, et al. Index No. 2017-4229, wherein Petitioner has brought a proceeding concerning Freedom of Information matters; and

WHEREAS, the Village requires legal counsel to undertake representation of the Village in this proceeding.

NOW, THEREFORE, be it is resolved as follows:

Section 1. Special Counsel, FEERICK LYNCH MacCARTNEY & NUGENT, PLLC, is authorized to appear and defend the Village and shall be compensated for all services performed for the Village with regard to the aforesaid proceeding at the hourly rate of \$225. Such services will be paid separate and apart from those services for which Special Counsel has previously been retained to handle for the Village.

Section 2. This Resolution shall be effective immediately.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Adjourn to Executive Session

A motion was made by Mayor McFadden, seconded by Deputy Mayor McHugh that the Board enter Executive Session at 8:37 p.m. for the purpose of a discussion regarding matters leading to the employment of a particular person in the Police Department, and a discussion of collective bargaining negotiations.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Exit Executive Session and Reopen Regular Session

A motion was made by Mayor McFadden, seconded by Trustee Moon that the Board exit executive session and reopen regular session at 10:04 p.m.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Appointment of Michael Taback to Sergeant

A motion was made by Mayor McFadden, seconded by Trustee Barnett that Michael J. Taback be appointed to the rank of Sergeant effective November 15, 2017, which follows notification of his having passed the Sergeant's exam, and is subject to all civil service requirements, including the applicable probationary period.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Appointment of Max Serrine to Full Time Police Officer

A motion was made by Mayor McFadden, seconded by Trustee Barnett that Max M. Serrine be appointed a full time police officer effective November 15, 2017, to fill the vacant full time police position, at an annual base salary of \$63,907.00, subject to any and all civil service requirements, including the applicable probationary period.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

Adjournment

A motion was made by Mayor McFadden, seconded by Trustee Barnett that the meeting be adjourned at 10:06 p.m. The vote was 5-0 in favor.

Respectfully submitted,

Deborah A. Matthews
Village Clerk-Treasurer