

**VILLAGE OF TUXEDO PARK
BOARD OF TRUSTEES
SPECIAL MEETING
JULY 6, 2023
MINUTES
Draft**

Present: Mayor David McFadden
Deputy Mayor Anna (Tinka) Shaw
Trustee Paul Brooke
Trustee Christopher Kasker
Trustee Joshua Scherer

Clerk: Elizabeth A. Doherty

Village Attorney: Brian Nugent, Esq. (Feerick Nugent MacCartney, PLLC) via Zoom.

Attendees: Building and Land Use Officer John Ledwith, resident Claudio Guazzoni de Zannett, Mayoral Candidate Marc D. Citrin and his wife Sheila Trailins were in attendance at Village Hall

Mayor McFadden called the meeting to order at 8:02 a.m. with the Pledge of Allegiance.

Mayor McFadden recused himself from the meeting. Trustee Kasker chaired the meeting in the Mayor's absence. Roll call was taken.

Acting Chair Trustee Kasker announced that the outcome of the election held on June 19, 2023 was still undecided. Due to the resident Guazzoni de Zanett's pending challenge to the election, under New York consolidated law Mayor McFadden, Trustee Brooke and Trustee Scherer would hold over in their respective offices until successor candidates were chosen and qualified.

Executive Session
Resolution 0706-01

On a motion made by Acting Chair Trustee Kasker, seconded by Deputy Mayor Shaw, it was resolved to enter Executive Session to discuss pending litigation filed by Mr. Guazzoni de Zanett on June 20, 2023 and June 28, 2023.

Vote of the Board:

Deputy Mayor Tinka Shaw – Aye
Trustee Brooke – Aye
Trustee Christopher Kasker – Aye
Trustee Scherer – Aye
Mayor David C. McFadden – Recused

The Board returned from Executive Session at 8:10 a.m.

**Resolution Discharging Village Special Counsel in Litigation
Filed against Village Clerk and Village of Tuxedo Park
Resolution 0706-02**

WHEREAS, on June 26, 2023, the Village Board adopted several resolutions including 1) discharging Village legal counsel and 2) appointing independent counsel (Santiago Burger LLP) to represent the Village and Village Clerk in litigation entitled Claudio Guazzoni de Zanett v. Elizabeth Doherty et al. (Index No. EF004013-2023 in the Orange County Supreme Court concerning challenges to the June 20, 2023 Village Election and 3) appointing the Mayor as the primary contact for the attorneys handling such matter; and

WHEREAS, on or about June 28, 2023, additional litigation was filed against the Village entitled Claudio Guazzoni de Zanett v. David C. McFadden et al. in the Orange County Supreme Court (Index No. EF004211-02023) (“June 28th Litigation”) asserting various claims concerning the June 26, 2023 Village Board meeting; and

WHEREAS, the Petition in the June 28th Litigation contained various erroneous claims, including, but not limited to a claim that Village Board actions were conducted “behind closed doors” when such Village Board actions were actually conducted in public session and a claim that the Village Board was required to have a meeting notice published in the official newspaper, which is wholly inaccurate and contrary to the law which does not require newspaper publication of meeting notices; and

WHEREAS, rather than expend taxpayer funds defending frivolous litigation claims, the Village Board desires to ratify and confirm the prior Village Board actions by superseding resolutions thereby mooting the baseless litigation claims and avoiding unnecessary expenditure of taxpayer funds; and

WHEREAS, the Village Board of Trustees desires to discharge Special Counsel, Feerick Nugent MacCartney, PLLC, from continuing to represent the Village and Village Clerk in litigation previously filed and served upon the Village Clerk and the Village of Tuxedo Park, entitled Guazzoni de Zanett v. The Village of Tuxedo Park, et al., Index Number EF004013-2023 in the County of Orange Supreme Court, State of New York regarding an election challenge.

NOW, THEREFORE, it is resolved as follows:

Section 1. The Village Board hereby discharges Special Counsel, Feerick Nugent MacCartney, PLLC, from continuing to represent the Village and the Village Clerk in litigation entitled Guazzoni de Zanett v. The Village of Tuxedo Park, et al., Index Number EF004013-2023.

Section 2. The Board of Trustees desires to hire independent legal counsel to handle said litigation.

Section 3. The Village Mayor and any officer, employee or consultant as directed by the Mayor is authorized to carry out the provisions of this Resolution.

Section 4. This Resolution shall be effective immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, motion by Acting Chair Trustee Kasker, seconded by Trustee Brooke which resulted as follows:

	<u>Ayes</u>	<u>Noes</u>	<u>Abstain</u>	<u>Recused</u>
Mayor David McFadden	[]	[]	[]	[X]
Deputy Mayor Tinka Shaw	[X]	[]	[]	[]
Trustee Christopher Kasker	[X]	[]	[]	[]
Trustee Joshua Scherer	[X]	[]	[]	[]
Trustee Paul Brooke	[X]	[]	[]	[]

The Resolution was thereupon duly adopted.

**Resolution Hiring Santiago Burger, LLP to Handle
Litigation Filed Against Village Clerk and Village of Tuxedo Park
Resolution 0706-03**

WHEREAS, on June 26, 2023, the Village Board adopted several resolutions including 1) discharging Village legal counsel and 2) appointing independent counsel (Santiago Burger LLP) to represent the Village and Village Clerk in litigation entitled Claudio Guazzoni de Zanett v. Elizabeth Doherty et al. (Index No. EF004013-2023 in the Orange County Supreme Court concerning challenges to the June 20, 2023 Village Election and 3) appointing the Mayor as the primary contact for the attorneys handling such matter; and

WHEREAS, on or about June 28, 2023, additional litigation was filed against the Village entitled Claudio Guazzoni de Zanett v. David C. McFadden et al. in the Orange County Supreme Court (Index No. EF004211-02023) (“June 28th Litigation”) asserting various claims concerning the June 26, 2023 Village Board meeting; and

WHEREAS, the Petition in the June 28th Litigation contained various erroneous claims, including, but not limited to a claim that Village Board actions were conducted “behind closed doors” when such Village Board actions were actually conducted in public session and a claim that the Village Board was required to have a meeting notice published in the official newspaper, which is wholly inaccurate and contrary to the law which does not require newspaper publication of meeting notices; and

WHEREAS, rather than expend taxpayer funds defending frivolous litigation claims, the Village Board desires to ratify and confirm the prior Village Board actions by superseding resolutions thereby mooted the baseless litigation claims and avoiding unnecessary expenditure of taxpayer funds; and

WHEREAS, the Board of Trustees desires to hire the Law Firm of Santiago Burger, LLP to represent the Village and the Village Clerk in litigation filed and served upon the Village Clerk and the Village of Tuxedo Park, entitled Guazzoni de Zanett v. The Village of Tuxedo Park, et al., Index Number EF004013-2023 filed in the County of Orange Supreme Court, State of New York regarding an election challenge;

WHEREAS, the Village Board requires legal counsel to undertake representation of the Village Clerk and the Village of Tuxedo Park in said litigation.

NOW, THEREFORE, it is resolved as follows:

Section 1. The Village Board authorizes the retention of the Law Firm of Santiago Burger, LLP to represent the Village and the Village Clerk in litigation entitled Guazzoni de Zanett v. The Village of Tuxedo Park, et al., Index Number EF004013-2023 and such firm shall be compensated at a rate set forth in any Agreement for Legal Services entered into with the Village Board.

Section 2. The Village Mayor, or in the case of his absence or recusal, the Deputy Mayor and any officer, employee or consultant as directed by the Mayor or Deputy Mayor is authorized to carry out the provisions of this Resolution.

Section 3. This Resolution shall be effective immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, motion by Acting Chair Trustee Kasker, seconded by Trustee Brooke which resulted as follows:

	<u>Ayes</u>	<u>Noes</u>	<u>Abstain</u>	<u>Recused</u>
Mayor David McFadden	[]	[]	[]	[X]
Deputy Mayor Tinka Shaw	[X]	[]	[]	[]
Trustee Christopher Kasker	[X]	[]	[]	[]
Trustee Joshua Scherer	[X]	[]	[]	[]
Trustee Paul Brooke	[X]	[]	[]	[]

The Resolution was thereupon duly adopted.

**Resolution Designating Village Clerk Elizabeth Doherty as the
Primary Contact for Legal Counsel Handling Litigation Filed Against
The Village of Tuxedo Park and the Village Clerk
Resolution 0706-04**

WHEREAS, on June 26, 2023, the Village Board adopted several resolutions including 1) discharging Village legal counsel and 2) appointing independent counsel (Santiago Burger LLP) to represent the Village and Village Clerk in litigation entitled Claudio Guazzoni de Zanett v. Elizabeth Doherty et al. (Index No. EF004013-2023 in the Orange County Supreme Court concerning challenges to the June 20, 2023 Village Election and 3) appointing the Mayor as the primary contact for the attorneys handling such matter; and

WHEREAS, on or about June 28, 2023, additional litigation was filed against the Village entitled Claudio Guazzoni de Zanett v. David C. McFadden et al. in the Orange County Supreme Court (Index No. EF004211-02023) (“June 28th Litigation”) asserting various claims concerning the June 26, 2023 Village Board meeting; and

WHEREAS, the Petition in the June 28th Litigation contained various erroneous claims, including, but not limited to a claim that Village Board actions were conducted “behind closed doors” when such Village Board actions were actually conducted in public session and a claim that the Village Board was required to have a meeting notice published in the official newspaper, which is wholly inaccurate and contrary to the law which does not require newspaper publication of meeting notices; and

WHEREAS, rather than expend taxpayer funds defending frivolous litigation claims, the Village Board desires to ratify and confirm the prior Village Board actions by superseding resolutions thereby mooted the baseless litigation claims and avoiding unnecessary expenditure of taxpayer funds; and

WHEREAS, the Board of Trustees desires to appoint a primary contact for the Village Board and Village of Tuxedo Park to communicate with legal counsel regarding litigation filed entitled Guazzoni de Zanett v. The Village of Tuxedo Park, et al., Index Number EF004013-2023 in the County of Orange Supreme Court, State of New York regarding an election challenge; and

WHEREAS, the Law Firm of Santiago Burger, LLP has been retained to represent the Village and the Village Clerk in said litigation; and

WHEREAS, the Village Board requires a designated Village Board member to act as the primary contact for the Village of Tuxedo Park and the Village Board to communicate with legal counsel concern said litigation.

NOW, THEREFORE, it is resolved as follows:

Section 1. The Village Board hereby appoints Village Clerk Elizabeth Doherty as the primary contact for the Village of Tuxedo Park and the Village Board of

Trustees to communicate with legal counsel in the litigation entitled Guazzoni de Zanett v. The Village of Tuxedo Park, et al., Index Number EF004013-2023.

Section 2. The Village Mayor or in the case of his absence or recusal, the Deputy Mayor, and any officer, employee or consultant as directed by the Mayor or Deputy Mayor is authorized to carry out the provisions of this Resolution.

Section 3. This Resolution shall be effective immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, motion by Acting Chair Trustee Kasker, seconded by Deputy Mayor Shaw which resulted as follows:

	<u>Ayes</u>	<u>Noes</u>	<u>Abstain</u>	<u>Recused</u>
Mayor David McFadden	[]	[]	[]	[X]
Deputy Mayor Tinka Shaw	[X]	[]	[]	[]
Trustee Christopher Kasker	[X]	[]	[]	[]
Trustee Joshua Scherer	[X]	[]	[]	[]
Trustee Paul Brooke	[X]	[]	[]	[]

The Resolution was thereupon duly adopted.

**Resolution Hiring Harris Beach, PLLC to Handle Litigation
Filed Against the Village Clerk and Village of Tuxedo Park
Resolution 0706-05**

WHEREAS, the Board of Trustees desires to hire Harris Beach, PLLC to handle litigation entitled Claudio Guazzoni de Zanett v. David C. McFadden et al., under Index Number EF004211-2023 filed in the County of Orange Supreme Court, State of New York regarding a hybrid Article 78 proceeding; and

WHEREAS, the Village Board requires special legal Counsel to undertake representation of the Village and the members of the Village Board in the aforementioned proceeding.

NOW, THEREFORE, it is resolved as follows:

Section 1. The Law Firm of Harris Beach, PLLC, is authorized to appear on behalf of Village and the Village Board, and shall be compensated at a rate set forth in any Agreement for Legal Services as presented to the Village Board.

Section 2. The Village Mayor, or in his absence or recusal, the Deputy Mayor, any officer, employees or consultant as directed by the Mayor or Deputy Mayor is authorized to carry out the provisions of this Resolution.

Section 3. This Resolution shall be effective immediately.

NOW, THEREFORE, it is resolved as follows:

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, motion by Acting Chair Trustee Kasker, seconded by Deputy Mayor Shaw which resulted as follows:

	<u>Ayes</u>	<u>Noes</u>	<u>Abstain</u>	<u>Recused</u>
Mayor David McFadden	[]	[]	[]	[X]
Deputy Mayor Tinka Shaw	[X]	[]	[]	[]
Trustee Christopher Kasker	[X]	[]	[]	[]
Trustee Joshua Scherer	[X]	[]	[]	[]
Trustee Paul Brooke	[X]	[]	[]	[]

The Resolution was thereupon duly adopted.

Adjournment
Resolution 0706-06

On a motion made by Acting Chair Trustee Kasker, seconded by Deputy Mayor Shaw, it was resolved to adjourn the Special meeting.

Vote of the Board:

- Deputy Mayor Tinka Shaw – Aye
- Trustee Brooke – Aye
- Trustee Christopher Kasker – Aye
- Trustee Scherer – Aye
- Mayor David C. McFadden – Recused

Respectfully submitted,

Elizabeth A. Doherty
Village Clerk-Treasurer