

**VILLAGE OF TUXEDO PARK  
BOARD OF TRUSTEES  
REGULAR MEETING  
DECEMBER 21, 2022  
MINUTES**

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)

Attendees: Building and Land Use Officer John Ledwith; Police Chief David Conklin;  
DPW Superintendent Jeff Voss; Jim Hays (Climate Smart Community  
Taskforce); Richard Witte (BAR Member) at Village Hall and about 30  
members of the public via Zoom

Mayor McFadden called the Public Hearing to order at 7:00 p.m. with the Pledge of Allegiance.  
Roll call was taken. Trustee Scherer arrived at 7:08 p.m.

**Open the Public Hearing on Draft Local Law #7 of 2022  
Resolution 1221-01**

Be it resolved that the Board of Trustees open the Public Hearing to discuss Draft Local Law #7  
of 2022 – Revising the Lake Laws Related to Dock Size.

Motion made by Mayor McFadden, seconded by Trustee Shaw.

Vote of the Board:

Deputy Mayor Tinka Shaw – Aye  
Trustee Brooke – Aye  
Trustee Christopher Kasker – Aye  
Trustee Scherer – Absent  
Mayor David C. McFadden – Did not vote

There was no discussion on this local law as the Board did not have anything in writing as of the  
time of this public hearing.

**Continue the Public Hearing on Draft Local Law #7 of 2022**  
**Resolution 1221-02**

Be it resolved that the Board of Trustees continue the Public Hearing to discuss Draft Local Law #7 of 2022 – Revising the Lake Laws Related to Dock Size to February 15, 2022 at 7:00 p.m.

Motion made by Mayor McFadden, seconded by Trustee Shaw.

Vote of the Board:

Deputy Mayor Tinka Shaw – Aye  
Trustee Brooke – Aye  
Trustee Christopher Kasker – Aye  
Trustee Scherer – Absent  
Mayor David C. McFadden – Did not vote

There are several pending local laws that the Board will be discussing over the next few meetings, one of which pertains to filming. Trustee Brooke has spoken with people about this and he gave a summary of some of the issues that came up in those conversations. There was a general sense that people didn't want anyone monetizing the Park. Is Tuxedo Park the background or is it the focus of the photo or film. Is the IP of the Park mentioned? Is the geotag? There was also great concern about influencers, are they monetizing themselves or the Park?

Another question is if it's relevant if the filming is done with a personal phone or a camera?

Where there are restrictions that are appropriate, are the issues covered by existing regulations: noise, light, parking, nuisance, etc.?

There was an episode of the TV show called, "Billions" that had a core tennis event here in the Park, though the Park was not mentioned. There was a positive response to being in the program. It was clearly not negative. Mayor McFadden added that this was on the interior of private property owned by the Tuxedo Club. It was run under the purview of the Tuxedo Club. It didn't violate any laws.

Trustee Brooke said in conclusion that our responsibility is to protect the integrity of the Village, to ensure that its values work. A certain amount of visibility is helpful.

There are also two more local laws that the Board will be considering, one of which is to allow the Building Inspector to make determinations in matters under \$100,000 rather than the BAR, and modifications to the Tree Code. BAR Chair Sheila Tralins said she is philosophically against the proposed changes and she questioned the basis for them.

Planning Board Chair JoAnn Hanson then addressed the Board. She said that the Planning Board supports the BAR's position that there should not be a dollar threshold in determining items that go before the BAR. Applicants before both boards are often educated and guided to best practices, which are ultimately beneficial to the applicants. In addition, the process allows neighbors to be aware of and comment on proposed changes. It is difficult and expensive to enforce code requirements when residents proceed with renovations without submitting proper plans in conforming to building codes.

Planning Board Chair Hanson also said that from a Planning Board perspective, the presence and maintenance of trees on properties is a key component in maintaining proper drainage of the property itself and the neighboring properties. Trees also provide privacy and screening between neighbors. Tuxedo Lake is the drinking water source for the Park and as such minimizing run-off into the lake is an important environmental consideration.

Planning Board Chair Hanson said in conclusion that their Board focuses on the property rights of applicants and the legitimate concerns of their neighbors, whose property rights may be impacted. If those processes are not worked through in advance and in public the potential for litigation exists.

Mayor McFadden clarified for the record that the tree law stipulates that four trees can be cut per year regardless of the size of the property. The thought was that it might be more fair and equitable to allow a person with a larger property to cut more than four trees. There are a lot of issues that have not yet been addressed, such as trees on the lake or lake properties.

The Mayor also addressed the proposal to allow the Building Inspector to make determinations without Board approval. He said it could be based on monetary value or project type or neither. It has not been determined yet. If something comes before the Building Inspector where the design guidelines are clear, it might not need to go before the BAR, and in the process they may be able to save the resident a lot of time.

Chiu Yin Hempel (Tree Advisory Board) addressed the Board. She said that historical architecture situated in the heavily wooded landscape is what distinguishes Tuxedo Park. These qualities earned our listing as a place on the National Register of Historic Places and they underpin our real estate values. Trustees are elected to be stewards of these important assets, mainly architecture and the landscape, for now and for future generations. What seems to be the smallest and cheapest modification, like changing the color of a historic house or the color of pebbles on the driveway to other than historically appropriate colors can significantly damage the overall esthetic besides causing big irritation to neighbors. Ms. Hempel urged the Board to consider this when making a decision.

Regarding tree removal, Ms. Hempel said please bear in mind that the early residents of Tuxedo Park spent hundreds of thousands of dollars between 1886 and the early 1930's to plant trees and shrubs on their properties. The rustic esthetics that we enjoy today were created at vast expense because the land had been commercially logged. We didn't used to have many trees. The place looked logged. The original residents rebuilt the tree canopy. Why are we considering laws that would destroy this priceless inheritance? Even if we were to forget for a minute the damage that

excessive tree cutting would do to the environment and to our drinking water reservoir, maintaining what is beautiful, important and peerless is never easy or simple. Nor should it ever be about making the maintenance rules easy or simple or user friendly at the expense of integrity.

Ms. Hempel also mentioned that the trees in the Park are already under threat by the emerald ash borer and the woolly adelgid.

Jim Hays then addressed the Board. He said that many trees are being cut and he emphasized that it is important, if there is any change in the law, to think about how the law will be enforced. Enforcing the law is not easy. It's not easy to take members of the community to court because the fine is small. Mr. Hays said that a more effective method of enforcement would be to make it the responsibility of the tree cutters. They lose permission to work in the Park if they cut down more trees than permitted.

Mayor McFadden asked Attorney Nugent if contractors could be held accountable for working without a permit. He said that contractors working on-site can be held responsible for knowing if a permit is in place before they do any work.

Trustee Brooke pointed out that if a resident is within the range of an allowable limit no permit is required. Trustee Kasker said the he felt that a permit should be required any time a tree is cut. Tree cutting is very disruptive. It can involve three or four trucks coming along with wood chippers. Trustee Kasker has been blocked in when his neighbors had trees removed. This not only affects him but if one of the tree cutters is injured it means that an ambulance would have trouble reaching him. Having a formal process in place where the Building Inspector can ensure that narrow roads are not blocked is an appropriate oversight mechanism for the Village. It would also help enforce the limit on the number of trees being cut.

**Consent Agenda**  
**Resolution 1221-03**

Be it resolved the Board of Trustees accept the items on the consent agenda.

Motion made by Mayor McFadden, seconded by Trustee Shaw.

Vote of the Board:

Deputy Mayor Tinka Shaw – Aye  
Trustee Brooke – Aye  
Trustee Christopher Kasker – Aye  
Trustee Scherer – Aye  
Mayor David C. McFadden – Did not vote

**ITEMS ON THE CONSENT AGENDA**

- a. Add all written reports to the permanent record
- b. Approve minutes from November 16, 2022
- c. Approve renewal of PERMA Third Party Administration Services
- d. Approve extending PSE&G agreement
- e. Approve BciCapital vehicle financing cancellation
- f. Approve retroactively to December 9, 2022, allowable delivery schedule for Fresh Direct to Mon-Sun, 8:00 a.m. to 9:00 p.m.
- g. Approve retroactively an expenditure of approximately \$2,000 snow tires from General Budget for the Police Department
- h. Approve retroactively an increase of \$1,500 in the agreement with QuickBooks consultant Furlane

**Joint Special Meeting with Town and Village Boards  
Resolution 1221-04**

A meeting of the Village Board of the Village of Tuxedo Park was convened on **December 21, 2022 at 7:00 p.m.**

The following resolution was duly offered and seconded to wit:

**RESOLUTION OF THE VILLAGE OF TUXEDO PARK AUTHORIZING A  
JOINT PUBLIC HEARING WITH THE TOWN OF TUXEDO REGARDING THE  
ANNEXATION OF TWO PARCELS**

WHEREAS, the Village of Tuxedo Park and the Town of Tuxedo are committed to promoting the well-being and prosperity of their respective communities; and

WHEREAS, the Village of Tuxedo Park and the Town of Tuxedo have received a petition for the annexation of two parcels (SBL 208-1-25 and 209-1-26) from the Town of Tuxedo to the Village of Tuxedo Park; and

WHEREAS, the Village of Tuxedo Park and the Town of Tuxedo desire to provide an opportunity for the public to express their views on the proposed annexation; and

WHEREAS, notice of the joint public hearing shall be posted and published in accordance with applicable law.

NOW, THEREFORE, BE IT RESOLVED by the Village Board as follows:

Section 1. The above “WHEREAS” clauses are incorporated herein as if set forth in full.

Section 2. The Village of Tuxedo Park hereby schedules and approves a Joint Public Hearing on January 23, 2023 at 7:00 p.m. with the Town of Tuxedo Town Board at 1 Temple Lane, Tuxedo, New York 10987 to consider the petition for the annexation of two parcels (SBL 208-1-25 and 209-1-26) from the Town of Tuxedo to the Village of Tuxedo Park in accordance with Article 17 of the New York State General Municipal Law.

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:

	<u>Ayes</u>	<u>Noes</u>	<u>Abstain</u>	<u>Absent</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.

**Enter Executive Session**  
**Resolution 1019-05**

Be it resolved that the Board of Trustees exit the Regular Meeting and enter into Executive Session at 7:45 p.m. to discuss water account, legal matters and an employee matter.

Motion made by Mayor McFadden, seconded by Deputy Mayor Shaw.

Vote of the Board:

Deputy Mayor Tinka Shaw – Absent  
Trustee Brooke – Aye  
Trustee Christopher Kasker – Aye  
Trustee Scherer – Could not vote  
Mayor David C. McFadden – Aye

**Exit Executive Session**  
**Resolution 1221-06**

Be it resolved that the Board of Trustees exit Executive Session and re-enter the public meeting.

Motion made by Mayor McFadden, seconded by Trustee Brooke.

Vote of the Board:

Deputy Mayor Tinka Shaw – Aye  
Trustee Brooke – Aye  
Trustee Christopher Kasker – Aye  
Trustee Scherer – Aye  
Mayor David C. McFadden – Did not vote

**Madden Settlement Agreement**  
**Resolution 1221-07**

Be it resolved that the Board of Trustees accept the settlement agreement in its entirety (Attachment A to these minutes).

Motion made by Mayor McFadden, seconded by Trustee Brooke.

Vote of the Board:

Deputy Mayor Tinka Shaw – Aye  
Trustee Brooke – Aye  
Trustee Christopher Kasker – Aye  
Trustee Scherer – Aye  
Mayor David C. McFadden – Did not vote

**Resolution of Censure**  
**Resolution 1221-08**

Be it resolved that the Board of Trustees approve the following Resolution of Censure (the form of which appears as Exhibit B to the previously approved Madden Settlement Agreement):

*The Village of Tuxedo Park Board of Trustees hereby censures the conduct of former trustee Claudio Guazzoni as an elected Village Trustee in 2017 that led to the Village's violations of New York's Freedom of Information Law (FOIL), as recently determined by a State court. In addition, former Trustee Guazzoni, in such capacity, failed to turn over all Village records in his possession*

*related to his duties as a Village Trustee. By not providing the level of cooperation and candor required of him as a Village official under New York law, former Trustee Guazzoni caused the Village to be unable to comply with FOIL requirements which resulted in an adverse court decision against the Village. Consequently, Village taxpayers incurred significant costs in this matter. The Board of Trustees hereby calls on former Trustee Guazzoni to recognize the impact of his actions and requests that he make a significant donation to the Village for the purposes of beautification efforts undertaken by the Board of Trustees.*

Motion made by Mayor McFadden, seconded by Trustee Brooke.

Vote of the Board:

Deputy Mayor Tinka Shaw – Aye  
Trustee Brooke – Aye  
Trustee Christopher Kasker – Aye  
Trustee Scherer – Aye  
Mayor David C. McFadden – Did not vote

**Adjournment**  
**Resolution 1221-09**

Be it resolved to adjourn the regular meeting at 7:59 p.m.

Motion made by Mayor McFadden, seconded by Deputy Mayor Shaw.

Vote of the Board:

Deputy Mayor Tinka Shaw – Aye  
Trustee Brooke – Aye  
Trustee Christopher Kasker – Aye  
Trustee Scherer – Aye  
Mayor David C. McFadden – Did not vote

Respectfully submitted,



Elizabeth A. Doherty  
Village Clerk-Treasurer