

**VILLAGE OF TUXEDO PARK  
BOARD OF TRUSTEES  
REGULAR MEETING  
OCTOBER 18, 2023  
MINUTES**

Present: Mayor Marc D. Citrin  
Deputy Mayor Christopher Kasker  
Trustee Paul Brooke  
Trustee Joshua Scherer (via Zoom)  
Trustee Anna (Tinka) Shaw

Clerk: Elizabeth A. Doherty

Village Attorney: Brian S. Stolar, Esq. (Harris Beach, PLLC) via Zoom

Attendees: Building and Land Use Officer John Ledwith, Police Chief David Conklin (via Zoom), 17 members of the public were in attendance at Village Hall and approximately 53 members of the public via Zoom.

Before the meeting began Mayor Citrin called for a moment of silence to respect, honor and to never forget the slaughter of innocents, particularly in the State of Israel, as well as to give a silent prayer for the safe return of approximately 200 hostages that are being held in Gaza.

Mayor Citrin called the meeting to order at 7:03 p.m. Roll call was taken followed by the Pledge of Allegiance.

The meeting began with comments from the public. Claudio Guazzoni de Zanett asked that a letter from his attorney, John A. Sarcone, III, be read into the record (attachment to these minutes).

**Fish Stocking  
Resolution 1018-01**

Be it resolved the Board of Trustees pay a maximum of \$18,300, to be split equally between the Village of Tuxedo Park and the Tuxedo Club, to stock Tuxedo Lake with brown and rainbow trout, to be charged to 1989.4 - Lakes Management.

Motion made by Mayor Citrin, seconded by Deputy Mayor Kasker.

Vote of the Board:

Mayor Citrin – Aye  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Aye  
Trustee Scherer – Aye  
Trustee Shaw – Aye

**Sterling Carting Contract**  
**Resolution 1018-02**

The three-year contract with Sterling Carting expired in November 2022. The contract had provisions for yearly extensions but nothing had been filed. The Mayor met with the owners who offered to extend the contract nunc pro tunc, which means that the contract would be extended on a yearly basis as if it had been done so from the initial date that the contract ended. The first extension to that contract would have been through November 2023. The current extension will bring the contract through to November 2024.

Be it resolved the Board of Trustees authorize the Mayor to sign the nunc pro tunc extension of the Sterling Carting contract from November 2022 to November 2023 and also sign an extension for the year from November 2023 to November 2024. The monthly price, \$14,625, will remain the same.

Motion made by Mayor Citrin, seconded by Deputy Mayor Kasker.

Vote of the Board:

Mayor Citrin – Aye  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Aye  
Trustee Scherer – Aye  
Trustee Shaw – Aye

**Police Camera**  
**Resolution 1018-03**

Be it resolved the Board of Trustees authorize the Police Chief to purchase a new surveillance camera for the Main Gate at a price not to exceed \$4,000 to be charged to budget line 3120.4 (Police-Contractual). This is an unbudgeted expense because the camera suddenly stopped working.

Motion made by Mayor Citrin, seconded by Deputy Mayor Kasker.

Vote of the Board:

Mayor Citrin – Did not vote  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Aye  
Trustee Scherer – Aye  
Trustee Shaw – Aye

**Halloween**  
**Resolution 1018-04**

Be it resolved to approve the formal observance of Halloween on Saturday, October 28, 2023 at 5:00 p.m., and the deployment of two Police Officers to supervise the children and make sure everything is safe.

Motion made by Mayor Citrin, seconded by Deputy Mayor Kasker.

Vote of the Board:

Mayor Citrin – Aye  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Aye  
Trustee Scherer – Aye  
Trustee Shaw – Aye

**Exemption from County Taxation**  
**Resolution 1018-05**

Be it resolved that the Village of Tuxedo Park request permission from the County of Orange for the exemption from County Taxation in the Year 2025 on certain real property located in the Town of Tuxedo for use of Village of Tuxedo Park water system

Motion made by Mayor Citrin, seconded by Deputy Mayor Kasker.

Vote of the Board:

Mayor Citrin – Aye  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Aye  
Trustee Scherer – Aye  
Trustee Shaw – Aye

**Appointment of Planning Board Member**  
**Resolution 1018-06**

Be it resolved that the Board of Trustees approve the appointment of Tom Bermingham to the Planning Board to fill the vacancy created by the resignation of Bronwyn Roantree.

Motion made by Mayor Citrin, seconded by Deputy Mayor Kasker.

Vote of the Board:

Mayor Citrin – Aye  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Aye  
Trustee Scherer – Aye  
Trustee Shaw – Nay

**Approval of Minutes**  
**Resolution 1018-07**

Be it resolved the Board of Trustees approve the minutes from the September 20, 2023 Regular Meeting and the October 2, 2023 Organizational Meeting.

Motion made by Mayor Citrin, seconded by Deputy Mayor Kasker.

Vote of the Board:

Mayor Citrin – Aye  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Aye  
Trustee Scherer – Aye  
Trustee Shaw – Abstain

**Audit of Claims**

Village Clerk-Treasurer Doherty noted for the record the audit of claims as follows: General Fund - \$281,639.90, Sewer Fund - \$10,394.18 and Water Fund - \$42,225.78. She noted that the General Fund claims were higher because they included the annual New York State retirement invoice.

**Budget Transfer**  
**Resolution 1018-08**

Be it resolved that the Board of Trustees authorize Clerk-Treasurer Doherty to transfer \$190,000 from the Appropriated Fund Balance to Legal Fees 1420.4 (Legal Fees-Contractual).

Motion made by Deputy Mayor Kasker, seconded by Trustee Shaw.

Vote of the Board:

Mayor Citrin – Abstain  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Aye  
Trustee Scherer – Aye  
Trustee Shaw – Aye

**Enter Executive Session**  
**Resolution 1018-09**

Be it resolved that the Board of Trustees leave the Public Meeting and enter Executive Session to discuss the BAR, 2022 charges for Town of Tuxedo use of the Wee Wah Park, settlement of certain water bills, appointments of Lake Wardens, and legal matters at 10:00 p.m.

Motion made by Mayor Citrin, seconded by Deputy Mayor Kasker.

Vote of the Board:

Mayor Citrin – Aye

Deputy Mayor Kasker – Aye

Trustee Brooke – Aye

Trustee Scherer – Aye

Trustee Shaw – Aye

The Board re-entered the Public Meeting at 11:17 p.m.

**Ratification of Attorney Retention**  
**Resolution 1018-10**

WHEREAS, in a lawsuit entitled “Claudio Guazzoni de Zanett v. the Village of Tuxedo Park et al,” bearing index number EF004013-2023, in Supreme Court, Orange County, by Decision and Order the Court dismissed and denied the Petitioner’s Petition (the “Petition”), and

WHEREAS, the Board of Trustees is authorized to direct the Mayor to institute all civil actions on behalf of the Village and where necessary to protect the rights of the Village and its inhabitants by intervening in all actions, and may take any measure desirable for good government and the protection of the property of the Village and the welfare of its inhabitants, and

WHEREAS, the Trustees believe that the recovery of damages, including attorneys’ fees in the dismissed Petition would serve those purposes, and

WHEREAS, the recovery of such fees would be consistent with the duties and obligations of the Trustees, and

WHEREAS, the recovery of such fees may be sought as against the Petitioner and the cross-claims brought by Mayor Citrin, and

WHEREAS, on account of the inherent conflict of the Mayor in this claim, the Deputy Mayor serves in his capacity,

WHEREAS, two other law firms declined to pursue the recovery damages, including legal fees on a contingency basis

WHEREAS, Elisa Gilbert, Esq, agreed to represent the village on a contingency

NOW, THEREFORE, be it resolved that Trustees Shaw, Kasker and Scherer authorize and ratify the retention of Elisa Gilbert, Esq., to serve in the place and stead of Burger & Santiago, PC, as counsel to the Village for the sole purpose of pursuing recovery of damages including legal fees, and

BE IT FURTHER resolved that the retainer agreement with Elisa Gilbert dated October 3, 2023 is hereby ratified and approved in accordance with the terms of the retainer agreement and

BE IT FURTHER resolved that the Deputy Mayor may direct Ms. Gilbert and serve as the Board representative in this motion for recovery of damages including attorneys' fees.

Motion made by Deputy Mayor Kasker, seconded by Trustee Shaw.

Vote of the Board:

Mayor Citrin – Did not vote  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Abstain  
Trustee Scherer – Aye  
Trustee Shaw – Aye

**Mayor Legal Representation**  
**Resolution 1018-11**

Be it resolved that the Board of Trustees provide the Mayor an attorney to represent him in the current case before Court at Village expense (based upon a letter received from John Sarcone, Esq., attached to these minutes) at a reasonable hourly rate.

Motion made by Deputy Mayor Kasker, seconded by Trustee Shaw.

Vote of the Board:

Mayor Citrin – Did not vote  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Abstain  
Trustee Scherer – Aye  
Trustee Shaw – Aye

**Lake Warden Positions**  
**Resolution 1018-12**

Be it resolved that the Board of Trustees create the position of Supervising Lakes Warden and that the position be filled by Todd Yannuzzi, and that the position of Wee Wah Lake Warden, left vacant at the last Organizational Meeting, be filled by Elizabeth Cotnoir; both positions to be renewed at the next Organizational Meeting

Motion made by Mayor Citrin, seconded by Deputy Mayor Kasker.

Vote of the Board:

Mayor Citrin – Aye  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Aye  
Trustee Scherer – Aye  
Trustee Shaw – Aye

**Town of Tuxedo 2022 Summer Camp Charges**  
**Resolution 1018-13**

Be it resolved that the Board of Trustees consider \$800 of the payment made om 2022 as a credit towards the 2023 summer camp fee.

Motion made by Mayor Citrin, seconded by Deputy Mayor Kasker.

Vote of the Board:

Mayor Citrin – Aye  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Aye  
Trustee Scherer – Aye  
Trustee Shaw – Aye

**Water Payment Refund**  
**Resolution 1018-14**

Be it resolved that the Board of Trustees approve a refund of approximately \$24 of a water bill overpayment made by Inga Rein Grutterich.

Motion made by Mayor Citrin, seconded by Deputy Mayor Kasker.

Vote of the Board:

Mayor Citrin – Aye  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Aye  
Trustee Scherer – Aye  
Trustee Shaw – Aye

**Notary Public Fees**  
**Resolution 1018-15**

Be it resolved that the Board of Trustees approve Clerk Doherty's request to attend a Notary Public class offered by the Board of Cooperative Educational Services (BOCES) in the amount of \$60 and to take the Notary Public exam for \$15. Both will be charged to 1325.4, the contractual Treasury budget line.

Motion made by Mayor Citrin, seconded by Deputy Mayor Kasker.

Vote of the Board:

Mayor Citrin – Aye  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Aye  
Trustee Scherer – Aye  
Trustee Shaw – Aye

**Adjournment**  
**Resolution 1018-16**

Motion made by Mayor Citrin, seconded by Deputy Mayor Kasker, the meeting was adjourned at 11:26 p.m.

Vote of the Board:

Mayor Citrin – Aye  
Deputy Mayor Kasker – Aye  
Trustee Brooke – Aye  
Trustee Scherer – Aye  
Trustee Shaw – Aye

Respectfully submitted,

*Elizabeth A. Doherty*

Elizabeth A. Doherty  
Village Clerk-Treasure



ATTACHMENT

**THE SARCONE LAW FIRM, PLLC**

*Attorneys and Counselors at Law*

19 Fox Run Road  
Croton-on-Hudson, New York 10520

Telephone (914)-260-7582  
jsarcone@sarconelaw.com

**John A. Sarcone, III**

October 18, 2023

**VIA EMAIL**

Hon. Mark D. Citrin  
Mayor, Village of Tuxedo Park  
80 Lorillard Road  
Tuxedo Park, New York 10987

**THIS LETTER SERVES AS AN OFFICIAL COMPLAINT BY THE PUBLIC ADVOCATE and FOIL DEMAND**

**Re: Illegal Hiring of Attorney to Represent the Village of Tuxedo Park in connection with a recent filing with the NYS Supreme Court in a case that was disposed of a month ago Index No. EF004013-2023**

Dear Mayor Citrin,

This firm represents Claudio Guazzoni de Zanett, individually as a resident and taxpayer and in his capacity as the Public Advocate for Tuxedo Park. The Public Advocate for Tuxedo Park is a not-for-profit non-governmental organization and acts as a community watch dog which also publishes a periodic public affairs blog that is available to the entire community.

I write to you concerning a serious matter of grave concern to the Public Advocate that may also be of concern to the taxpaying citizens of Tuxedo Park regarding the conduct of an attorney who has improperly and without legal authority filed legal papers in State Supreme Court stating under oath that she represents the Village of Tuxedo Park which is referenced above ("Ms. Gilbert").

Please be advised that pursuant to New York State Village Law, only you as Mayor have the legal right to hire and fire not only, *inter alia*, the Village Attorney, but also anyone who is hired to represent the interests of the Village of Tuxedo Park. You should be aware that the highest court in the state of New York has opined on this matter and the law is clear. Additionally, a "Consent to Change Attorney" does not carry over from one mayor to another.

If you wish to proceed with allowing what amounts to be a high jacking of your legal and fiduciary responsibilities by allowing anyone other than you to appoint an attorney to represent the interests of the Village, you can be held not only liable personally but also accountable for any actions taken on behalf of the government and for any expenditures made to anyone in furtherance to the illegal representation.

I am hereby putting you on notice as well as the Trustees and Treasurer for the Village (who should be bonded) that you must direct this individual to cease and desist from further perpetrating that she acts for the Village as an attorney in the above subject matter or any other capacity unless and until you Mayor appoint her, and a majority of the Board agrees.

In the event you decide to follow the law as I have outlined above (I am not going to write an "Opinion Letter" which you should be wise to hire a competent counsel to do so) (or provide a legal brief on the subject unless forced to in an Article 78 proceeding to force you to comply with the law) you leave my client no choice but to commence an action pursuant to CPLR Article 78 and other statutes to compel you to comply with the law and also to seek a stay of any further action by this or any other individual who is without legal authority to act on behalf of the government.

Having said that, if you choose to appoint Ms. Gilbert to act as an outside attorney to the Village Attorney, Trustees Brooke and Scherer would be barred from casting a vote and must recuse themselves due to unwaivable conflicts of interest.

For starters, the relationship between Ms. Gilbert and Trustee Brooke possesses the most obvious conflict of interest. Mr. Brooke is predisposed for quid-pro-quo when considering upon information and belief, that they share a greater than personal relationship, that Brooke purchased a seasonal home for her, and she also represented him in the same litigation she most recently appeared on behalf of the government which is the subject of my clients claim herein. How much did Mr. Brooke pay her for her legal services in that matter? Did he not pay her and now its payback time from the Taxpayers?

Mr. Scherer is also conflicted as Ms. Gilbert similarly represented him and we do not know who paid his bill for her legal services? His vote would also be a quid pro quo, especially was not paid or if she waived her fee for him, represents an unwaivable conflict of interest.

Given these unwaivable conflicts of interest, and in the event, you did not appoint her, that leaves less than a majority of the Board. There is simply no way that Ms. Gilbert can represent the Village of Tuxedo Park in the above referenced litigation.

In the event we are mistaken as to whether or not she was retained or was retained without proper authority, **we respectfully demand you exercise your power as Mayor under Village Law and terminate her services immediately.** In addition, you are well advised to direct the Village Attorney to withdraw the pending application to the court before my client is forced to seek dismissal which will include an application for costs, legal fees, and sanctions.

Accordingly, I demand under the New York State Freedom of Information Law (FOIL) that

1. A copy of any resolution appointing Ms. Gilbert to act on behalf of the Village of Tuxedo Park prior to the date of this letter be provided; and
2. A copy of all emails and text messages between all Trustees including you as elected officials of the Village on your Village and personal email and phones if it related to official government business between any trustee, you, and Ms. Gilbert, between September 20 and October 18. Keep in

mind that there cannot be attorney client privilege invoked as Ms. Gilber cannot and should not have that protection nor should you or any of the Trustees as she has not been legally appointed or retained; and

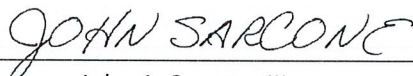
3. Please also provide a copy of any retainer agreement Ms. Gilbert or her law office submitted to the Village; and
4. A statement of any monies that were expended to her for this dubious role.

My client shall be monitoring this situation closely and I intend to appear this evening at your meeting to address any questions from you and the Trustees and to assist the public with understanding the law and how taxpayer dollars cannot be used in this manner. I am certain the State Comptrollers office would be interested in the financial workings of a Village that does not comply with the law.

I am also advising that your Village Treasurer contact the bonding company and the Villages Insurance Carrier and provide a copy of this correspondence so that the bonding company and Insurance Company for the Village will have notice of a claim in the event the Village Treasurer has issued funds to Ms. Gilbert for her unfortunate portrayal as being authorized to represent the Village in the above referenced matter.

Thank you in advance for your anticipated courtesy and cooperation,

Yours most respectfully,

  
John A. Sarcone III

Cc: Claudio Guazzoni de Zanett via email  
Elizabeth Doherty (Treasurer)  
Hon. Paul Brooke via email  
Hon. Josh Scherer via email  
Hon. Christopher Kasker via email  
Hon. Anna Tinka Shaw via email  
Jared Kasschau via email