

**VILLAGE OF TUXEDO PARK
BOARD OF TRUSTEES
REGULAR MEETING
JUNE 26, 2024**

Present: Mayor Marc D. Citrin
Deputy Mayor Michele Lindsay
Trustee Joshua Scherer
Trustee Anna (Tinka) Shaw

Absent: Trustee Paul Brooke

Clerk: Elizabeth A. Doherty

Village Attorney: Jared A. Kasschau, Esq. (Harris Beach, PLLC) via Zoom

Attendees: Building and Land Use Officer John Ledwith, Department of Public Works
Superintendent Jeff Voss, Police Chief Allen Faust, five members of the
public were in attendance at Village Hall and approximately eleven
members of the public attended via Zoom.

Mayor Citrin called the meeting to order at 7:05 p.m. The Pledge of Allegiance was made followed by roll call.

Mayor Citrin read for the record the notice that was published in the Times Herald-Record on May 29, 2024.

PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Village Board of the Village of Tuxedo Park, Orange County, New York, on June 26, 2024, at 7:00 pm or as soon thereafter as can be heard at the Village of Tuxedo Park, Village Hall, 80 Lorillard Road, Tuxedo Park, New York 10987 to consider the adoption of a Local Law about fences.

Said Local Law will be made available for review in the Village Clerk's Office, 80 Lorillard Road, Tuxedo Park, NY and may be examined after May 23, 2024 any interested party from 9:00 am to 4:00 pm, Monday through Friday.

By Order of the Village Board
of the Village of Tuxedo Park
Elizabeth Doherty, Village Clerk

Open the Public Hearing
Resolution 0626-01

Be it resolved to open the Public Hearing on introductory Local law #2 of 2024, Fences.

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

Vote of the Board:

Mayor Citrin – Aye
Deputy Mayor Lindsay – Aye
Trustee Brooke – Absent
Trustee Scherer – Aye
Trustee Shaw – Aye

Mayor Citrin invited the public to comment on the proposed local law. Ryan Lynch, 217 West Lake Road, read for the record a letter he wrote:

Dear Trustees and Mayor Citrin:

I am writing to express my concern with language in the proposed fence law. Why is the Board of Trustees tasked with the approval of esthetic choices of construction materials? Typically this was all under the sole purview of the BAR. Trustee approval of construction and esthetics is then contradicted in Section 49-5(B) that is rightfully assigned to the BAR:

“A secondary fence shall be constructed only of black plastic mesh material of a type approved by the Board of Trustees and shall be erected on thin black metal stakes of a type approved by the Board of Trustees or natural, unpeeled cedar posts of a diameter of six inches or less.”

In Section 49-5(D) it then contradicts itself:

“A primary fence shall be of such construction, design and material as may be determined by the Board of Architectural Review in its review of the same as now required by law.”

There is further contradiction assigning the Building Inspector the sole authority to “approve without further review by any other Village authority.” This goes against the spirit of the law as written and against the existing BAR process required by law.

I am in favor of this change to streamline the process for applicants; however, the BAR should still review materials, at least informally, to ensure the design guidelines.

Why was the BAR not consulted in drafting legislation that directly impacts design guidelines? There should be no attempt to circumvent the BAR entirely when construction and esthetics are under the purview of the BAR as required by law.

Whom does this benefit? It seems very suspect. I implore the Board of Trustees to please consider these issues before establishing a contradictory piece of legislation.

Thank you for your time and your service to our community.

David McFadden, 28 Pepperidge Road, then addressed the Board. The first issue Mr. McFadden raised was regarding legal liability concerns. He asked the Board to consider why they would introduce a new burden of legal liability to the current and future Board of Trustees?

Mr. McFadden then raised the issue of transparency and public input. Mr. McFadden asked the Board to present any written advice or input received from the appointed Board or Boards that influenced the draft law. Mayor Citrin responded that the Chair of the Planning Board was instrumental in drafting the new law. Mr. McFadden responded that both the BAR and BZA should have been consulted in drafting this law to avoid challenges to it in the future.

Mr. McFadden asked if the Board had shared any memos with the Village attorney regarding the transfer of the fence approval authority? Mayor Citrin responded that any legal opinion provided by the Village attorney to the Board of Trustees would not be put into the public record. Mr. McFadden asked if the Board had reviewed the fence laws of other villages in the area? Mayor Citrin said that he could not give Mr. McFadden an answer at this time. Mr. McFadden suggested that it would be a good idea.

Regarding the notification process, Mr. McFadden advised that notice of the public hearing should be posted on the official notices page of the website as well as the draft of the local law. This should be done seven days prior to the date of the public hearing. Mr. McFadden also suggested that emailing the draft local law and notice of an upcoming public hearing would be more effective than publishing the notice in the local newspaper.

Christopher Gow, 182 West Lake Road, addressed the Board via Zoom. Mr. Gow discussed Section 49-4(D), "All fences of any kind shall be subject to the applicable setback provisions of Chapter 100 hereof, excepting that no interior fence shall be located closer than twenty feet to any property line, roadway, or shoreline." Mr. Gow recommended changing the word "shoreline" to "water's edge" so that it includes streams, rivers and brooks leading into water. Mr. Gow also said that he would amend Section 100-18 in the same way, to read: "No fence shall be located closer than five feet to any roadway *or water's edge* nor closer than two feet to any property line." (italicized words added by Mr. Gow).

Mr. Gow also discussed secondary fences as referenced in Section 49-5(B). He agreed with the intent of the law that "black plastic mesh material" as "erected on thin black metal stakes" would

result in a fence that is nearly invisible. However, using “cedar posts of a diameter of six inches” does not. Posts that large would be very visible.

Jake Lindsay, 2 Eagle Mountain Road, addressed the Board via Zoom. He first asked if the version of the law that is now in the code is scheduled to sunset, to which Mayor Citrin responded that it was. Mr. Lindsay said that he was concerned about secondary fences, which are defined as being “temporary.” “How would they possibly be regulated?” he asked. Mayor Citrin felt that Mr. Lindsay had made a good point. Enforcing something that is temporary is an issue. Mr. Lindsay explained that the use of temporary fences dates back to when there were a lot more deer in the park, something that with culling is no longer an issue. Mr. Lindsay said that once a fence is put up it may not be taken down within a year. He felt that needed to be regulated in some way, and maybe even not have temporary fences at all. Mayor Citrin responded that the word “temporary” needs to be defined so that people understand how long the fence can stay up.

Mr. Lindsay also asked about perimeter fences being “greater than 50%.” That would mean that 49% of the property line is not a perimeter fence and 51% is. Mr. Lindsay said that enclosing 35% of the property makes more sense than this.

Chiu yin Hempel of Ridge Road addressed the Board. She voiced support for what Christopher Gow had said about cedar posts. Cedar railings are used in horse country so that both horses and humans can see the paddocks and they don’t really disappear, even if they’re close to vegetation. If you go down to the northern entrance of the Race Track Preserve you will see a cedar railing which is clearly visible against a backdrop of trees. Ms. Hempel agrees with Mr. Gow that we should use black mesh and black metal.

To Mr. Lindsay’s point about the perimeter fence being defined as a boundary fence that extends for greater than 50% of the lot line, Ms. Hempel felt that this could be highly problematic, depending upon where the property is. Using the Tuxedo Club as an example, Ms. Hempel said that the Main Club and the Boat Club lot is a triangle. But under this definition, they can put a perimeter fence right from the Boat House all the way to the Tennis House, and it would be legal under this definition of “not greater than 50% of the boundary.” It is legal because the other two sides of the triangle are more than 50%.

Ms. Hempel said that Lorillard and generations of architects have deliberately designed houses and estates to glorify an expansive view of a rustic landscape. We should be very mindful when we try to change a very important architectural tradition. Ms. Hempel said that she would love to see that clause of perimeter fences of any size deleted, and instead say perimeter fences are not permitted. We could destroy Tuxedo Park if we allow perimeter fencing.

No further comments from the public were received.

Trustee Shaw asked Mayor Citrin why the Board of Trustees is the deciding factor in the fence material. Mayor Citrin invited Planning Board Chair Jay Reichgott to answer this question as he had helped draft the revisions to this law. Mr. Reichgott explained that assigning this duty to the Board of Trustees was in the original version of this law. The BAR has purview for questions of

material and esthetics. Mr. Reichgott's understanding of this rule, as it was originally put together, was to simplify and codify the establishment of temporary interior fences. It was intended to codify deer fences and it was to establish a pre-approved fence. The language says that if you build a fence that meets the rules you don't have to talk to anybody. Mr. Reichgott then said that this was, "not a great idea" which is why the review of a Building Official was added. Mr. Reichgott said that he does not know if that codification has to come from the Board of Trustees. That would be a question for Counsel. But in establishing what the pre-approved fence materials and esthetics are, Mr. Reichgott said that he would expect the Board of Trustee to consult with the BAR on that before making a decision.

Trustee Shaw said that she just doesn't understand why the Board of Trustees would be involved. Mr. Reichgott answered that this is a decision that the Board of Trustees can certainly take. Mr. Reichgott said that somebody has to write the first draft. This is his first draft from the original law so that the Board of Trustees has something to start with.

Adjourn the Public Hearing
Resolution 0626-02

Be it resolved to adjourn the Public Hearing on introductory Local law #2 of 2024, Fences, to July 17, 2024 at 7pm.

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

Vote of the Board:

Mayor Citrin – Aye
Deputy Mayor Lindsay – Aye
Trustee Brooke – Absent
Trustee Scherer – Aye
Trustee Shaw – Aye

Reports to the Board
Resolution 0626-03

Be it resolved that the Board add all written reports to the permanent record.

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

Vote of the Board:

Mayor Citrin – Aye
Deputy Mayor Lindsay – Aye
Trustee Brooke – Absent
Trustee Scherer – Aye
Trustee Shaw – Aye

Minutes
Resolution 0626-04

Be it resolved that the Board of Trustees approve the minutes from the following meetings:

- a. May 22, 2024 Regular Meeting
- b. May 28, 2024 Special Meeting (Modification of Water Budget)

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

Vote of the Board:

Mayor Citrin – Aye
Deputy Mayor Lindsay – Aye
Trustee Brooke – Absent
Trustee Scherer – Aye
Trustee Shaw – Aye

June 5, 2024 Minutes
Resolution 0626-05

Be it resolved that the Board of Trustees approve the minutes from the June 5, 2024 Special Meeting (Accept Donation of Generator).

Motion made by Mayor Citrin seconded by Deputy Mayor Lindsay.

Vote of the Board:

Mayor Citrin – Aye
Deputy Mayor Lindsay – Aye
Trustee Brooke – Absent
Trustee Scherer – Aye
Trustee Shaw – Abstain

Authorization to Work
Resolution 0626-06

Be it resolved that the Board of Trustees authorize, retroactively, Part-Time Clerk Fiona Doherty to work an additional 25 hours (for a total of 45 hours) on the Professional Fees escrow accounts.

Motion made by Mayor Citrin, seconded by Trustee Shaw.

Vote of the Board:

Mayor Citrin – Aye

Deputy Mayor Lindsay – Aye
Trustee Brooke – Absent
Trustee Scherer – Aye
Trustee Shaw – Aye

Organizational Meeting Date
Resolution 0624-07

Be it resolved that the Board of Trustees schedule the annual Re-Organizational Meeting on Monday, July 8, 2024.

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

Vote of the Board:

Mayor Citrin – Aye
Deputy Mayor Lindsay – Aye
Trustee Brooke – Absent
Trustee Scherer – Aye
Trustee Shaw – Aye

Donation of Ladder
Resolution 0624-08

**A RESOLUTION TO ACCEPT A GIFT OFFERED BY JOANNE KAROWSKA
TO THE VILLAGE OF TUXEDO PARK.**

WHEREAS, Joanne Karbowska has presented to the Village of Tuxedo Park a gift in the form of a Wee Wah Park floating dock ladder valued at a total amount of \$1,495 plus tax and shipping; and

WHEREAS, the said donation will be used by Wee Wah Park for safe access to and from the Lake; and

WHEREAS, the Board of Trustees of the Village of Tuxedo Park deems the acceptance of such gift to be in the best interests of the Village of Tuxedo Park; now therefore, be it

RESOLVED, that the said gift is gratefully accepted and the Mayor is hereby authorized to direct Matthew Tinari to accept the donation and to use the donation in furtherance of Wee Wah Park.

Motion made by Mayor Citrin seconded by Trustee Shaw.

Vote of the Board:

Mayor Citrin – Aye
Deputy Mayor Lindsay – Aye
Trustee Brooke – Absent
Trustee Scherer – Aye
Trustee Shaw – Aye

Weston & Sampson Proposal
Resolution 0624-09

Be it resolved that the Board of Trustees approve the Weston & Sampson proposal for the Water Treatment Plant Clearwell Upgrade and Design Services at a cost of \$28,300 to be charged to Water Fund budget code 8330.4 (Purification-Contractual).

Motion made by Mayor Citrin seconded by Deputy Mayor Lindsay.

Vote of the Board:

Mayor Citrin – Aye
Deputy Mayor Lindsay – Aye
Trustee Brooke – Absent
Trustee Scherer – Aye
Trustee Shaw – Aye

Cooper Arias
Resolution 0626-10

Be it resolved that the Board of Trustees authorize Cooper Arias to perform the Fiscal Year 2023-2024 audit at a price of \$22,500, to be charged to budget code 1320.4 (Auditor – Contractual).

Motion made by Mayor Citrin seconded by Trustee Shaw.

Vote of the Board:

Mayor Citrin – Aye
Deputy Mayor Lindsay – Aye
Trustee Brooke – Absent
Trustee Scherer – Aye
Trustee Shaw – Aye

Planning Board Appointment
Resolution 0626-11

Be it resolved that the Board of Trustees appoint Stephanie Staal to the Planning Board, to fill a vacancy on the board when JoAnn Hanson resigned, for the remainder of Ms. Hanson's five (5) year holdover term, ending June 30, 2025.

Motion made by Mayor Citrin seconded by Deputy Mayor Lindsay.

Vote of the Board:

Mayor Citrin – Aye
Deputy Mayor Lindsay – Aye
Trustee Brooke – Absent
Trustee Scherer – Aye
Trustee Shaw – Abstain

Village Website Upgrade Resolution 0626-12

Be it resolved that the Board of Trustees approve Part-Time Clerk Fiona Doherty to work on the Village website as well greenhouse gas emissions inventory for a maximum of 40 hours at a rate of \$20 per hour.

Motion made by Mayor Citrin seconded by Deputy Mayor Lindsay.

Vote of the Board:

Mayor Citrin – Aye
Deputy Mayor Lindsay – Aye
Trustee Brooke – Absent
Trustee Scherer – Aye
Trustee Shaw – Aye

Audit of Claims

AUDIT OF CLAIMS - Bills in the amount of \$79,804.22 for the General Fund, \$18,940.98 for the Sewer Fund, \$21,895.31 for the Water Fund, and \$6,068.00 for the Professional Fees were audited and ordered paid.

Budget Transfers

General Fund:

1325.1 - Treasurer-Personnel	\$2.00
1325.4 - Treasurer-Contractual	185.00
1325.44- Treasurer-IT Support	1,000.00
1620.4 - Bldgs-Cont	700.00
1640.2 - Cent Garage-Equipment	1,500.00
1640.4 - Cent Garage-Cont	1,000.00
1670.4 - Central Print-Cont	75.00
1989.4 - Lakes Mgmt-Cont	1,500.00

9030.8 - Social Security	1,300.00	
9060.8 - Health Insurance	57,600.00	
3000 - Appropriated Surplus		4662
3120.1 - Police-Personnel		8200
3120.4 - Police-Contractual		25000
5020.4 - Strom Water GIS		22000
5110.2 - Street Maint-Equipment		5000

Water Fund:

1640.4 - Central Garage-Cont	3,000	
8310.1 - Water Admin-Personnel	2,600	
8340.1 - Trans & Dist-Personnel	10,000	
8340.4 - Trans & Dist-Cont	35,000	
9060.8 - Health Ins-Cont	1,000	
1640.2 - Central Garage-Equip		3,000
8310.4 - Water Admin-Cont.		12,600
1989.4-Lake Mgmt-Cont		36,000

Enter Executive Session
Resolution 0626-13

Be it resolved that the Board of Trustees leave the Public Meeting and enter Executive Session at 9:50 p.m. to discuss civil service and personnel matters.

Motion made by Mayor Citrin seconded by Trustee Shaw.

Vote of the Board:

Mayor Citrin – Aye
Deputy Mayor Lindsay – Aye
Trustee Brooke – Absent
Trustee Scherer – Aye
Trustee Shaw – Aye

Adjournment
Resolution 0626-14

Be it resolved that the Board of Trustees adjourn the Public Meeting at 10:03 p.m.

Motion made by Mayor Citrin, seconded by Trustee Shaw.

Vote of the Board:

Mayor Citrin – Aye
Deputy Mayor Lindsay – Aye
Trustee Brooke – Absent
Trustee Scherer – Aye
Trustee Shaw – Aye

Respectfully submitted,

A handwritten signature in cursive script that reads "Elizabeth A. Doherty".

Elizabeth A. Doherty
Village Clerk-Treasurer