

**VILLAGE OF TUXEDO PARK
BOARD OF TRUSTEES
PUBLIC HEARING
AUGUST 18, 2021
6:45 P.M.
MINUTES**

Present: Mayor David McFadden
Deputy Mayor Anna (Tinka) Shaw (arrived at 7:50 p.m.)
Trustee Christopher Kasker
Trustee Joshua Scherer

Absent: Trustee Paul Brooke

Deputy Clerk: Elizabeth A. Doherty

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

Attendees: Village Employees: Police Chief David Conklin, Building and Land Use
Officer John Ledwith and DPW Superintendent Jeffrey Voss
Members of the Public: Members of the public in person and via Zoom

Mayor McFadden called the meeting to order at 6:45 p.m. and led the Pledge of Allegiance. Roll call was taken.

Close the Public Hearing – Resolution No. 0818-01

On a motion by Mayor McFadden, seconded by Trustee Kasker, it was: Resolved that the Board of Trustees now close the Public Hearing on draft Local Law No. 1 of 2021 – A Local Law to amend Village Law § 65-4, rules and regulations applicable to Wee Wah Lake.

Vote of the Board:

Mayor David C. McFadden – Aye
Deputy Mayor Tinka Shaw – Absent
Trustee Paul Brooke – Absent
Trustee Christopher Kasker – Aye
Trustee Joshua Scherer – Aye

The Public Hearing was adjourned at 7:45 p.m.

Trustee Shaw arrived after the Public Hearing was adjourned. After a short recess, the regular Board of Trustees monthly meeting began. Mayor McFadden called the meeting to order at 7:50 p.m. Roll call was taken.

Reports to the Board and Minutes – Resolution No. 0818-02

On a motion by Mayor McFadden, seconded by Trustee Kasker, it was: Resolved that the Board of Trustees accept into the record the Reports to the Board and approve the minutes of the July 21, 2021 Board of Trustees meeting.

Vote of the Board

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

Consent Agenda – Resolution No. 0818-03

On a motion by Mayor McFadden, seconded by Trustee Kasker, it was: Resolved that the Board approve items (a) through (g) described within the consent agenda as part of the regular Board of Trustees meeting dated August 18, 2021:

- a. Correct the BOT July Annual Meeting minutes to reflect Judge Hasin's 4-year term;
- b. Appoint Chris Hansen to Chair of Village Code Committee;
- c. Appoint Trustee Tinka Shaw to Committee Liaison to the Village Code Committee;
- d. Appoint Scott Ulrey to Chair the Sewer & Water Rates Committee;
- e. Appoint Mayor McFadden as Liaison to the Tree Advisory Board in place of Trustee Paul Brooke;
- f. Adopt Chief Conklin's Department Policies;
- g. Decommission police vehicle and list it on the public auction site.

Vote of the Board

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

Local Law #1 of 2021 – Resolution No. 0818-04

WHEREAS, the Village of Tuxedo Park Village Board, pursuant to the New York State Municipal Home Rule Law #10, is authorized to adopt local laws; and,

WHEREAS the Village Board desires to amend §65-4 of the Village Code regarding rules and regulations applicable to the Wee Wah Lake ("Local Law Amendments"); and,

WHEREAS the Village Board duly noted and held a Public Hearing on August 18, 2021 at 6:45 p.m. to consider the local law amendments; and,

WHEREAS all persons interested in commenting on such local law amendments were afforded the opportunity to be heard.

NOW, THEREFORE BE IT RESOLVED that

- Section 1. The above whereas clauses are incorporated herein by reference as set forth fully herein.
- Section 2. The Local Law amending §65-4 (Rules and Regulations Applicable to the Wee Wah Lake) is hereby adopted as Local Law No. 1 of 2021 of the Village of Tuxedo Park on August 18, 2021.
- Section 3. The Village Clerk shall cause such Local Law to be filed with the Secretary of State as well as being made part of Village Board minutes and any code book maintained by the Village.
- Section 4. This resolution shall be effective immediately.

Motion by Mayor McFadden, seconded by Trustee Scherer.

Vote of the Board

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

**Resolution Authorizing Mayor to Proceed With Necessary
Steps to Consider Conveyance of Village Property – Resolution No. 0818-05**

WHEREAS, the Village of Tuxedo Park previously discontinued a portion of a paper road running east of East Lake Road, described as a portion of an unnamed Paper Road parcel (approximately 1,550 square feet) between tax parcels Section 106, Block 1, Lot 1 and Section 105, Block 1, Lot 30 beginning from Tuxedo Lake and running east to a point approximately one-hundred (100) feet easterly ("the Property") by resolution of the Village Board dated December 16, 2020; and

WHEREAS, the Village Board has determined that the Village no longer requires the Property for Village purposes and desires to convey the Property; and

WHEREAS, on February 24, 2021, LCTP Real Estate, LLC ("LCTP") has conveyed an offer to purchase the property for \$25,000.

WHEREAS, the Village desires to proceed with consideration of such offer.

NOW, THEREFORE, BE IT RESOLVED that

Section 1. The above "WHEREAS" clauses shall be incorporated by reference as if set forth in full herein.

Section 2. The Village Board hereby authorizes the Mayor and Village Counsel to begin the process of negotiating a contract of sale and any other documents necessary to convey the Property to LCTP, subject to final approval of the terms and conditions of such contract of sale by the Village Board and authorization of the Board to execute such documents.

Section 3. Any such proposed conveyance of the Property shall be subject to the following conditions, which may, as determined applicable by Village legal counsel, also be incorporated into any final contract of sale:

- a) An appraisal of the Property to confirm that the offer conveyed by LCTP is equal to or greater than the fair market value of the Property; and,
- b) Acceptance by the Village Board of a final offer from LCTP with terms and conditions satisfactory to the Village Board; and,
- c) Submission to the Village of a metes and bounds description of the Property prepared by a licensed surveyor at the expense of LCTP; and,
- d) Necessary approvals of any boards in the Village to allow LCTP to simultaneously create a lot consisting of the Property and to merge such lot into the abutting property owned by LCTP, which approvals sale be contingent on the merger of the lot into the abutting LCTP lot. Any such approvals shall provide that the lot and merger shall be deemed effective only upon the closing of title on the property; and,
- e) LCTP shall be responsible for the payment of the expenses incurred by the Village and its professionals in any such approvals and the conveyance of the property; and,
- f) In the event that any litigation is instituted against the Village arising from the proposed conveyance of the Property, LCTP shall defend and indemnify the Village with respect to any such claims, or in the event that LCTP declines to do so, the Village may cease any further proceedings with respect to the conveyance of the Property and LCTP shall have no recourse or remedy against the Village.

Section 4. The Mayor, and any other official, employee or consultant as directed by the Mayor, is hereby authorized to take any and all necessary actions to carry out the provisions of this Resolution.

Section 5. This Resolution shall be effective immediately.

Motion by Mayor McFadden, seconded by Trustee Kasker.

Vote of the Board

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

Resolution to Hire Auto-Gate System Vendor – Resolution 0818-06

Be it Resolved that the Board of Trustees now authorizes the Mayor to obtain the due diligence for bidders for the auto-gate system vendor award and to recommend a vendor contract to install and maintain an automatic gate opening system at the Main Gate and South Gate at the cost of under \$20,000 each, excluding the cost of tags and to amend the budget to increase the expense line and offset it with unappropriated fund balance A599 with the approval of the Board.

Motion by Mayor McFadden, seconded by Trustee Kasker.

Vote of the Board:

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

Audit of Claims

Bills in the amount of \$426,700.56 in the General Fund, claim numbers 49866 and 49911 – 50190, \$181,951.02 in the Water Fund, claim numbers 10525-10579, and \$3,294.04 in Professional Fees, claim numbers 3048 – 3058, were audited and ordered paid.

Budget Transfers – Resolution 0818-07

On a motion by Mayor McFadden, seconded by Trustee Scherer, it was: Resolved to authorize the transfer of \$1,500 from budget line 2706 to budget line 8040.41.

Motion made by Mayor McFadden, seconded by Trustee Scherer.

Vote of the Board:

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

Extension of 2015 Agreement – Resolution 0818-08

A meeting of the Village Board of the Village of Tuxedo Park was convened on **August 18, 2021 at 6:45 p.m.**

The following resolution was duly offered and seconded to wit:

**RESOLUTION AUTHORIZING LEGAL COUNSEL TO EXECUTE
EXTENSION OF 2015 AGREEMENT**

WHEREAS, the Village of Tuxedo Park (“Village”) entered into an Agreement on December 23, 2015 with Michael Bruno and Alexander Jakowec (“Purchasers”) regarding purchases of previously discontinued paper roads in the Village as well as proposed an annexation and a proposed purchase of what is described as Parcel 4 in the Agreement (portion of an existing paper road) abutting Section 8, Block 1, Lot 25 in the Town of Tuxedo; and

WHEREAS, the parties previously extended the Memorandum of Agreement terms from January 1st to March 31st, 2021 and then April 1st through June 30th, 2021; and

WHEREAS, the Village and Purchasers desire an additional extension of the Agreement for a period up to November 30, 2021 in order to ensure that provisions of the Agreement are carried out.

NOW, THEREFORE, IT IS RESOLVED as follows:

- Section 1. The above “WHEREAS” clauses are incorporated herein by reference as if set forth fully.
- Section 2. Village Legal Counsel is hereby authorized to draft an extension to extend the December 2015 Agreement through November 30, 2021.
- Section 3. The Village Mayor is hereby authorized to execute such extension document in a form satisfactory to Village’s legal Counsel.
- 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, which resulted as follows:

Motion by Mayor McFadden, seconded by Trustee Kasker.

Vote of the Board:

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

The Resolution was thereupon duly adopted.

Enter Executive Session – Resolution 0818-09

On a motion by Mayor McFadden, seconded by Trustee Kasker, it was: Resolved to enter into Executive Session at 9:35 p.m. to discuss the DPW contract, the PBA contract, the Steyer lawsuit and other legal matters concerning a certain employee.

Vote of the Board:

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

Exit Executive Session – Resolution 0818-10

Be it resolved that the Board of Trustees leave Executive Session at 10:06 p.m. for the purpose of reentering the Public Meeting.

Motion by Mayor McFadden, seconded by Trustee Kasker.

Vote of the Board:

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

Resolution 0818-11

On a motion by Mayor McFadden, seconded by Trustee Kasker, it was: Resolved to adjourn the meeting at 10:07 p.m.

Vote of the Board:

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

Respectfully submitted,

A handwritten signature in black ink, reading "Elizabeth A. Doherty". The signature is written in a cursive, flowing style.

Elizabeth A. Doherty
Village Clerk-Treasurer

ATTACHMENT

A LOCAL LAW TO REPEAL AND REPLACE VILLAGE LAW § 65-4, RULES AND REGULATIONS APPLICABLE TO WEE WAH LAKE

BE IT ENACTED by the Board of Trustees of the Village of Tuxedo Park, Orange County, New York as follows:

Section 1. Legislative Intent.

It is the intent of this local law to amend Village Law 65-4, which governs the current use of Village property known as the Wee Wah Lake. As it currently stands, the Village Code includes certain restrictions on the use of the Wee Wah Lake property for the benefit of the Wee Wah Beach Club .

As such, the Board of Trustees of the Village of Tuxedo Park seeks to amend this law so as to remove any references in the Code to a particular private entity. .

Section 2. Authority.

This local law is adopted pursuant to Section 10 of the Municipal Home Rule Law and Article VII of the New York State Village Law.

Section 3. Repeal and Replacement of Village Law § 65-4.

The Board of Trustees of the Village of Tuxedo Park, County of Orange, hereby repeals Village Law § 65-4, "Rules and regulations applicable to Wee Wah Lake" and replaces it with the following:

A.

No person may fish in or on the waters of Wee Wah Lake unless he or she is a resident or non-resident property owner, or an accompanied guest of a resident or non-resident property owner of the Village of Tuxedo Park or a member of any organization of club licensed or operated by the Village.

B.

No person shall bathe, swim, wade or otherwise immerse himself or herself in the waters of Wee Wah Lake, unless he or she is a resident or non-resident property owner, or an accompanied guest of a resident or non-resident property owner of the Village of Tuxedo Park or a member of any organization of club licensed or operated by the Village.

C.

Residents and/or non-resident property owners of the Village or a member of any organization of club licensed or operated by the Village shall be permitted to launch and retrieve boats for use on Wee Wah Lake in accordance with posted regulations governing such activities.

D.

No person shall operate, allow or otherwise permit a boat owned by him or her, or under his or her control, to enter the areas of Wee Wah Lake which have been designated by the Village as swimming areas. The prohibition contained in this subsection shall not apply to boats operated by or under the direct control or supervision of the Department of Public Works or Police Department.

E.

No person shall place, install, rebuild or otherwise erect any permanent dock, permanent offshore floating platform, boathouse or similar structure on or in the waters or shoreline of Wee Wah Lake unless such structure was in existence in the same location prior to February 20, 1987. Notwithstanding the preceding sentence, the concrete permanent structure at the Wee Wah Lake shall be permitted to remain. An inventory of such structures shall be on file with the Village Building Inspector for record. In creating such inventory, the Village Building Inspector will first record all permanent structures in existence on June 30, 2008. For a structure not in existence on June 30, 2008, to be included in such inventory, prior to June 30, 2009, a property owner must provide evidence to the Village Building Inspector demonstrating that such a structure was in existence prior to February 20, 1987. If a structure has not been so identified to the Village Building Inspector by June 30, 2009, or was not legally in existence on June 30, 2008, it may not subsequently be rebuilt.

F.

No person shall place, install or otherwise erect a nonpermanent structure on Wee Wah Lake unless such structure was legally in existence on June 30, 2008, or unless such structure is otherwise in compliance with this chapter. An inventory of such structures on June 30, 2008, shall be made and maintained on file with the Building Inspector. An owner of property abutting Wee Wah Lake may place, install or otherwise erect one seasonal, floating or otherwise nonpermanent structure that complies with the requirements of this chapter. Any such nonpermanent structure must be securely attached to the shore, and be limited in size so that it has a lakefront length of not more than 10 feet and does not extend into the lake more than six feet (exclusive of any bridging mechanism described in this subsection). Structures may be attached directly to the shore or may be attached to the shore by a nonpermanent bridging mechanism that itself is not more than four feet wide and does not extend into the lake more than five feet. No person may own or maintain more than one such structure.

G.

No rebuilding as authorized by Subsection E above, or installation of a nonpermanent structure as authorized by Subsection F above, shall take place unless a permit therefor has been approved by the Board of Trustees and issued in the name of the Board by the Village Clerk. The Board of Trustees shall issue such permit if the structure complies with the requirements of this § 65-4, the

applicant has demonstrated to the satisfaction of the Board of Trustees that the construction or rebuilding will not endanger the water supply or otherwise be detrimental to the Village's environment, and the applicant has obtained approvals of any other board that may be required under the Village Law.

H.

No person shall skate on the frozen surface of Wee Wah Lake, except in areas designated by the Board of Trustees and at such times as the Village Police Department has posted appropriate notice that such activity is permitted.

I.

No person owning or harboring a domestic animal shall permit or allow such animal to enter the waters of Wee Wah Lake.

J.

The Village hereby reserves to itself the authority to promulgate rules and regulations to carry forth the intent of Subsections **A** and **C** of this § **65-4**, including the authority to limit the age of those who may engage in such activities on an unsupervised basis and the times of the year and times of the day when such activities may be carried out.

K.

The Village further hereby reserves to itself the right and authority to license the operation of the Wee Wah Lake, the immediate and surrounding property annexed thereto, or the uses thereof, to an entity designated by the Village Board of Trustees.

Section 4. SEQRA.

This is a Type II action under 6 NYCRR 617.5(c)(26) and (33).

Section 5. Severability.

If a court of competent jurisdiction determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 6. Effective date.

This local law shall take effect immediately upon filing with the Secretary of State.