

The Regular Bi-Monthly Meeting of the Town Board of the Town of Tuxedo held on Monday, August 13, 2007 at the Tuxedo Town Hall, One Temple Drive, Tuxedo, New York, was called to order by Supervisor Peter M. Dolan at 7:38 p.m.

Town Board Members Present:	Mr. Peter M. Dolan	Supervisor
	Mr. Daniel Castricone	Councilperson
	Mr. Andrew L. Siegel	Councilperson
	Ms. Lisa Spivak	Councilperson
Town Board Members Absent:	Ms. Francine Rauch	Councilperson

Other Town Officials Present: Larry Wolinsky, Esq., Town Counsel; Mr. Stanley G. Puszcz, Town Engineer; Mr. Daniel J. Carlin, Police Chief; Mr. John Norton, Police Sergeant; Mr. Edward Pfizenmaier, Deputy Highway Superintendent; Mr. David Maikisch, Building Inspector; Mr. Gary Phelps, Planning Board Member; Messrs. Thomas Darling and Andrew Rogers, Zoning Board of Appeals Members; and Mrs. Elaine M. Laurent, Town Clerk.

The meeting was opened by a pledge of allegiance to the flag.

A public hearing was held to receive public comments on proposed local law entitled "Sign Law Amendments."

MINUTES

RESOLVED, motion made by Councilperson Spivak, seconded by Councilperson Castricone, to accept the Town Board Minutes of the Public Hearing and Regular Bi-Monthly Meeting held on July 23, 2007, as submitted.

Adopted: AYES: [4] NAYS: [0] ABSENTEES: [1]

MONTHLY REPORTS

Supervisor Dolan acknowledged receipt of the Monthly Reports for July, 2007 from the Justice Court (2) and the Town Clerk.

PUBLIC COMMENTS ON AGENDA ITEMS

Supervisor Dolan asked for public comments on agenda items.

Comments were received and discussion held regarding Agenda Items 3 and 4.

Although not an agenda item, Mr. Patrick Kelly, owner of property at 1103 Route 17 in Southfields, addressed the Board regarding an order from the Orange County Supreme Court (pursuant to an action brought by the Town) requiring him to remove two trailers on his property, failing which the Town will undertake such removal and assess all associated costs on Mr. Kelly's town tax obligation. Supervisor Dolan reminded Mr. Kelly that this matter began in 2001 and that the Town has been more than obliging to him over the past six years, extending his building permit over and over again for repairs and renovations to his house. Despite the Town's largesse, Mr. Kelly has not been diligent in completing the work, and the issue must be resolved without further delay.

Supervisor Dolan asked for public comments on agenda items. There were none.

AGENDA ITEMS:

1. Town Supervisor/Town Board Update

- Commercial Flight Path Changes

Supervisor Dolan advised that the Federal Aviation Administration, having completed a nine-year study, plans to reroute commercial flight paths over Rockland and Westchester Counties beginning this Fall to reduce flight delays. The changes do not effect Tuxedo; however, Rockland County is protesting the changes and attempting to have air traffic rerouted nearer Tuxedo than Rockland.

MINUTES

MONTHLY
REPORTS

PUBLIC COMMENTS
ON AGENDA ITEMS

AGENDA ITEMS:
Town Supervisor/
Town Board Update
*Commercial Flight
Path Changes*

AGENDA ITEMS (Continued):

1. Town Supervisor/Town Board Update (Continued)

• **Visit by Congressman John Hall**

Supervisor Dolan notified the public that U.S. Congressman John Hall will be present at the Farmers' Market from 11:00 a.m. to 12:00 noon on Saturday, August 18, 2007 and will be available to hear comments and questions from residents.

• **Award of Grant Funds**

Supervisor Dolan announced that, through the efforts of Shari Brooks, Joe Tripoli and Ed Pfizenmaier, the Town, and the support and advocacy of State Senator Tom Morahan and State Assemblywoman Annie Rabbitt, the Town will receive grant funds for various purposes, including renovation of Lucky Bridge and the Tichy Field Bridge.

• **Donations by Mr. Robert Bero**

Supervisor Dolan advised that, prior to his untimely death at age 66 on June 25, 2007, Tuxedo Park resident and renowned award-winning artist, Robert W. Bero, donated an automobile, artwork, tools and other items to the Town. A major twentieth century American etcher, Mr. Bero studied at the Pratt Institute where he earned a Bachelor of Fine Arts degree and at Yale University where he attained a Masters in Fine Arts. His talent is surpassed only by his generosity and philanthropy. The Town is most fortunate and appreciative to have had Mr. Bero as a neighbor.

• **Little League Baseball 2007-08 Season/Establishment of Softball Team**

Councilperson Castricone reported that he met last Thursday night with the Little League committee to prepare for the upcoming season. This year, they will try to establish a softball team as part of the Little League. Everyone is looking forward to another successful year. Notification of sign-up dates will be made in the near future.

2. Resolution to Adopt Local Law #3 of 2007, Entitled "Sign Law Amendments"

Supervisor Dolan offered the following resolutions and moved their adopting; Councilperson Spivak seconded their adoption.

WHEREAS, Introductory Local Law #3 of 2007 entitled, "Sign Law Amendments," was introduced before the Town Board of the Town of Tuxedo on June 25, 2007 and, upon notice duly published and posted, public hearings were held on July 9, 2007 and August 13, 2007, before the Town Board; and

WHEREAS, public discussion was heard at such hearing concerning the merits and environmental significance of said introductory local law; and

WHEREAS, in response to comments received from its constituency, it was the consensus of the Town Board to revise Introductory Local Law #3 by replacing Subsection 79-4(B)(ii) to read in its entirety as follows:

“(ii) In the case of non-plaza businesses, each business is permitted one 8-square-foot sign in wood, resin or metal hung perpendicularly to the building over the doorway or flat over the entrance. Such sign, measuring up to 8 feet long by 1 foot high, may be placed parallel on a fascia panel having a minimum height of 6 inches and may, if deemed necessary by the ARB for headroom requirements above a doorway, extend above the lowest edge of the roof by no more than 6 inches. One free-standing additional sign having a maximum size of 54 square feet, with no single dimension exceeding 10 feet, mounted on 4-inch-diameter wooden posts or resin columns not exceeding 8 feet in height, is permitted. Such sign may be double-sided when situated perpendicularly to a roadway. Under certain circumstances, at the discretion of the ARB, the ARB may approve one or two additional freestanding signs per business

**AGENDA ITEMS:
(Continued)**

**Town Supervisor/
Town Board Update
(Continued)**

*Visit by Congressman
John Hall*

Award of Grant Funds

*Donations by
Mr. Robert Bero*

*Little League
Baseball 2007-08
Season/Establishment
of Softball Tea*

**Resolution
to Adopt Local Law
#3 of 2007, Entitled
"Sign Law
Amendments"**

AGENDA ITEMS (Continued):

2. Resolution to Adopt Local Law #3 of 2007, Entitled “Sign Law Amendments” (Continued)

not exceeding the maximum size specified hereinabove. All signs and lettering must be approved by the ARB.”

NOW, THEREFORE, BE IT RESOLVED, that the adoption of Introductory Local Law #3 of 2007 is hereby determined not to have a significant effect on the environment; and be it

FURTHER RESOLVED, that Introductory Local Law #3 of 2007 of the Town of Tuxedo be and hereby is adopted, as amended as specified above, as Local Law #3 of 2007 of the Town of Tuxedo on August 13, 2007.

Adopted: AYES: [4] NAYS: [0] ABSENTEES: [1]

3. Resolution to Designate Store Road as a One-Way Street

RESOLVED, motion made by Supervisor Dolan, seconded by Councilperson Siegel, that, effective immediately, pursuant to the provisions of New York State Town Law and §1660(16) of New York State Vehicle and Traffic law, the Town Board hereby designates Store Road as a one-way street in a northerly direction for its entirety, and the Town Board hereby directs the Town Clerk to update § 95-37, Schedule II: One Way Streets, in the Tuxedo Town Code and to provide same to the Town Police Department for enforcement purposes.

Adopted: AYES: [4] NAYS: [0] ABSENTEES: [1]

4. Resolution to Approve Amendment to Special Permit Issued to Tuxedo Reserve Development

Supervisor Dolan offered the following resolution and moved its adoption; Councilperson Castricone seconded its adoption.

WHEREAS, on November 15, 2004, the Town of Tuxedo Town Board (“Town Board”) granted special permit approval to R.H. Tuxedo Development, L.P. to permit construction (subject to conditions and other requisite approvals) of a Planned Integrated Development (“PID”) known as Tuxedo Reserve; and

WHEREAS, the special permit recites that Tuxedo Reserve will be sited on 2,376 acres located primarily in the Town of Tuxedo, Orange County, New York; and

WHEREAS, on May 31, 2007, Tuxedo Reserve Owner, LLC (hereinafter the “Applicant”), successor in interest to R.H. Tuxedo Development, L.P., submitted an application to the Town Board to amend the previously-granted special permit; and

WHEREAS, the application specifically requests that the approved area of the PID be increased by 4.78+/- acres from 2,376 acres to a total of 2,380.78+/- acres; and

WHEREAS, the source of the additional acreage proposed to be included in the PID, as indicated in the Applicant’s application, is (a) 1.6 +/- acres designated on the Town of Tuxedo Tax Maps as Section 14, Block 1, Lots 13.11 and 13.22 currently owned by the applicant and formerly owned by Raffaele and Teresa Mazzariello (hereinafter the “Mazzariello property”) and (b) 3.187+/- acres designated on the Town of Tuxedo Tax maps as Section 14, Block 1, Lot 9 currently owned by George S. Medynski and under contract to the Applicant (hereinafter the “Medynski property”); and

WHEREAS, the Mazzariello property abuts NYS Route 17 and adjoins lands already included in Tuxedo Reserve; and

**AGENDA ITEMS:
(Continued)**

**Resolution
to Adopt Local Law
#3 of 2007, Entitled
“Sign Law
Amendments”
(Continued)**

**Resolution
to Designate
Store Road as
One-Way Street**

**Resolution
to Approve
Amendment to
Special Permit Issued
to Tuxedo Reserve
Development**

**REGULAR BI-MONTHLY MEETING
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AGENDA ITEMS (Continued):

4. Resolution to Approve Amendment to Special Permit Issued to Tuxedo Reserve Development (Continued)

WHEREAS, the Medynski property is located between Tuxedo Reserve and NYS Route 17 in the area of the proposed Vernon Road; and

WHEREAS, the specific purpose for inclusion of the Mazzariello property into the PID is to improve and facilitate the access into Tuxedo Reserve and reduce the amount of cutting and filling along the portion of Quail Road that is near NYS Route 17; and

WHEREAS, the specific purpose for inclusion of the Medynski property into the PID is to enable the proposed Vernon Road to be located farther from identified vernal pools that are used as breeding ponds for marbled salamanders and to further facilitate a better design and location of homes along Vernon Road; and

WHEREAS, the inclusion of the additional acreage is exclusively limited to the specific purposes described above and in no way involves any authorization or right to build any additional dwelling units or create any additional lots or otherwise alter or change the requirements of the previously-issued special permit; and

WHEREAS, on or about June 11, 2007, the application was referred to the Town of Tuxedo Planning Board ("Planning Board") for review and report; and

WHEREAS, on or about July 10, 2007, the Planning Board issued its report to the Town Board recommending, subject to conditions, that the amendment to the special permit requested by the applicant be granted; and

WHEREAS, a copy of the Planning Board's report is attached hereto and incorporated herein as if fully set forth at this point; and

WHEREAS, on or about June 6, 2007, the application was received by the Orange County Department of Planning for review pursuant to Sections 239 l and m of the General Municipal Law; and

WHEREAS, on or about July 23, 2007, the Orange County Department of Planning issued its approval of the proposed application; and

WHEREAS, the Orange County Department of Planning's approval is attached hereto and incorporated herein as if fully set forth at this point; and

WHEREAS, on July 23, 2007, the Town Board held a duly-noticed public hearing on the application, at which time members of the public were afforded an opportunity to comment on the application; and

WHEREAS, after receipt of public comment, the public hearing was closed on July 23 2007; and

WHEREAS, the Town Board has thoroughly considered the environmental effects of the application both with respect to the previously-issued SEQRA Lead Agency Findings Statement and any potential adverse environmental impacts that this specific application might induce; and

WHEREAS, the Town Board and its consultants have thoroughly reviewed the entire application and supporting information and determined that it is in a form for approval subject to the incorporation of appropriate conditions and safeguards;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Tuxedo Town Board hereby makes the following determinations and findings with respect to the application:

**AGENDA ITEMS:
(Continued)**

**Resolution
to Approve
Amendment to
Special Permit Issued
to Tuxedo Reserve
Development
(Continued)**

AGENDA ITEMS (Continued):

4. Resolution to Approve Amendment to Special Permit Issued to Tuxedo Reserve Development (Continued)

1. The SEQRA Lead Agency Findings Statement, adopted and issued by the Town Board on November 15, 2004, is hereby amended to reflect that the size of the PID is increased by 4.78+/- acres from 2,376 acres to a total of 2,380.78+/- acres. The Board specifically finds that the increased acreage will not result in a significant potential adverse environmental impact, nor does it constitute a project change or change of circumstances relating to a potential significant adverse environmental impact that would necessitate reopening of the previously-conducted environmental review. The application does not involve any increase in residential lots or units, nor does it in any way affect impact generation factors (i.e. traffic, fiscal impacts, etc.) previously considered in the EIS for Tuxedo Reserve. The Board finds that adding the additional acreage will further improve the environmental effects of the project and decrease the risk of adverse impacts by allowing the location of improvements further away from sensitive environmental resources such as the identified vernal pools and reducing the overall amount of cut and fill for road construction.

2. The Preliminary Plan attached to the special permit is hereby deemed amended to include the additional acreage requested by the application.

3. The special permit amendment requested by the Applicant is hereby approved subject to each of the conditions recommended in the July 10, 2007 report of the Planning Board, which conditions are hereby adopted by the Town Board and incorporated by reference as if fully set forth at this point. The Town Board finds that nothing with respect to this application changes or otherwise alters the specific special permit findings made by the Town Board under the special permit issued on November 15, 2004, and such findings remain applicable with respect to this application.

4. Except as may be specifically modified herein, nothing changes or alters, in any way, any determination, finding or condition contained in the special permit for Tuxedo Reserve issued on November 15, 2004.

On a roll call vote as follows, this Resolution approving an amendment to the November 15, 2004 special permit is adopted:

Supervisor Dolan	Aye <u>✓</u>	Nay _____	Absent _____
Councilperson Castricone	Aye <u>✓</u>	Nay _____	Absent _____
Councilperson Rauch	Aye _____	Nay _____	Absent <u>✓</u>
Councilperson Siegel	Aye <u>✓</u>	Nay _____	Absent _____
Councilperson Spivak	Aye <u>✓</u>	Nay _____	Absent _____

5. Resolution Authorizing Reduction of Performance Bond for Sterling Mine Court Retail/Office Plaza

RESOLVED, motion made by Supervisor Dolan, seconded by Councilperson Spivak, that, contingent upon the adoption of a resolution by the Town Planning Board at its meeting to be held on August 14, 2007 approving the below-described bond reduction, and pursuant to the recommendation made by the Town Engineer by memorandum dated July 31, 2007, and subject to the review and approval of the Town Counsel, the Town Board hereby approves the reduction of the Performance Bond for public improvements for the Sterling Mine Court retail/office plaza construction project from the original amount of \$569,700.00 to \$399,650.00, representing a \$170,050.00 decrease.

Adopted: AYES: [4] NAYS: [0] ABSENTEES: [1]

**AGENDA ITEMS:
(Continued)**

**Resolution
to Approve
Amendment to
Special Permit Issued
to Tuxedo Reserve
Development
(Continued)**

**Resolution
Authorizing Reduction
of Performance Bond
for Sterling Mine
Court Retail/Office
Plaza**

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AGENDA ITEMS (Continued):

6. Resolution to Declare Sterling Mine Estates Housing Subdivision Performance Bond in Default

RESOLVED, motion made by Supervisor Dolan, seconded by Councilperson Spivak, that the Town Board hereby authorizes the Town Clerk to send notice to Messrs. Alvin Blumenfeld, Alan Ritter and Joseph Amorosso, developers of the Sterling Mine Estates subdivision, requesting a status report of the improvements in such subdivision on or by September 10, 2007 and advising that the Town Board may declare a default if it is not satisfied with the status and outlook thereof.

Adopted: AYES: [4] NAYS: [0] ABSENTEES: [1]

7. Resolution to Appoint Highway Department Motor Equipment Operator

RESOLVED, motion made by Supervisor Dolan, seconded by Councilperson Siegel, that, on the recommendation of the Highway Superintendent, the Town Board hereby appoints Joseph P. Tripoli, Jr. as Motor Equipment Operator effective as of July 30, 2007, in accordance with the current collective bargaining agreement between the Town and the Highway Department, at a salary rate of \$24.87 per hour, with no prior service with the Town of Tuxedo being credited to this employee.

Adopted: AYES: [4] NAYS: [0] ABSENTEES: [1]

8. Resolution to Appoint Provident Bank as an Additional Official Depository for the Town of Tuxedo

RESOLVED, motion made by Supervisor Dolan, seconded by Councilperson Spivak, that the Town Board hereby appoints Provident Municipal Bank ("Provident") as an official depository for the Town of Tuxedo and, subject to the review and approval of Town Counsel, hereby authorizes Town Supervisor Peter M. Dolan and any other appropriate officers of the Town, to execute the Third Party Custody Agreement, Public Entity Resolutions and Signature Cards to effectuate such appointment, such documentation having been provided by Provident and filed in the Town Clerk's office.

Adopted: AYES: [4] NAYS: [0] ABSENTEES: [1]

OTHER BUSINESS:

Resolution Approving Peddling License

RESOLVED, motion made by Supervisor Dolan, seconded by Councilperson, that the Town Board hereby approves an application for a peddling, hawking and soliciting license by T.O.P. Marketing Group, Inc. to conduct a door-to-door energy supply marketing campaign on behalf of MX Energy company of Houston, Texas, in the Town of Tuxedo, commencing on August 20, 2007 and ending on November 20, 2007, between the hours of 9:00 a.m. and 6:00 p.m., contingent on successful background checks and conditioned on the following restriction: No placards shall be hung from doors or otherwise placed on premises of residents: The applicant shall abide by the Noise Local Law and all other laws of the Town of Tuxedo.

Adopted: AYES: [4] NAYS: [0] ABSENTEES: [1]

There were no other items of Other Business to come before the Board.

PUBLIC COMMENTS:

Supervisor Dolan asked for comments from the public.

Excessive Street Lighting - Hamilton Estates

Andrew Rogers commented that the amount of street lights in Hamilton Estates seems excessive. Supervisor Dolan will have a street light inventory completed to assess the street lighting conditions throughout the Town.

Supervisor Dolan asked for any further comments from the public. There were none.

**AGENDA ITEMS:
(Continued)**

**Resolution
to Declare Sterling
Mine Estates Housing
Subdivision
Performance Bond in
Default**

**Resolution
to Appoint Highway
Department Motor
Equipment Operator**

**Resolution
to Appoint Provident
Bank as an Additional
Official Depository for
the Town of Tuxedo**

OTHER BUSINESS

**Resolution
Approving Peddling
License**

**PUBLIC
COMMENTS**

**Excessive Street
Lighting - Hamilton
Estates**

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**BUDGET
MODIFICATIONS**

BUDGET MODIFICATIONS

Supervisor Dolan offered the following resolution and moved its adoption; Councilperson Spivak seconded its adoption.

WHEREAS, the Town Board is advised that certain accounts of the Town are or will be projecting deficits;

NOW, THEREFORE, BE IT RESOLVED, that the following budget modifications are hereby authorized:

GENERAL FUND:

<u>Transfer From:</u>	<u>Transfer To:</u>	<u>Amount:</u>
A1990.4 (Contingency)	A1220.4 (Supervisor, Contractual)	\$4,000.00
A1990.4 (Contingency)	A1330.4 (Tax Collector, Contractual)	\$1,000.00
A1990.4 (Contingency)	A1410.4 (Town Clerk, Contractual)	\$5,000.00
A1990.4 (Contingency)	A8189.4 (Other Sanitation, Contractual)	\$7,072.00
A1990.4 (Contingency)	A9055.8 (Disability Insurance)	\$1,000.00

Increase the following Revenue Accounts accordingly:

A1265 (Attorney Fees)	\$ 28,075.00
A1560 (Safety Inspections)	\$179,594.00
A2705 (Gifts & Donations)	\$ 25,000.00

Appropriate as follows:

A1420.4 (Attorney, Contractual)	\$ 28,075.00	
A1440.4 (Engineer, Contractual)	\$179,594.00	
A1620.2 (Buildings, Capital Expenses)		\$ 25,000.00

PART TOWN FUND:

<u>Transfer From:</u>	<u>Transfer To:</u>	<u>Amount:</u>
B1990.4 (Contingency)	B8010.4 (Zoning, Contractual)	\$1,500.00

HIGHWAY FUND – TOWN WIDE:

Decrease Revenue Account DA2389 (Misc. Services)	\$45,000.00	
Increase Revenue Account DA2302 (Snow Removal, Other Govts)		\$45,000.00
Increase Revenue Account DA3089 (State Aid, Other General Govt)		\$60,000.00
Increase Appropriation Account DA5130.2 (Machinery, Equipment)		\$60,000.00
Increase Revenue Account DA2665 (Sale of Equipment)		\$ 4,803.15
Increase Appropriation Account DA5130.4 (Machinery, Contractual)		\$60,000.00

HIGHWAY FUND – PART TOWN:

<u>Transfer From:</u>	<u>Transfer To:</u>	<u>Amount:</u>
DB5110.1 (Gen. Repairs, Personnel)	DB5110.1 (Gen. Repairs, Personnel)	\$17,029

TRUST AND AGENCY:

Authorize the transfer of interest monies in the amount of \$4,567.17 held under account 0031T to the General Fund and apply to revenue account A2705 (Gifts and Donations)

Adopted: AYES: [4] NAYS: [0] ABSENTEES: [1]

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VOUCHERS

VOUCHERS

RESOLVED, motion made by Supervisor Dolan, seconded by Councilperson Spivak, that the following vouchers, having been audited by the Town Board, are hereby approved for payment:

Claim numbers 1,054 through 1,165
General Fund Claim totaling \$128,518.59
Part-Town Fund Claim totaling \$98,835.84
Highway Town Wide Claim totaling \$44,717.24
Highway Part-Town Claim totaling \$794.60
Tuxedo Refuse District Claim totaling \$27,612.00
Hamlet Sewer District Claim totaling \$2,644.94
Total abstract amount: \$303,028.21

Adopted: AYES: [4] NAYS: [0] ABSENTEES: [1]

Authorization for Payment was thereafter signed by Deputy Supervisor Spivak, Councilperson Siegel and Councilperson Rauch.

ADJOURNMENT

ADJOURNMENT

RESOLVED, motion made by Supervisor Dolan, seconded by Councilperson Siegel, to adjourn the meeting at 9:10 p.m.

Adopted: AYES: [4] NAYS: [0] ABSENTEES: [1]

Meeting adjourned.

Respectfully submitted,

Elaine M. Laurent
Town Clerk