

The Regular Bi-Monthly Meeting of the Town Board of the Town of Tuxedo held on Monday, August 24, 2009 at the Tuxedo Town Hall, One Temple Drive, Tuxedo, New York, was called to order by Supervisor Peter M. Dolan at 7:37 p.m.

Town Board Members Present:	Mr. Peter M. Dolan	Supervisor
	Mr. Thomas Darling	Councilperson
	Mr. Gary Phelps	Councilperson
	Ms. Lisa Spivak	Councilperson

Town Board Members Absent:	Mr. Daniel Castricone	Councilperson
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Other Town Officials Present: Larry Wolinsky, Esq., Town Counsel; Ms. Bonnie Franson, Town Planning Consultant; Mr. Jeffrey Marsden, Town Engineer; Mr. John P. Norton, Police Sergeant; Mr. Edward Pfizenmaier, Acting Superintendent of Highways; Ms. Dale Mottola, Architectural Review Board Member; Messrs. Frank Peverly and Clifford Loncar, Zoning Board of Appeals Chairman and Member, respectively; Mr. David Maikisch, Building Inspector; and Mrs. Elaine M. Laurent, Town Clerk.

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

**MINUTES**

There were no Minutes submitted for review at this meeting.

**MONTHLY REPORTS**

Supervisor Dolan acknowledged receipt of the Monthly Reports for July, 2009 from the Dog Control Officer, the Justice Court (2), the Police Department and the Town Clerk.

**PUBLIC COMMENTS ON AGENDA ITEMS**

Supervisor Dolan asked for public comments on agenda items.

Regarding Item #4, Ms. Dale Mottola asked how the new sign law will affect applications currently before the Architectural Review Board. Mr. Wolinsky replied that those applicants will have the choice of having their applications considered under the existing law or, if they would prefer, withdrawing their applications and waiting until the new law is adopted.

The following individuals commented on Item #3, Tuxedo Reserve DSEIS Completeness:

Mr. Jim Hays, Deputy Mayor of the Village of Tuxedo Park, advised that, after a thorough review of the DSEIS, the Village engineers, Westin & Simpson, stated that the area of the project that is in the Tuxedo Lake watershed is actually larger than depicted in the application. Mr. Hays will provide a sketch map and pertinent material to the Town Engineer for further review of this matter.

Mr. Hays also indicated that the plans show several catch basins that appear to be discharging into the Tuxedo Lake Watershed rather than out of the watershed. He emphasized that it is vital that water must not be drawn out of the watershed.

Mrs. Mary Graetzer of Tuxedo Park requested that the Town Board and the Planning Board review the DSEIS and give comments as to its completeness.

Mr. Kenneth R. Magar, Sr., a member of the Tuxedo Board of Fire Commissioners, advised that the Commissioners have issues which they had wished to discuss with representatives of the project at a meeting scheduled this past June. Unfortunately, no one from Tuxedo Reserve appeared at the meeting. Another meeting will be scheduled in the near future.

**MINUTES**

**MONTHLY  
REPORTS**

**PUBLIC COMMENTS  
ON AGENDA ITEMS**

**Amendments to Sign  
Law**

**Tuxedo Reserve DSEIS  
Completeness**

**PUBLIC COMMENTS ON AGENDA ITEMS (Continued)**

On Behalf of TARGET Tuxedo, Mr. Steve Gross of Hudson Valley Environmental Consulting commented that, although he was gratified to see a cut-and-fill map showing 50 retaining walls and 25 rock cuts included within the DSEIS, the document was lacking any discussion on this subject.

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

**AGENDA ITEMS:**

**1. Town Supervisor/Town Board Update**

• **Water Quality Issues in Maplebrook**

Supervisor Dolan advised that he has had two conference calls with Michael Pointing, Vice President and General Manager of United Water New York, to establish measures to correct poor water quality conditions in Maplebrook. The water has high levels of manganese and iron, and the turbidity readings are at 3 units rather than the recommend 1 unit, according to Orange County Health Department tests. Mr. Pointing reported that United Water will treat the water with polyphosphates that react with dissolved iron and manganese by trapping them in a complex molecule that is soluble in water. In addition, an improved filtration system will be installed. Mr. Pointing acknowledged that these are temporary solutions, and United Water will continue to work on the problem, including installation of a superior filtration system and a new water tank.

• **New York State Quadricentennial**

Supervisor Dolan introduced Orange County Legislator Noel Spencer, who presented the Town with a flag commemorating New York's quadricentennial.

**2. Tabled Presentation by Allstate on Voluntary Employee Supplemental Health & Disability Insurance**

This item was tabled until a future meeting date to be announced.

**3. Discussion of Tuxedo Reserve DSEIS Completeness**

Mr. Wolinsky outlined the process of considering the DSEIS complete for public review, noting that the Town Planner and Town Engineer have compiled a list of items which must be addressed before the document can be declared complete.

The Town Planner and the Town Engineer summarized their findings contained in their respective memoranda, copies of which are attached to these Minutes.

Mr. Peter Regna of Tuxedo Park encouraged the Town Board to invoke a thorough SEIS assessment of potential asphaltic infiltration from Tuxedo Reserve to the Tuxedo Lake Reservoir. He pointed out that the water supply is vulnerable and sensitive, and he feels that this subject is not adequately addressed in the . In addition, he stressed the need for a very thorough fiscal analysis, stating that the sales pricing for housing contained in the DSEIS is unrealistic and could result in the development becoming tax negative for the Town.

Mr. Steven Gross, an environmental consultant for TARGET, commented on several items which he feels need further review before the DSEIS can be considered complete, including housing market pricing, inclusion of retaining walls in calculations of impervious surfaces within the project and a study of endangered or threatened species within the project area.

Mr. Ulrich Pendl of Tuxedo Park provided comments in written form, a copy of which is attached to these Minutes. Supervisor Dolan read the comments aloud.

**PUBLIC COMMENTS  
ON AGENDA ITEMS  
(Continued)**

**AGENDA ITEMS:  
Town Supervisor/  
Town Board Update**

***Water Quality Issues in  
Maplebrook***

***New York State  
Quadricentennial***

***Tabled Presentation on  
Voluntary Employee  
Supplemental Health &  
Disability Insurance***

***Discussion of Tuxedo  
Reserve DSEIS  
Completeness***

**AGENDA ITEMS (Continued):**

**4. Resolution Introducing Local Law Entitled, "Signs"**

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

**BE IT RESOLVED**, that an Introductory Local Law, entitled "Signs," be and it hereby is introduced by Supervisor Dolan before the Town Board of the Town of Tuxedo, County of Orange, State of New York; and be it

**FURTHER RESOLVED** that copies of the aforesaid proposed local law be laid upon the desk of each member of the Board; and be it

**FURTHER RESOLVED** that the Board hold a public hearing on said proposed local law at the Town Hall, One Temple Drive, in the Town of Tuxedo, New York at 7:30 p.m. on Monday, September 28, 2009; and be it

**FURTHER RESOLVED** that the Town Clerk publish or cause to be published a public notice in the official newspaper of the Town of Tuxedo of said public hearing at least ten (10) days prior thereto.

**Adopted:** AYES: [ 4 ] NAYS: [ 0 ] ABSENT: [ 1 ]

**5. Resolution Appointing Cindy Escobar and John W. Barton, Jr. as Part-Time Police Dispatchers**

**RESOLVED**, motion made by Supervisor Dolan, seconded by Councilperson Spivak, that the Town Board hereby appoints Cindy Escobar and John W. Barton, Jr. as Part-Time Police Dispatchers, effective as of August 3, 2009 and August 7, 2009, respectively, each at a salary rate of \$10.00 per hour during training, to be increased to \$12.00 per hour upon successful completion of training.

**Adopted:** AYES: [ 4 ] NAYS: [ 0 ] ABSENT: [ 1 ]

**6. Resolution Granting Special Sign Permits to Masker Orchards for Directional Signs**

**RESOLVED**, motion made by Supervisor Dolan, seconded by Councilperson Phelps, that the Town Board hereby issues a special sign permit to Masker Orchards, 45 Ball Road, Warwick, New York, for a maximum of six (6) directional signs measuring 14" x 22" to be placed at the below listed locations for a period commencing on August 28, 2009 and ending no later than November 9, 2009, at which time all signs must be removed:

Route 17 North, near "Welcome to Tuxedo" Sign  
Route 17 North, near Route 17A Ramp  
Route 17A Ramp, top and bottom  
Route 17A West, near Commuter Lot  
Route 17A West, near Benjamin Meadow Road

**AND BE IT FURTHER RESOLVED**, that the Town Board hereby issues an additional special sign permit to Masker Orchards for a maximum of three (3) alternate route directional signs measuring 14" x 22", to be placed at the below-listed locations for a period commencing on September 11, 2009 and ending no later than September 28, 2009, at which time all signs must be removed:

Route 17A West, near Commuter Lot  
Route 17 South at Traffic Light on Route 17A Ramp  
Route 17 North at border of Tuxedo and Monroe

**AND BE IT FURTHER RESOLVED**, that the Town Board hereby issues an additional special sign permit to Masker Orchards for a maximum of two (2) directional signs measuring 48" x 48", to be

**AGENDA ITEMS:  
(Continued)**

**Resolution Introducing  
Local Law Entitled,  
"Signs"**

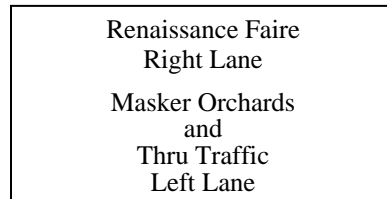
**Resolution  
Appointing  
Cindy Escobar and  
John W. Barton, Jr. as  
Part-Time Police  
Dispatchers**

**Resolution  
Granting Special Sign  
Permits to Masker  
Orchards for  
Directional Signs**

**AGENDA ITEMS (Continued):**

**6. Resolution to Grant Special Sign Permits to Masker Orchards for Directional Signs (Continued)**

placed on weekends only (i.e., Friday evening through Monday morning) at intervals along Route 17A approaching the Renaissance Faire site, in the form as depicted below, for a period commencing on September 12, 2009 and ending on September 28, 2009, at which time all signs must be permanently removed;



**AND BE IT FURTHER RESOLVED**, that the applicant is hereby directed to contact the Town Building Department to complete all requisite documentation, consisting of three sign permits at a charge of \$25 each, or a total of \$75.00, and any accompanying material as required by the Building Department.

**Adopted:** AYES: [ 4 ] NAYS: [ 0 ] ABSENT: [ 1 ]

**7. Resolution Denying Release of Millennium Pipeline Bond and to Demand Landscape Restoration at Indian Kill Reservoir**

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

**WHEREAS**, during construction of its pipeline, Millennium Pipeline Company, LLC, as Principal, posted Restoration Bond No. 105105310 dated May 1, 2008 in the amount of \$25,000.00 with the Town of Tuxedo, as Obligee; and

**WHEREAS**, such bond states the following obligation on the part of Millennium Pipeline Company, LLC: “(T)he Principal shall faithfully perform all duties and restore any damage to the landscape caused by the Principal’s construction activities”; and

**WHEREAS**, by letter dated July 20, 2009, Millennium Pipeline Company, LLC has requested that the Town release such bond; and

**WHEREAS**, upon inspection, officials of the Town of Tuxedo have observed no landscape restoration whatsoever;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board hereby authorizes the Town Clerk to notify Millennium Pipeline Company, LLC in writing that the Town will declare it in default of its obligations under Restoration Bond No. 105105310 and intends to take all necessary and advisable actions in consequence thereof unless the condition is remedied within sixty (60) days of receipt of such notification by Millennium Pipeline Company, LLC.

**Adopted:** AYES: [ 4 ] NAYS: [ 0 ] ABSENT: [ 1 ]

**8. Resolution Authorizing Signing of 2009 Orange County Planning Grant Contract**

**RESOLVED**, motion made by Supervisor Dolan, seconded by Councilperson Phelps, that the Town Board does hereby authorize the Town Supervisor to execute the 2009 County of Orange Grant Agreement and Contract for Small Community Planning Grants and does further hereby authorize submission of the application and acceptance of the funds thereunder.

**Adopted:** AYES: [ 4 ] NAYS: [ 0 ] ABSENT: [ 1 ]

**AGENDA ITEMS:  
(Continued)**

**Resolution  
Granting Special Sign  
Permits to Masker  
Orchards for  
Directional Signs  
(Continued)**

**Resolution  
Denying Release of  
Millennium Pipeline  
Bond and to Demand  
Landscape Restoration  
at Indian Kill  
Reservoir**

**Resolution  
Authorizing Signing of  
2009 Orange County  
Planning Grant  
Contract**

**AGENDA ITEMS (Continued):**

**9. Resolution Authorizing Settlement of Tax Certiorari Claims of 1 Park Avenue Tuxedo LLC**

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

**WHEREAS**, 1 Park Avenue Tuxedo LLC has commenced tax certiorari proceedings against the Town of Tuxedo in the Supreme Court of the State of New York, County of Orange, for the 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09 and 2009-10 tax assessment years, bearing Orange County Index Numbers 4668/03, 4582/04, 4719/05, 5494/06, 6175/07, 096/08 and 7619/09; and

**WHEREAS**, it appears from the recommendation of Gregory G. Stevens, Town Assessor, and John H. Thomas, Jr., Esq. of Jacobowitz and Gubits, counsel for the Town in the aforesaid proceedings, upon a thorough investigation of the claims, that further proceedings and litigation by the Town would involve considerable expense with the attendant uncertainty of the outcome and that the settlement of the above matter, as more fully set forth below, is reasonable and in the best interests of the Town; and

**WHEREAS**, 1 Park Avenue Tuxedo LLC are willing to settle these proceedings, without interest, cost or disbursement, in the following manner:

1. That the proceeding for the 2003-04 tax year be compromised and settled by the assessment being reduced from \$45,000 to a total amount of \$25,207 for tax map no. 11-2-8;
2. That the proceeding for the 2004-05 tax year be compromised and settled by the assessment being reduced from \$45,000 to a total amount of \$25,056 for tax map no. 11-2-8;
3. That the proceeding for the 2005-06 tax year be compromised and settled by the assessment being reduced from \$45,000 to a total amount of \$25,135 for tax map no. 11-2-8;
4. That the proceeding for the 2006-07 tax year be compromised and settled by the assessment being confirmed at an assessment of \$35,000 for tax map no. 11-2-8;
5. That the proceeding for the 2007-08 tax year be compromised and settled by the assessment being confirmed at an assessment of \$35,000 for tax map no. 11-2-8;
6. That the proceeding for the 2008-09 tax year be compromised and settled by the assessment being confirmed at an assessment of \$35,000 for tax map no. 11-2-8;
7. That the proceeding for the 2009-10 tax year be compromised and settled by the assessment being reduced from \$35,000 to a total amount of \$29,725 for tax map no. 11-2-8;
8. That the petitioners' real property taxes for the 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09 and 2009-10 School taxes, and for the 2004, 2005, 2006 and 2010 State, County and Town taxes, be adjusted accordingly, and that petitioners be reimbursed for any overpayment without interest, if paid within sixty (60) days of notice of entry, or be credited with the corresponding decrease in taxes, as the case may be.

**NOW, THEREFORE, BE IT RESOLVED**, that the proposed settlement as set forth and described above is hereby accepted pursuant to §68 of the Town Law, and be it

**FURTHER RESOLVED**, that Gregory G. Stevens and John H. Thomas, Jr., Esq., on behalf of Jacobowitz and Gubits, LLP, be and they hereby are designated as the officers of the Town who shall apply for such approval pursuant to the aforesaid section and law.

**Adopted:** AYES: [ 4 ] NAYS: [ 0 ] ABSENT: [ 1 ]

**AGENDA ITEMS  
(Continued):**

**Resolution  
Authorizing Settlement  
of Tax Certiorari  
Claims of 1 Park  
Avenue Tuxedo LLC**

REGULAR BI-MONTHLY MEETING  
TOWN OF TUXEDO TOWN BOARD  
AUGUST 24, 2009

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**OTHER BUSINESS:**

**Resolution Ratifying Award of Bid for Sewer Jet**

**RESOLVED**, motion made by Supervisor Dolan, seconded by Councilperson Spivak, that the Town Board does hereby ratify its resolution dated August 3, 2009 awarding to Timmerman Motors a bid for a truck and chassis-mounted sewer jet and catch-basin cleaner in the total amount of \$253,506.00 and authorizing the issuance of \$255,000.00 serial bonds to finance such appropriation.

**Adopted:** AYES: [ 4 ] NAYS: [ 0 ] ABSENT: [ 1 ]

**Resolution Promoting Joseph Mammato from MEO to HEO**

**RESOLVED**, motion made by Supervisor Dolan, seconded by Councilperson Phelps, that that Town Board hereby appoints Joseph Mammato as Heavy Equipment Operator effective as of July 25, 2009, at a salary rate of \$28.07 per hour.

**Adopted:** AYES: [ 4 ] NAYS: [ 0 ] ABSENT: [ 1 ]

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

**PUBLIC COMMENTS:**

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

**BUDGET MODIFICATIONS:**

There were no budget modifications.

**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 1,059 through 1,149  
General Fund Claim totaling \$78,334.21  
Part-Town Fund Claim totaling \$23,746.96  
Highway Town Wide Claim totaling \$6,840.93  
Highway Part-Town Claim totaling \$83,467.96  
Tuxedo Refuse District Claim totaling \$31,884.96  
Hamlet Sewer District Claim totaling \$3,179.35  
Total abstract amount: \$227,454.37

**Adopted:** AYES: [ 4 ] NAYS: [ 0 ] ABSENT: [ 1 ]

Authorization for Payment was thereafter signed by Councilpersons Darling, Spivak and Phelps and Supervisor Dolan.

**ADJOURNMENT**

**RESOLVED**, motion made by Supervisor Dolan, seconded by Councilperson Spivak, to adjourn the meeting at 9:20 p.m.

**Adopted:** AYES: [ 4 ] NAYS: [ 0 ] ABSENT: [ 1 ]

Meeting adjourned.

Respectfully submitted,

Elaine M. Laurent  
Town Clerk

**OTHER BUSINESS:**

**Resolution  
Ratifying Award of Bid  
for Sewer Jet**

**Resolution  
Promoting  
Joseph Mammato  
from MEO to HEO**

**PUBLIC COMMENTS**

**BUDGET  
MODIFICATIONS:**

**VOUCHERS**

**ADJOURNMENT**