

Frequently Asked Questions (“FAQ”) Regarding the Combined Petition for Incorporation and Consolidation—post Public Hearing

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1. Can any changes be made to the proposed Consolidation Plan prior to the referendum?

Whatever elector-proposed Consolidation Plan (the “Plan”) was filed with the petition and requisite signatures is the plan that will be subject of the dual referendum. However, there is nothing in the statutes that prohibits having a “clarification” document that can explain some of the phrases included in the Plan. Our office is therefore submitting a clarification document (the “Clarification Document”) that is annexed to this FAQ. The Clarification Document serves as an interim measure to ensure that all comments and suggestions made at the public hearing regarding language changes to be included in the Final Consolidation Plan are reviewable by the electorate prior to the referendum vote. The Tuxedo Town Board fully intends to take the Clarification Document and integrate its provisions into the Final Consolidation Plan. The Final Consolidation Plan, which includes the changes requested by residents during the April 8th information session, will then become the document that governs how the town/village will function and govern itself.

2. Are absentee ballots permitted for the dual referendum?

New York State Attorney General Opinion 2006-01 states that absentee ballots are prohibited for incorporation referendums. This prohibition would likely be construed to also apply to consolidation referendums. Since this is a combined incorporation and consolidation referendum, absentee ballots cannot be used.

3. Is there another option that will accomplish the same goals as the Petition? For example, can't the Village of Tuxedo Park just annex the Town of Tuxedo?

While it is true that a coterminous village can be created in a couple of ways, the Petition's current format is the only option that works to both keep the Village of Tuxedo Park intact and unaffected. To reiterate, the current Petition will incorporate a new village in the area outside of the existing Village of Tuxedo Park, with the new village encompassing the same boundaries as the existing Town of Tuxedo. The Town of Tuxedo and new village will then be consolidated to create the Consolidated Town of Tuxedo, with no effect on the Village of Tuxedo Park.

As some residents have suggested, another method is for an existing village to use the procedures of Article 17 of the New York State General Municipal Law to annex the adjacent territory in its town lying outside the village. While this method is possible, representatives from the Village of Tuxedo Park have repeatedly stated that they do not wish to annex any Town territory. This is one of the reasons the Petition has been pursued in its current form.

Other methods include: (1) petitioning the State Legislature to adopt a special act creating the coterminous town-village or (2) submitting a public petition under Article Five of the New York State Town Law. To accomplish the first option, there must be two separate and already existing governments that wish to merge into a town-village. Those two governments will send a “home rule request” to the State Legislature to enact the bill. Because the new village does not exist yet, the Petition cannot follow this method. The second option, which calls for a division of an existing town into two towns (one of which would have the same boundaries as an existing village), would also not work. This is because the Town of Tuxedo does not wish to split into two entities, but rather keep its current boundaries.

The current form of the Petition is therefore the simplest option that accomplishes the Petition’s goals without any effect on the existing Village of Tuxedo Park.

4. *What changes will be made, if any, to the existing Town Board and Supervisor powers if the Petition is successful?*

No changes will be made to the respective powers of the existing Town Board and Supervisor if the Petition is successful. Although governmental entities are empowered to make such changes and document them within the Consolidation Plan, neither the Town of Tuxedo Town Board nor the Petitioners want any change to occur. Therefore, each Town Board member and the Town Supervisor will retain the same powers and abilities as they did prior to the Petition.

This position is also referenced in the annexed “Clarification Document.”

5. *I’ve heard talk of New York State passing legislation that would change the petition requirements to create a village in New York. Is this true? Would this affect the current Petition?*

It is true that Assemblyman Colin Schmitt has plans to introduce a bill that would raise the minimum population and percentage of petition signers needed in New York to create a village. Specifically, Schmitt wants to raise the population threshold to 2,000 from 500 and require that at least 51 percent of the area’s residents sign the village petition, rather than 20 percent.

Regardless of whether this proposed bill gains any legislative traction in the future, it would not affect a petition that has already been filed pursuant to the previous village incorporation procedures.