

**TOWN BOARD  
TOWN OF OSSINING  
BIRDSALL-FAGAN POLICE/COURT FACILITY  
86-88 SPRING STREET – OSSINING, NEW YORK  
JULY 10, 2007  
7:30 P.M.**

**Supervisor  
John Chervokas  
Councilmember's**

**Geoffrey Harter                      Northern Wilcher  
David Krieger                         Martha Dodge**

**I.      CALL TO ORDER**

The Regular Meeting of the Town Board of the Town of Ossining was held on July 10, 2007 in the Police/Court Facility, 86-88 Spring Street, Ossining, New York. The meeting was called to order at 7:30 P.M. by Supervisor John Chervokas. Members of the Board present were: Geoffrey Harter, Northern Wilcher, Martha Dodge and David Krieger. Also present were: Thomas Beirne, Town Attorney and Mary Ann Roberts, Town Clerk.

**II.      PUBLIC HEARING – In the matter of a proposed local law to repeal Chapter 102 (Flood Damage Prevention) of the Code of the Town of Ossining in its entirety and enact in its place a new Chapter 102 (Flood Damage Control).**

Supervisor Chervokas opened the public hearing at 7:31 p.m. and gave a brief background of the proposed law. This is being done at the direction of FEMA in order to update flood damage control which was last updated in 1991. On page 9 102.13 entitled fees will be re-written to refer to the Fee Schedule.

At 7:33 p.m., Councilmember Harter moved and it was seconded by Councilmember Wilcher that the public hearing be closed.

**Motion Carried: Unanimously**

**III.      CONTINUATION OF PUBLIC HEARING-**

**Cabaret License – Unique Affairs at  
Mansion Hill, 25 Studio Hill Road, Briarcliff Manor**

Ellen Kahan, Ganung Drive, stated that the music level was acceptable; however, with a couple of hundred people speaking outside negatively impacts the residents.

Lorraine Giametta, downloaded Resolution C and expressed her opinion that the applicant was not in compliance with number 2. There was a tent erected for 9 months and the use of the second floor for dining was not allowed. There was a noise complaint made in August of 2006 due to an acceptable level of noise and a violation was never issued. The Town is giving a renewal with no stipulations.

Attorney Beirne stated that the Building Inspector was satisfied with the ownership and the management's cooperation regarding outside and inside use.

Supervisor Chervokas stated that the restrictions are whatever is written in the ordinance. The times have changed from 9 a.m. to 12 noon.

Mrs. Giametta stated that the court stipulation – non-conforming use had activities continuing during the actual hearing with weddings inside and out. The Town is not in a position to deny. No tents should be allowed. Attorney Beirne stated that tents are protection from bad weather.

Mrs. Giametta stated that the second floor has been used for dining.

Attorney Beirne stated that the second floor does not meet public safety and should not be used for dining or any other public use.

Guy DeMeo, owner of Unique Affairs at Mansion Hill, responded that the ad on the website stating that they could accommodate 300 guests was done when they first took over the facility. The website is being re-designed at the present time and the 300 guest number will be deleted. Initially he did use the second floor as he had to honor contracts from the previous owner who never told him that the second floor was not to be used. The prior owner allowed his employees to sleep on the second floor. This is something he is in discussion with the owner at this time. The erection of a tent does not increase the number as it is still the same number of guests. The cocktail hour is outside under the tent and then the dinner reception moves inside. No summons or violations issued to this establishment. He has tried to fix up the site and provide a location for memorable events. Valet parking is provided to control parking and noise. The use of the second floor has stopped.

Mindy LaMarr, Haymont Terrace, questioned why the website still had 300 people listed on it. A reference was made to a letter dated May 12<sup>th</sup> during the lawsuit proceedings. Did the Town call any rebuttal witnesses. Attorney Beirne stated that he did cross examine some of the witnesses.

Mrs. LaMarr questioned Article 2 paragraphs A and B. The neighbors do not understand how the Town allowed this settlement. It should have been a compromise and should have been treated like a commercial zone.

Andre LeMarr, Haymont Terrace, questioned why tents were not part of the resolution? There is also no stipulation for valet parking. The residents in the neighborhood were never questioned regarding this establishment.

Supervisor Chervokas stated that the Judge did not feel that it was a good case. Attorney Beirne did a good job in defending the Town. You want to shut him down. The Town is trying to be fair to the residents as well as the proprietor of the establishment. Kindly do not do a review of the litigation.

Art Sullivan, Haymont Terrace, stated it was established in 1963 and music was not on the outside. The neighbors should have been contacted for their input. Safety is very important and you can have many different qualities of tents. The Town should entertain an ordinance regarding tents.

Duvall Cellai, Stormytown Road, stated that this location has been operating as a restaurant since approximately 1958 and was a Bordello prior to that.

Ellen Kahan, Ganung Drive, stated that the previous owner had wanted to expand but there was a protest forum held in order to air concerns.

Councilmember Harter questioned Town Attorney Beirne regarding the questions involving the 300 people on the website. The Town Board will amend the resolution to include a time frame for correcting the website.

Guy DeMeo, Unique Affairs on Mansion Hill, stated that the re-design of the website will be completed within two weeks.

Councilmember Dodge encouraged more dialogue between the neighbors and Mr. DeMeo.

At 8:25 p.m., Councilmember Harter moved and it was seconded by Councilmember Wilcher that the public hearing be closed.

**Motion Carried: Unanimously**

#### **IV. BOARD RESOLUTIONS**

##### **A. Approval of Minutes – June 26, 2007**

Councilmember Harter moved and it was seconded by Councilmember Krieger that the following resolution be approved:

Resolved, that the Town Board of the Town of Ossining hereby approves the Minutes of the June 26, 2007 Regular Meeting as presented.

Motion Carried: Unanimously

##### **B. Approval of Voucher Detail – July 10, 2007**

Councilmember Wilcher moved and it was seconded by Councilmember Krieger that the following resolution be approved:

Resolved, that the Town Board of the Town of Ossining hereby approves the Voucher Detail Report dated July 10, 2007 in the amount of \$97,350.89.

Motion Carried: Unanimously

##### **C. Approval of 2007 Cabaret License – Unique Affairs at Mansion Hill**

Councilmember Wilcher moved and it was seconded by Councilmember Harter that the following resolution be approved as amended:

Whereas, on June 26 and continuing on July 10, 2007, the Town Board has held a public hearing pursuant to Chapter 68 (Cabarets) of the Code of the Town of Ossining (“the Code”) upon the application of Unique Affairs of Mansion Hill, 25 Studio Hill Road, in the Unincorporated Area of the Town of Ossining, for renewal of its cabaret license (catering establishment) pursuant to Section 68-9 of the Code; and

Whereas, the Town Board has heard and considered the statements of all persons appearing at the said public hearing, including the applicant as well as persons residing in the vicinity of the Unique Affairs premises; and

Whereas, the Town Board has also considered written submissions, code provisions and relevant documents and reports on file with the Town of Ossining, including the following:

- (1) Chapter 68 (Cabarets) of the Code;
- (2) Chapter 130 (Noise) of the Code;
- (3) The Stipulation of Settlement dated February 10, 2005, entered in litigation known as Nayeem, et al. v. Town of Ossining, et al. (U.S. District Court for the Southern District of New York);
- (4) The application submitted by Unique Affairs;
- (5) Correspondence and telephone messages from Mr. and Mrs. Dennis Giametta, 14 Haymont Terrace;
- (6) Police Reports of April 8, 2006 (4), June 18, 2006, May 12, 2007 and June 16, 2007 (2);
- (7) Records and reports of the Building Inspector; and
- (8) Proceedings of the Zoning Board of Appeals; and
- (9) Copy of Unique Affairs website homepage

Whereas, the Town Board is ready to make its decision on the application; now therefore, be it

Resolved, that the Town Board finds as follows:

- (1) The applicant may have been in violation of Chapter 130 (Noise) of the Code on April 8, 2006, when a reading of 67.1 decibels was taken at a neighboring property line, but the applicant has taken affirmative steps to avoid such violations, including installing a noise monitor, having live music indoors only and keeping doors closed to the extent practicable, prohibiting the use of sub-woofers in musical performances, and not accepting bachelor parties or similar events that might involve unruly behavior, and all readings taken since April 2006 have reflected acceptable sound levels under the Code.
- (2) The applicant has complied with the requirements of Chapter 68 (Cabarets) of the Code applicable to a catering establishment and with the requirements of the Stipulation of Settlement entered in the above-referenced Federal Court litigation involving the premises.
- (3) The operation of the premises as a restaurant open to the public has ceased.
- (4) Neither the Building Department nor the Police Department reports violations of law or lack of cooperation on the part of the applicant.
- (5) The statements made in the application are true.
- (6) The premises comply with the laws, rules and regulations of the State of New York, the County of Westchester and the Town of Ossining.
- (7) The premises are operated as a catering establishment in a residential neighborhood based on the principle of “non-conforming use” and are in compliance with such requirements as are applicable to premises entitled to such designation.
- (8) Based on the aforesaid findings, it is hereby

Resolved, that the Town Board of the Town of Ossining hereby approves the application of Unique Affairs at Mansion Hill, 25 Studio Hill Road, in the Unincorporated Area of the Town of Ossining for a Cabaret License pursuant to Chapter 68 of the Code of the Town of Ossining, subject to the terms of the variance granted by the Zoning Board of Appeals, and subject to the following limitations and conditions: DJ up to 6 piece band, Tuesday through Thursday 12 noon to 11 p.m., Friday and Saturday 12 noon to midnight, Sunday 12 noon to 11 p.m., and Mondays (if required) 12 noon to 11 p.m., provided that all necessary approvals be obtained from the Building Department, and further provided that the applicants website and other marketing materials be amended within 30 days to reflect the correct legal occupancy of 180 persons and to eliminate any reference to use of the second floor for public accommodation; and be it further

Resolved, that in accordance with Local Law No. 6 of 2003, Unique Affairs at Mansion Hill shall not be required to comply with Sections 68-11, 68-13 and 68-125 (A)(1) of the Cabaret Law (Chapter 68 of the Town Code).

Motion Carried: Unanimously

#### **D. Temporary Agreement-Peekskill Nutrition**

Councilmember Harter moved and it was seconded by Councilmember Krieger that the following resolution be approved:

Resolved, that the Town Board of the Town of Ossining hereby authorizes the Supervisor to sign a temporary agreement with the City of Peekskill (Peekskill Nutrition), 4 Nelson Avenue, Peekskill, NY for the Town of Ossining Nutrition program from July 2, 2007-July 31, 2007 at a cost of \$3.50 per meal.

Motion Carried: Unanimously

**E. Senior Services-Supplemental Nutrition Assistance Program (SNAP)**

Councilmember Krieger move and it was seconded by Councilmember Wilcher that the following resolution be approved:

Resolved, that the Town Board of the Town of Ossining hereby authorizes the Supervisor to sign an agreement with Westchester County Department of Senior Programs and Services for the Supplemental Nutrition Assistance Program, effective April 1, 2007-March 31, 2008. The Town shall receive state funds not to exceed \$41,571.

Motion Carried: Unanimously

**F. Westchester County-Senior Citizens-Title III Grants**

Councilmember Wilcher moved and it was seconded by Councilmember Dodge that the following resolution be approved:

Resolved, that the Town Board of the Town of Ossining hereby authorizes the Supervisor to sign an agreement with Westchester County Department of Senior Programs and Services for Title III-B and Title III-C funding under the Older Americans Act for program year January 1, 2007-December 31, 2007. The Town shall receive funding in an amount not to exceed \$66,558.

Motion Carried: Unanimously

**G. Finance-Budget Adjustment-Capital Project # 2004-0027 (GIS/Infrastructure Implementation)**

Councilmember Harter moved and it was seconded by Councilmember Krieger that the following resolution be approved:

Whereas, the Town of Ossining received funding through New York State Records and Archives (SARA) grant for sewer infrastructure maps. The total amount received in funding to date is \$71,955. The Town Assessor originally requested \$79,950 and a Capital Project was established in that amount by resolution in October 2004, however, due to a delay from Westchester County in providing digital data, 10% of the funding was held back from New York State Records and Archives. As a result, the Capital Project must be amended to reflect actual revenues received;

Now, therefore be it Resolved, that the Town Board of the Town of Ossining hereby authorizes the revenue (037-0037-3097-0127) and expenditure (037-1355-0458-2127) accounts of Capital Project # 2004-0027 (GIS/Infrastructure Implementation) to be amended from \$79,950 to \$71,955 to reflect actual revenues received.

Motion Carried: Unanimously

**H. Finance-Budget Adjustment-Engel Park Sprayground**

Councilmember Harter moved and it was seconded by Councilmember Dodge that the following resolution be approved:

Resolved, that the Town Board of the Town of Ossining hereby authorizes the following budget adjustment be made to the 2007 budget:

<u>Transfer To G/L Account</u>	<u>Amount</u>	<u>Transfer From G/L Account</u>
Capital Project-Sprayground 37-7110-2140	\$16,688.75	Trust & Agency-Park Land Deposits 033-033-0037; and be it further

Resolved, that the project budget be increased from \$221,271.25 to \$237,960.00.

Motion Carried: Unanimously

**I. Renewal-Delta Dental Insurance Program**

Councilmember Dodge moved and it was seconded by Councilmember Krieger that the following resolution be approved:

Resolved, that the Town Board of the Town of Ossining hereby authorizes the Supervisor to renew the Town's dental insurance program with Delta Dental of New York for the period August 1, 2007-July 31, 2008 for Group# 1576-0001 at a rate of \$62.58 per month, per employee with no dependents and \$148.86 per month, per employee with family coverage; and be it further

Resolved, that Group # 1576-0002 (Police Officers) shall be at a rate of \$67.56 per month, per employee with no dependents and \$158.22 per month, per employee with family coverage.

Motion Carried: Unanimously

**J. Public Hearing – Illicit Storm Sewer Discharges and Connections**

Councilmember Harter moved and it was seconded by Councilmember Krieger that the following resolution be approved:

Resolved, that a Public Hearing be held at the Birdsall-Fagan Police/Court Facility, 86-88 Spring Street, Ossining, New York 10562, beginning at 7:30 p.m. on July 24, 2007, to consider a proposed local law to add a new Chapter 170 to the Town Code entitled Illicit Storm Sewer Discharges and Connections.

Motion Carried: Unanimously

**K. Appointment of Part-Time Police Officer**

Councilmember Krieger moved and it was seconded by Councilmember Wilcher that the following resolution be approved:

Resolved, that the Town Board of the Town of Ossining hereby appoints Nicholas C. Piqueras, as part-time police officer, effective July 12, 2007 at an hourly rate of \$32.96/hr., pending approval by the Commissioner of Westchester County Department of Human Resources. The probationary period shall be a minimum of twelve (12) weeks to a maximum of fifty-two (52) weeks.

Motion Carried: Unanimously

**L. Croton Point Sanitary Landfill Consortium – Special Counsel**

Councilmember Harter moved and it was seconded by Councilmember Dodge that the following resolution be approved:

Resolved, that the Supervisor be, and he is hereby, authorized and directed to pay the invoice of Periconi, LLC dated April 11, 2007 in the amount of \$2,550.00 for representation of the Town of Ossining in the Federal Court action known as Ametek, Inc., et al. v. Kraft Foods Inc, et. al. (also known as the "Croton Landfill Litigation").

Motion Carried: Unanimously

**V. MONTHLY REPORTS**

Councilmember Harter moved and it was seconded by Councilmember Dodge that the Town Clerk's Monthly Report for June, 2007 be received and filed.

Motion Carried: Unanimously

## **VI. VISITOR RECOGNITION**

**Bobby Williams, Spring Street, discussed the Federal Court decision on education and that the Ossining Plan is the solution. African Americans are no longer joining the military as they have in the past. They are being treated differently in the job market. They don't get first class treatment upon their return from military service.**

**Art Sullivan, Haymont Terrace, questioned whether the Town will be in compliance with work being done to the storm drains. Supervisor Chervokas responded that an engineering consultant was work on it and that the Town will be in compliance.**

## **VIII. ADJOURNMENT**

**At 8:55 P.M., Councilmember Krieger moved and it was seconded by Councilmember Harter that the meeting be adjourned.**

**Motion Carried: Unanimously**

**Approved:**

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Mary Ann Roberts, Town Clerk**