

TOWN OF OSSINING ANNEXATION FINDINGS, OBJECTIONS AND DETERMINATION

The following represents the findings, objections and the determination of the Town Board of the Town of Ossining in connection with the petition (“Petition”) requesting that the matter of the annexation of Election Districts 17 and 20 (“17/20”) by certain petitioners registered to vote and residing within Districts 17 & 20 be considered by the governing boards of both the Town of Ossining (“Town Board”) and the Village of Briarcliff Manor (“Village Board”) in accordance with the provisions of Article 7 of the New York General Municipal Law.

PRELIMINARY STATEMENT

This Town Board recognizes the right of residents of a municipality to seek annexation to another municipality **only if** such annexation would be in the best interest of the entire community that would be affected by such proposed annexation. After years of due diligence, including extensive analysis by the Town Board, input from the community, and meetings and exchange of information between the Boards of the Town of Ossining and Village of Briarcliff Manor, it is patently clear that annexation is NOT in the best interest of the community and therefore the annexation proposal should fail.

As detailed below, annexation would **not** improve existing services provided to the residents of 17/20 and in reality, annexation would have detrimental negative impacts on residents within 17/20. Detrimental negative impacts also would be suffered by the entire community including the Village of Ossining, Village of Briarcliff Manor, and Unincorporated Area of the Town of Ossining. Simply, the Petitioners have failed to demonstrate and cannot establish the minimum legal requirements for annexation.

For years, the Town of Ossining has acted in a transparent manner by investigating and sharing all pertinent facts with the affected community. In contrast, it is this Town Board’s opinion that the Village of Briarcliff Manor has not demonstrated a fair sense of transparency or open sharing of information.

Unfortunately, it appears to this Town Board that, as “de facto” sponsor of the proposed annexation, the Village Board is motivated by its attempt to take the Town of Ossining business district that presently supplies a majority of more than 30% of Town tax revenue generated by Districts 17 and 20. The Village Board also may be guided by an unspoken agenda that, if annexation is successful, the Village Board would utilize new tax dollars to fund the creation of a co-terminus Town/Village of Briarcliff Manor.

It is also evident that the Village Board, in asserting that it can render services more efficiently, uses a completely inaccurate and artificial manner of measuring government efficiency. Utilizing a real-world method of comparing the manners in which the two governments spend taxpayer money, it is clear that the Town operates at an efficiency level that the Village simply cannot approach.

Whether or not the Village Board is motivated by new tax dollars and an unspoken agenda to create a co-terminus Town/Village, there can be no doubt that the Petitioners’ proposed annexation is NOT in the best interest of the community and therefore the annexation proposal should fail.

DISCUSSION

The Town of Ossining reviewed the petitions, received October 16th, 2013. The Town acknowledges that the petitions meet the statutory requirements, in form, and that the number of signatures meets the minimum requirements to trigger this review. Out of 218 required signatures, the Town acknowledges that 268 are valid and not subject to challenge out of a total of 1090 eligible electors in the districts, representing 24.6% of eligible electors.

On December 12th, 2013, in accordance with General Municipal Law section 705, a joint public hearing of both governing boards was held. The law required that, at the hearing, “the boards hear any testimony and receive evidence and information which may be presented concerning the petition and the question of whether the annexation is in the overall public interest, including but not limited to testimony, evidence and information including the following:”

(e) “That the proposed annexation is or is not in the overall public interest (1) of the territory proposed to be annexed, or (2) of the local government or governments to which the territory is proposed to be annexed, or (3) of the remaining area of the local government or governments in which such territory is situated, or (4) of any school district, fire district or other district Corporation, public benefit corporation, fire protection District, fire along district or town or county improvement district, situated wholly or partly in the territory proposed to be annexed.”

This Board acknowledges that New York State Law requires that, prior to holding a mandated referendum by the eligible voters in 17/20, it must be established by the governing Boards that annexation would be in the best interest of the community as a whole. The referendum would be the last step in the process and there is no presumption in favor of a voter determination of annexation.

It is the position of the Town Board that the main purpose of the joint public hearing was to elicit information from the public regarding the proposed annexation. Specifically, this Board viewed the hearing as an opportunity for the residents of 17/20 to state specifically, with factual support, why they either were for or against annexation. The hearing was not a forum for the municipalities to lobby the public to be either in favor of or against annexation. That stage of the process ended with the submission of the petitions and will only commence in the event that the matter does proceed to a referendum after the Boards complete their respective mandated reviews, or after Court proceedings if this matter ends up before the Appellate Division and the Court agrees that a referendum is in the public interest.

This Board concludes that establishing and changing municipal boundaries will cause significant impacts to multiple segments of the overall community. In the case of annexation, those impacts will be felt not just by the individuals living in the area being annexed, but in areas of the overall community that would never get a chance to vote if the matter goes to a referendum. This Board therefore understands that it has been charged with performing a high degree of due diligence in determining the effects on all impacted parties. In addition, we

believe that in order to justify the many impacts, as well as the significant level of managerial and operational reorganization that would be necessary in the event of annexation, there needs to be a clear, actual and tangible benefit to all the parties that is evident to both governmental bodies and the communities as a whole. It is not the role of either Board to invent or surmise such benefits- actual factual evidence is required.

In conducting its mandated review, this Board adhered to the established authorities and legal precedents on annexation, as affirmed by the New York Court of Appeals, by viewing benefit and detriment to the community defined in terms of municipal services, such as police and fire protection, health regulations, sewer and water services, public utilities and public education. We believe that the main purpose of annexation, and therefore the major focus of review, under the law, is to facilitate the improvement of basic services being delivered to either the area being annexed or the municipality doing the annexing, without harming other portions of the overall community. Our other inquiry, not as critical as our review of the impact of annexation on the delivery of services, yet still important, was whether the annexing local government and the territory to be annexed have the requisite unity of purpose and facilities to constitute a community.

THE PROVISION OF SERVICES

We conclude that the Town provides an excellent level of service to the people residing in 17/20, as well as the entire unincorporated Town. We also note that the quality of services provided by the Town has not been the focus of the public at either the informational meetings held regarding annexation or during the joint public hearing. Few, if any, complaints were and are made by unincorporated residents concerning the quality of the services they receive from the Town. To the contrary, the Town is often complimented by the residents concerning the provided level of service. Those services are provided at a reasonable cost to the taxpayers, with the Town maintaining a relatively low debt load, and a high and improving bond rating. The Town's finances are currently in an exemplary condition and have improved further with the sale of the former police building on North State Road. The Town's fund balances meet and exceed the

recommended levels by the New York State Comptroller, and The Town has thus far not been required to override the tax cap to maintain its favorable financial condition. The Town has also been at the forefront of sharing services through its extensive systems of intermunicipal agreements, eliminating many instances of government duplication.

After giving full consideration to all aspects of annexation, as it relates to the delivery of services to 17/20, as well as the other segments of the community, we have concluded that annexation of 17/20 will not facilitate the improvement of services to 17/20 or to any other portion of the greater community.

In order to justify annexation, it must be shown, not that taxes will be reduced, but that the residents of 17/20 will benefit from improved services or receive services that otherwise aren't being provided, as a result of annexation. Status quo is not sufficient- improvements, without detriment to other parties, is what is required. In this regard, we stand by the position that the special districts that exist will not be impacted by annexation, as dictated by the law. Therefore, water, sewer, fire, ambulance, solid waste and lighting service provision will not be changed and the same services that are provided now will continue to be provided after annexation through the existing Town Special Districts. We believe that this fact will result in double payment for those services in 17/20, if annexed, as would also be the case for the libraries. That is not in the interest of the taxpayers in 17/20. The Village's reliance on the premise of modifying existing legal or contractual relations to modify the impact of the Special Districts is, at best, speculative. Such talk, in any event, represents an effort to create conditions that justify annexation, which is not the role of either Board. Doing so would, in any event, require near endless analysis of all the impacts, to all parties, of making such far-reaching changes to the current properly functioning governmental systems. We are required to examine existing conditions and facts to determine whether annexation is in the best interest of the overall community, not engage in speculation to create a different reality, solely for the purpose of justifying annexation.

The Village is, and has been, directing much of its efforts into the issue of the Special Districts, namely, whether they actually exist, the impact of the Districts and what can be done in the event of annexation to address the Districts. Their efforts seem to focus on differentiating “District” from contracts. This discussion is not truly relevant to the annexation analysis and diverts the discussion from the real issue, which is the provision of services. We also do not feel that the Village has the standing to question the manner, which is within the law, that the Town provides services. That would be the role of the taxpayers who reside in the District. There is, however, a real logic to utilizing Special Districts to provide services. Special Districts create greater transparency by allowing the taxpayers to review the specific costs and expenditures for specific services, instead of lumping them together in a master budget, the way the Villages do. The continued focus by the Village on the District versus Contract discussion is diverting the Village from the real issue: whether 17/20 is receiving adequate service.

There is also a fundamental difference in approach between the Town and Village as to the most effective and efficient manner to provide services within their jurisdictions. The Village consistently asserts that the direct provision of services is superior to the Town’s method. We disagree. Other than its use of this argument as a talking point, the Village can present no actual evidence to support its position. As a matter of policy and practice, the Town prides itself on always applying the best businesslike approach to efficiently providing the highest level of service. This means, at all times, exploring options to provide the best return for taxpayer dollars. This approach is consistent with the mandates from New York State which have promoted the benefits of shared services to eliminate duplicate layers of government and to reduce costs. New York State has been at the forefront of providing incentives for local governments to explore means to improve the efficiency of local government. The Town has and will continue to take advantage of all available resources the state offers in this regard. Today, numerous intermunicipal agreements exist between the Town and Village of Ossining, covering such services as street lighting, fire protection, sewers, finance, parks, dumpsters, facilities, court functions and cable access television. The Town and Village of Ossining also share a Clerk’s office, a Treasurer and finance

department and a Parks/Recreation Department. Additionally, the Town, through its Refuse District, contracts with an outside vendor for solid waste removal and with the County of Westchester for police services.

Significant portions of Westchester County and New York State are governed as unincorporated areas of Towns. There has been no information or evidence presented that adding a Village layer of government enhances services or provides any tangible benefits to the residents of those Towns or Villages. The State, however, has recognized the potential benefits from dissolving villages, and within recent years has modified the law to simplify the dissolution process and has also offered its technical assistance in that regard.

Town and Village of Ossining officials have consistently demonstrated a fundamental concern with providing municipal services on an economical, efficient and effective scale, and we believe that resident taxpayers are rarely concerned about the source of services if they are provided in an economical, efficient and effective manner. We stand by our position that our cooperative agreements and outside vendor agreements have resulted in efficient and effective service delivery for our constituents. We will continue to keep our focus on cost-sharing with resulting savings and our goals in forming partnerships will continue to make strides towards win/win situations for the Town and any other participating municipality.

Over the past several years, the Town has engaged in a number of in-depth efforts to analyze the services being provided with the goal of enhancing collective efficiency and effectiveness. These efforts, generally funded through grants, included a study on intermunicipal cooperation between the Town and Village of Ossining conducted by Pace University in 2009, a study on the consolidation of law enforcement services for the Village of Ossining, the Town of Ossining and the Village of Briarcliff Manor by ICMA in 2010, an analysis on consolidation of Public Works within the Village of Ossining, Village of Briarcliff Manor and Town of Ossining conducted by Springsted in 2010 and, most recently, a joint effort between the Town and Village of Ossining in 2011 to study the best municipal structures for providing municipal services conducted by CGR. Each and

every one of these studies, although making recommendations for improvements, recognized the overall benefits afforded to the communities at large through our cooperative relationships. We will not back down from continuing our efforts in this regard since we believe we are acting in the best interest of the public, consistent with the mandates and recommendations from New York State.

Unfortunately, and not due to lack of effort on the part of the Town, the same cooperative relationship as exists with the Village of Ossining does not exist with the Village of Briarcliff Manor. In addition, we strongly believe that 17/20, if annexed, would lose the advantage of being part of a progressive, forward thinking municipal government.

Services reviewed by this Board, in its analysis, included Highway, Police and Recreation. Again, the question will not be whether the services can be provided by Briarcliff Manor more affordably, but whether the services can be, or are being, provided by the Town and whether annexation will improve them without countervailing detriments to others. The Town, in its analyses, has considered the quality of the services provided to the unincorporated area of the Town and has concluded that there would be no improvement in services to 17/20 if annexed. Discussed below are the major Town Services, including those services provided through Special Districts.

POLICE SERVICES

As for police services, the Town has considered the service provided by the Westchester County Police Department, including response times and other service components, and determined that there is no deficiency in police service provided to the Town. To the contrary, we feel the unincorporated area of the Town has greatly benefited from the extraordinarily high level of professional services provided by the Westchester County Police. The unincorporated area of the Town is fortunate to have an extremely low crime rate, and its policing needs reflect that fact. We have, however, constantly monitored performance criteria of the County Police. During the term of the contract, county police performance,

as measured by response times, mutual aid statistics and public input, has been exemplary. Through the County, we have at all times been able to maintain the required level of police patrols without the coverage concerns normally faced by small police departments caused by illness, vacations, military service, 207-C status and other situations that typically limit available officers for patrols. The County force, due to its size, is always able to backfill patrols as needed, and provide backup whenever required. In addition, the County provides full investigative support, internal affairs, forensics, traffic control, full insurance and indemnification and communications. The other major benefit we have realized from our County contract has been the supervision provided on a seven day per week, 24 hour per day basis. With smaller police forces, the availability of continuous supervision, in addition to providing patrols, is always an issue. With the County, the level of supervision has been constant and exemplary. The County has also consistently been responsive to any issues raised concerning police services. We have access to the highest level of management, in addition to multiple levels below, who readily remedy any concern communicated to them. We receive regular communications and information from the County regarding police activity in the Town. In addition, immediate and significant cost savings were realized from the switch from a local to more regional force. Police services, as expected, are provided to the unincorporated Town at a significantly lower per capita rate than in the Village. Like ambulance service, regionalization of police service is a necessary trend that will continue as a means of addressing the high, and ever increasing, cost of providing first rate police service. It is well-known that several other communities in Westchester are looking to duplicate the Ossining police contract. The decision to contract with the County was reached after the public expressed this as their preference during public meetings at which both the County and Village of Ossining proposals were considered. Briarcliff Manor chose not to submit its own proposal, although it was invited to do so. We are now nearing the end of our initial four-year contract. Although we are pleased with the services provided by the County and satisfied that we have saved significant taxpayer money through the contract, we nonetheless are obligated to request proposals from other interested municipal entities. In reviewing those proposals, we will expect nothing less than the high level of service we have received from

the County. Whether or not the Town renews its contract with the County, annexation will not improve police service in 17/20. We also believe that any discussion by the Village of the merits of “community policing” versus regional policing is nothing more than a talking point. There is simply no empirical data supporting the operational superiority of “community policing”, especially in light of the economic stresses faced by municipalities in the age of tax caps and the clear service advantages afforded through the regional policing model.

HIGHWAY DEPARTMENT SERVICES

Similar consideration has been given to the Highway Department. In that regard, the Town has considered the recent referendum seeking to switch from an elected to appointed highway superintendent and the resounding vote in favor of retaining an elected highway superintendent, which is indicative of community support for the Town’s method of providing highway services. Town residents regularly praise the work our highway department performs, particularly in responding to snow events. The Town has also benefited from the excellent engineering services and support of our Highway Department provided through an Intermunicipal agreement with the Village of Ossining, resulting in taxpayer savings of hundreds of thousands of dollars. This arrangement has greatly aided the Town in planning and executing several vital infrastructure projects at the lowest possible cost to the taxpayers. Although we are always looking for ways to save taxpayer money by either sharing or consolidating services, our Board has been unified in its goal of not reducing the already high level of service the Town receives from the Highway department. We therefore conclude that annexation will not improve Highway services in 17/20.

RECREATION SERVICES

Regarding recreation services, the Town has considered the level and broad array of recreation services available to Town residents, including access to the state of the art indoor pool facility. Consideration has been given to the recreational opportunities provided to our residents, and whether there is a deficiency in available recreation services in the Town. In reviewing and comparing the recreational services available to Town residents and Village residents, we believe

that those recreational services are, at the very least, comparable. Many Town services, such as senior programs, are also available to Village residents since they, too, are Town residents. In our parks, there exists a cooperative relationship between the communities, as evidenced by the Briarcliff Little League's use of one of the Town's Ryder Park fields. We also do not believe that the use of the Briarcliff outdoor pool, open only four (4) months per year in comparison to the Town's 12 months, justifies annexation. This is also especially true given the limited number of residents that will likely make use of it. Town residents have full year use of a magnificent full year indoor pool facility at the Ossining Community Center every day of the year. Many Village residents also make use of that pool facility. Within the Town, residents also have available to them comparable and competitively priced facilities such as the private Torview Club. As for recreation, we also believe there are significant opportunities for our communities to work together to improve recreation opportunities for all our constituents; perhaps the Village and Town can reach an agreement that would open the Village pool to Town residents at an appropriate and reasonable price.

TRAIN STATION PARKING

Another matter which the Village asserts would be a potential benefit to 17/20 residents through annexation is the ability to park in the Scarborough train station parking lot, which currently requires use of parking attendants due to overcrowding. Parking is currently available at the Ossining train station parking lot. Commuters may find the Ossining station more convenient for any number of reasons, including the closer proximity to 17/20 geographically, as well as the fact that the Ossining station is an express stop. We conclude that a spot at the Scarborough station will provide no actual benefit to 17/20 residents. Additionally, if annexed, 17/20 residents would pay more to park at the Scarborough station lot than at the Ossining station lot. There would be no improvement in parking services in the event of annexation.

STREET LIGHTING

This service is provided through a Special District. The Village of Ossining provides personnel, equipment and materials necessary to maintain and repair the Town's

streetlights. There would be no change in street lighting and therefore no improvement in the event of annexation.

FIRE PROTECTION DISTRICT

Fire protection is provided through a Special District. The Village of Ossining fire department furnishes exceptional fire protection services to the majority of the Town, with the Village of Briarcliff Manor providing fire protection to a much smaller section including a section proposed to be annexed. There would be no change to fire protection service and therefore no improvement in the event of annexation.

SEWERS

Sewers are provided through a town-wide Special District. The Town Highway Department maintains the sewer lines and lift stations. The Village of Ossining disposes of sewage originating in the unincorporated Town. There would be no change to the sewer service and therefore no improvement in the event of annexation.

WATER

Water service is provided through a Town-wide Special District. The Village of Ossining supplies our water, and consumers in the Ossining Town-wide District pay for the water at an agreed upon rate. There would be no change to this water service and therefore no improvement in the event of annexation.

AMBULANCE

The residents of the unincorporated Town, Village of Ossining and a portion of the Town of New Castle receive extraordinary advanced life support and ambulance service through the Mid-Hudson Ambulance District, which contracts with the Ossining Volunteer Ambulance Corp. This partnership has provided the basis for ambulance service, professionally staffed, with 24 hour per day response times which would be the envy of virtually any other emergency service provider. Thankfully for those residing in the Town, this service would not be changed and therefore there would be no improvement in the event of annexation.

SOLID WASTE

Town-wide refuse and recycling collection is provided through a Town-Wide solid waste Special District. The Town contracts with an outside vendor for refuse and recycling collection. The Town receives excellent service at a fair and competitive rate. Like the Police service agreement, the Town bears no responsibility for pension, worker's compensation, and other benefit payments that emerge from providing this service, and has realized significant cost savings through the competitive bidding process. This service will not and should not change as a result of annexation. The favorable rate in the current contract, which includes two day per week pickups, is based on the "economies of scale" associated with providing service to the entire District. Refuse and recycling pickup is provided to unincorporated Town residents, as a result, at a significantly lower per capita rate than in the Village. This service will not and should not change as a result of annexation.

FACILITIES

As a result of the longstanding Intermunicipal agreement with the Village of Ossining and the County of Westchester, the Town has been spared most of the costs of owning and maintaining certain buildings and facilities such as the court and police facility, and Town Hall. The Village, on the other hand, has well documented long term significant capital needs, including the need for a new police and court facility, improvements to its Village Hall, a new Recreation Center, and its library.

ADMINISTRATION

As an unincorporated area of the Town, governed solely by the Town-wide government, the unincorporated area realizes extraordinary and undeniable benefits of sharing administrative costs between the Town-Wide and Unincorporated functions of the government. Since the Village is promoting the benefits of a Co-Terminus Town/Village, they surely must understand and appreciate the savings realized by the taxpayers. Districts 17/20 already exist in the functional equivalent of a Co-Terminus Town/Village structure, a structure

which the Village has consistently promoted as superior to the simpler Village within a Town structure, exactly what the 17/20 residents would be part of if annexed and the Co-Terminus efforts on the part of the Village fail.

COURTS

Under State law, every Town must maintain a Town Court. Villages have no such requirement, since the Town Court would have jurisdiction over any matters that could be brought before a Village Court within a Town. Village Courts, and the expenses associated with them, are thus optional. With the active encouragement and assistance of the Ninth Judicial District and the Office of Court Administration, the Village of Ossining did dissolve its local court and merge its functions into the Ossining Town Court in 2012. Briarcliff Manor was actively encouraged to do the same, with the Court Administrative authorities finding no actual impediment to doing so. It chose not to engage in the process and continues to operate its own court. Residents in the unincorporated area currently do not need to pay for their own dedicated court. If annexed, 17/20 would have to pay not only their share of the cost of the Village of Briarcliff Manor Court, but also their share of the cost of the Town Court, without any actual additional benefit since the Town Court performs the exact same functions.

As stated above, there has been no indication or proof that services to any constituent would be improved through annexation. Although our analyses could end there, we understand that members of the public are interested in other aspects of the annexation discussion brought up during several public information meetings.

ANNEXATION HISTORY

Although the Petitions were only recently delivered, the annexation debate has a long history, a history we believe is important to review. Annexation first came to the attention of the Town Board in approximately early 2011. We understand that the idea of annexation was initially led by a small group of property owners who organized the petition drive. They created a website promoting annexation

and then commenced an intensive effort to encourage individuals to sign the petitions. During the initial period, this group was in complete control of the message.

Once the annexation effort was brought to the attention of the Town, efforts were made to understand the issues and the motivations of the proponents in an open and fully transparent manner. The Town arranged for a Town Hall style public meeting in May of 2011 to allow the public to express themselves on the topic and for information to be exchanged. As has always been the case, representatives of the Village of Briarcliff Manor government were invited and offered an opportunity to make a presentation. The Village Manager did appear at that meeting and made the first public presentation of the Village's position.

FISCAL IMPACTS

In its first presentation, the Village, via the Village Manager, represented that Briarcliff Manor was simply responding to the inquiries of Town residents and that Briarcliff Manor was "not soliciting annexation for additional area or financial expansion." There was no statement made concerning how annexation would improve services or whether any other public need could be addressed through annexation. He did, however, make the first of many public claims of potential tax savings that would result from annexation. At that time, the estimates he conveyed to the public were a 14.39% reduction in unincorporated Town taxes for 17/20 residents and a 3.96% reduction for Briarcliff Village residents. No mention was made of the tax impacts on the remaining area of the unincorporated Town.

In response, the Town formulated its analysis of the potential tax implications of annexation and in August 2011, made those conclusions public. We believe that this analysis was performed utilizing realistic assumptions and, at that time, current figures. The conclusion reached by the Town at that time was that the potential savings to 17/20 residents would be no more than .05% of their total taxes, without taking into consideration capital projects that the Village had already acknowledged would be necessary, and which would more than eliminate any claimed saving. At the same time, the Town also found that the remaining

area of the unincorporated Town would see a 24% increase in its unincorporated taxes, an average of \$536.00 per household. The Town also estimated that Briarcliff Manor Village taxes would also increase by 7%, contrary to the Village's claims. These conclusions were presented to the public in another Town Hall style public meeting held in September 2011. The Village Manager was also invited to that meeting and was given an opportunity to speak, during which time he reiterated his representation regarding the potential positive tax impacts for 17/20. These meetings were recorded and televised and were reported on extensively by the local media. The Village also held its own meetings with 17/20 residents in or around that time period. At least one meeting was held in the Briarcliff Manor library, attended by the Village Mayor and Village Board members, without prior notice to the Town and without notice to the public at large. All Town meetings on annexation were held with full public notice, and with invitations to all members of the public to be heard.

The matter thereafter went quiet for several months, until March of 2012, when the Village circulated its "Annexation Update" presentation to the 17/20 residents. In that update, the Village raised its estimates of alleged tax savings for 17/20 residents to 26.60% and 8.91% for the village as a whole, again without adequate support and without mention of the impacts on the rest of the unincorporated Town. As of this past December, the Village estimate of tax savings for 17/20 ballooned to 29% and fell for the Village to 5.985%. The Town has continued to update its analysis and continues to maintain its position that tax savings for 17/20, if any, would be minimal, that the balance of the unincorporated Town would experience steep increases, and that Briarcliff Manor residents would realize no benefits and may see tax increases.

METHODOLOGY OF ANALYSIS

To be clear, as stated above, the Town does not consider individual property owners' rate of taxation before annexation or after annexation to be a significant factor in determining whether annexation would be in the overall public interest. However, without intending to lend credence to the Villages' misguided focus on taxation, we believe we owe a duty to the public to address this point. In

reviewing the history of the dialogue, it is easy to discern why taxation rates are not the proper focus of review. With taxation, there are simply too many variables and too many opportunities to manipulate numbers. These numbers, as can be seen by constantly changing Village numbers, are moving targets. The numbers are easily manipulated by varying assumptions on key elements, such as manpower and the value of possible future contracts. Regarding the Village's latest tax estimates, improper assumptions are made by the Village (i) that would require the Town to renegotiate virtually all of its intermunicipal and third-party service agreements and contracts, (ii) that suggest the law regarding Special Districts in annexation can be ignored, and (iii) that Village services can be provided to additional 17/20 residents with little increase in cost. We find those assumptions to lack credibility. Promising lower taxes through annexation is not appropriate in our view. There is no possible and responsible way that the Village can guarantee future tax decreases to the 17/20. We believe that the people do understand this concept since, despite ever expanding promises of lower taxes, over a time period exceeding two years, over 75% of 17/20 residents elected to not sign the Petition.

The fact is that providing services costs money; the constants that all governments must deal with are universal, and include such items as union negotiated salaries and benefits, pension contributions, utilities, insurance, facility and equipment maintenance, and the full array of higher government mandates. We do not agree that the Village of Briarcliff Manor has somehow found a way to avoid these universal costs, or that the Village government operates at some level of efficiency that other municipal governments cannot achieve. Despite the Village's focus on small salaries of the Town Board members and Town Supervisor, the Town's administrative costs are comparatively low when the Salary of the Village Manager is considered. Once again, this is an example of how facts can easily be manipulated. Through our analysis, we conclude that the only way the Village will be able to come through on its lower tax promise, if it's possible at all, would be to drastically reduce the level of services the people of 17/20 are used to receiving from the Town. Clearly, the Village's promises related

to future taxation simply cannot be considered credible or reliable information to be factored into an annexation analysis.

There is an even greater flaw in the analysis by the Village with respect to the comparative efficiencies of providing services to constituents. The Village bases its claims of higher efficiency through an analysis of taxation rates per thousand dollars of assessed value. This is not the proper method of analyzing the efficiency or effectiveness of service provision. In the real world, services are provided to people, not increments of property value. The cost analysis relied upon by the Village is skewed by the differential in average assessed values per property. The Village is a wealthy community and, as such, it contains many homes and properties of very high value. The unincorporated Town, on the other hand, tends more towards the middle class with property values which reflect that fact. The Village contains approximately 2650 parcels with a population of 7115 with a total assessed value of approximately \$98,287,295. The average assessment per parcel is \$37,089.54. As for the unincorporated Town, there are 1945 parcels, a population of 5293 and a total assessed value of \$49,600,032. The average assessment per parcel is \$25,501.30. Tax rates are based on dividing government expenditures by thousands of dollars of assessed value. Based on its overall higher assessed value, it is only logical that the tax rate per thousand dollar of assessed value would appear artificially lower.

However, as the Town has analyzed and concluded, the actual tax rates per thousand dollars in assessed value of the unincorporated Town and the Village are relatively close. The reason is quite simple, and can be explained by expenditures. In 2011, unincorporated Town expenditures, including Special Districts, totaled \$8,451,000 as compared with expenditures in the Village totalling \$21,700,000. The differential in the cost of providing services per person and parcel between the Town and Village is striking. The cost per parcel in the Village was \$8188.68 and \$3049.89 per person. In the unincorporated Town, the cost was \$4344.98 per parcel and \$1596.63 per person.

Just as striking is a comparison of the per capita municipal debt load. As of 2011, Briarcliff Manor carried a total outstanding debt of \$46,869,682, the equivalent of

\$6587.44 per person. In contrast, the Town debt load, which will be reduced due to the sale of the former place building, was \$7,374,509 in 2011, the equivalent of \$1393.25 per person. In subsequent years, the incongruity between what is spent per capita in the two municipalities has remained constant or increased. Once again, since services are rendered to people, it is virtually impossible to ignore the exceptionally high level of efficiency realized by the Town. The budgets verify that, in reference to virtually all services, the Town renders those services at a lower per capita cost than the Village. All Town taxpayers, regardless of the actual taxes paid on a particular property, benefit from the high level of efficiency at which the Town operates. That efficiency, gained through innovation, hard work and the willingness to explore cost savings sharing arrangements would be directly threatened in the event annexation proceeded.

The implication of the focus of the Village on tax rates as opposed to actual costs tied directly to average assessed values is that the Village is promoting annexation as a means for 17/20 to become part a wealthier community, since they would then benefit from their relatively lower assessed values. Not only is this concept contrary to true purpose of annexation under the law, but it would set a dangerous precedent, as well as being simply the wrong way neighboring municipalities should interact.

THE VILLAGE'S AGENDA

We also find it significant that the Village has never come out in a public forum and stated whether it is in favor of annexation, even though its method of presentation and its increasing estimates of lower taxes has consistently demonstrated an effort to convince the 17/20 residents to sign the petition. In this regard, we find that the Village has not been forthcoming in presenting to the public its motivations. We believe that the Village has a responsibility, if it promoted annexation, to present its position, including its reasons for supporting annexation, in an open and transparent manner. Without a clear statement from the Village as to its motivation, we and the public are forced to draw our own conclusions that either there is no purpose or that the Village, contrary to the

Village Manager's public statement, is seeking to enlarge its tax base through the acquisition of the North State Road business corridor. Its promotion of annexation is, in fact, consistent with various statements indicating the Village sees annexation as a means of addressing and spreading the load of its very large debt burden or as an important step toward its ultimate goal of seeking coterminous Town/Village status, a matter which we will not address at this time since it is not directly relevant to these findings and determination. If, however, as we believe, the goal of the Village is to promote annexation solely to enlarge its tax base and spread its significant debt load over a larger population, that would amount to an effort to shift taxation and its subsequent revenues from one community to another without any corresponding benefits to the community as a whole. This, again, is not a proper basis for annexation. Annexation would serve as a diversion from the real issue that plagues the Village: how to rein in its high per capita expenditures and address its high debt load. Addressing these issues should be the top priority, not covering up the problem by annexing additional tax ratable and assessable area.

DETRIMENTS TO THE REMAINDER OF THE TOWN

The Town, as required, has also considered the detriments to areas of the Town not included in the annexation effort. The Town has considered the verifiable estimates regarding the tax implications to the areas not being annexed, and, to the extent possible, the balance of Briarcliff Manor. There must be clear and verifiable, not just perceived, benefit to all affected parties to provide a basis to approve annexation. An increase in overall tax revenue could be a factor justifying annexation; however, simply shifting tax revenue from one municipality to another does not constitute an increase in overall tax revenue. If annexation facilitates the provision of services to an area which would allow greater development, thereby increasing overall tax revenues, that factor might favor annexation. That is not the situation existing herein. Annexation is not in the overall public interest where one municipality loses tax revenue without any corresponding benefit. Therefore, the fact that 17/20 has only 25% of the total unincorporated Town's population but a higher percent of the unincorporated Town's assessed value is a major factor we considered in determining that the

remaining area of the unincorporated Town will be harmed, let alone not benefited, by annexation. The commercial properties on North State Road are vital to the ability of the Town to maintain a balanced tax base, which is vital to the entire unincorporated area of the Town.

We also find it significant that the Village, in its attempts to justify its estimates of tax reductions, relies heavily on the concept of “economics of scale”. In doing so, it ignores the reverse impact that annexation would have on the remaining area of the unincorporated Town. By reducing the economics of scale in the remaining area of the Town, cost of services on a per capita basis will go up. Taking police services as an example, if the size of the unincorporated Town is reduced, the need to have patrols on its roads will not be equivalently reduced. Likewise, the same logic will apply to Highway services, engineering, finance, administration and facilities.

OTHER FACTORS

It is also significant to our determination that 17/20 are already fully developed, nearly to capacity. Proposed use of the annexed land can be an important factor in justifying annexation. In this case, there are no proposed new uses for 17/20 which would either benefit those districts or the balance of Briarcliff Manor.

The impact to the Village of Ossining has been considered by the Town as a factor in determining that annexation is not in the overall public interest, since the remaining governmental unit could also be said to include the Village of Ossining as part of the Town. This analysis focused on the cooperative existing relationship between the Town and Village of Ossining through a myriad of intermunicipal agreements. Those agreements, such as finance, clerk, rent and facilities amongst many others, indicate that carefully calibrated budgets of both municipal entities and staffing levels in various departments would be impacted. Again, there has been no benefit from annexation that has been identified which would justify the numerous changes that would need to occur to existing legal and contractual relations, all that currently function very well, and which provide significant tax savings through efficiencies gained through elimination of duplications of services. Suggestions have also been made by annexation proponents that the

unincorporated Town should simply be split up and the parts absorbed by the Villages of Briarcliff Manor and Ossining. Interestingly, on the 17/20 website, proponents suggest that annexation is the only way to head off being absorbed by the Village of Ossining. That argument was, no doubt, intended to scare 17/20 residents into signing the petition, although unsuccessfully. In fact, annexation of any portion of the unincorporated Town into the Village of Ossining is not on the table. An internal petition to start that process would also be required and, to our knowledge, there is no such petition being circulated.

UNITY OF PURPOSE/COMMUNITY

The other required factor which we considered is whether the annexing local government and the territory to be annexed have the requisite unity of purpose and facilities to constitute a community. On this question, we have considered whether the residents of 17/20 feel more a part of the Ossining or Briarcliff communities. In reviewing this issue, we conclude that the requisite unity of purpose between the residents of 17/20 and Briarcliff Manor does not exist and that there is a greater connection and affinity to Ossining. In making this conclusion, we have considered the level of community support, in the form of signatures on the petition, as a significant factor. After two years of extensive lobbying by the pro-annexation group, assisted by the Village with ever increasing promises of reduced taxes, the number of signatures is still well below half the eligible voters in the districts. We have also considered the comments by the residents made during the public hearing, as well as those written comments received during the comment period after the meeting. In total, the vast majority of comments have been against annexation. We have been particularly impressed by the time and effort of residents who wrote compelling emails and letters urging us to reject annexation. It is one thing to sign a petition, whether one feels under duress, fully understands it or not, but it is quite another to get up at a public meeting and speak or communicate your thoughts through emails or letters. Also, based on the attendance at the public hearing, it does not appear that the majority of those who signed the petition have strong feelings concerning annexation. It appeared that most people decided to stay home that evening and also refrained from submitting written comments. On this issue, it also needs to

be re-emphasized that the school district boundaries won't change, as 17/20 will remain in the Ossining School District. They also will continue to get their water and sewer services, as well as solid waste and street lighting through the existing Special Districts. Parts of 17/20 will also continue to be served by the Ossining ambulance district and Ossining fire district.

We also note that a vital part of our community, the business community, has not communicated its support for annexation. We have not received expressions of support for annexation from any individual North State Road business owner or from any business organization, such as the Chambers of Commerce or Rotary Clubs. This is an important portion of our community that also would not be permitted to vote in the event of a referendum.

Geographically, there is also no greater affinity between 17/20 and the Village than there is with the Town. If annexed, 17/20 would appear as an appendage, connected to the Village on one side but bordering other municipalities on three sides. There is simply and clearly no geographic condition or connection that favors annexation.

We have also considered the arguments made by some annexation proponents that being annexed to the Village would somehow improve the quality of governmental representation that they receive. We find no merit to that assertion. There is no support for the belief that 17/20 residents would somehow benefit from a more responsive government if absorbed by the Village. The 17/20 area will still be just one section of an overall Village, and their needs will be subservient to the needs of the greater Village. They will receive no special representation or attention. The Town now competently governs the unincorporated Town, as evidenced by the high level of services at a reasonable cost, provided to the unincorporated Town. Furthermore, the unincorporated Town benefits from both a Planning and Zoning Board with members appointed solely from the unincorporated Town. If annexed, land use in 17/20 would be controlled by the Village as a whole without any guarantee that decisions made would be in the best interest of 17/20.

To those who also feel that being absorbed by the Village would somehow improve their status or increase their property values, we must both take issue with that belief and add our comments. It is presumed that property owners either knew, or should have known, where they bought their homes. Location is indeed a fundamental decision homebuyers make. Seeking, after having made that choice, to change municipal boundaries to enhance perceived status, or for any reason, is a misuse of the laws that allow annexation. The clear purpose of the law is to improve the ability to render municipal services to the greatest number of residents. If residents aren't pleased with their current circumstances they should participate in the political process to affect changes. The annexation process should not be used to circumvent the democratic political process by those who disagree with decisions by duly elected representatives.

LAYERS OF GOVERNMENT

Finally, we need to address what we believe is a misconception that has been circulated concerning annexation. Proponents of annexation claim, as an argument in favor, that it will eliminate a layer of government. We disagree and instead conclude that it would *add* an unnecessary layer of government, not eliminate one. In New York State, counties are divided into Towns and Cities. Villages, however, can only exist within Towns or as Co-Terminus Town/Villages. Even in the co-terminus arrangement, the functions of a Town Government are not eliminated; they exist equally with Village government functions. Only the Village structure of government is optional. Towns cannot be dissolved but Villages can, and have often been dissolved as a way to eliminate duplications of government layers. We're not suggesting that the Village dissolve, but if there truly is an interest in reducing government duplication, the option should be explored. The co-terminous option for the Village also does not reduce layers of government, since it creates two Town layers of government in place of one. Additionally, the process to create a co-terminus Town/Village is a difficult one and, for many reasons, it will prove divisive. Interestingly, in all of New York State there are only 5 co-terminous town/villages, but in the last century at least 35 villages have dissolved. In sum, we believe that instead of creating barriers, we should all work together in exploring ways for the community, as a whole, to

reduce costs and lower taxes. Instead of building walls between our communities, we should be building bridges. One segment of the overall community seeking to benefit on the back of another is not the way to go.

DETERMINATION

For all the reasons described above, we, the Town Board of the Town of Ossining, are unanimous in determining that annexation will not be in the best interest of the Town of Ossining.

Respectfully Submitted;

These Findings, Objections and Determination shall constitute the Order of the Ossining Town Board pursuant to General Municipal Law section 711 (b).

ADOPTED BY TOWN BOARD RESOLUTION: MARCH , 2014

TOWN SUPERVISOR

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER