

TOWN BOARD
TOWN OF OSSINING
Birdsall-Fagan Police/Court Facility
86-88 Spring Street – Ossining, New York

JULY 8, 2008 –REGULAR MEETING
7:30 PM

INTERIM SUPERVISOR

Martha Dodge

COUNCILMEMBERS

Geoffrey Harter Northern Wilcher

David Krieger Kimberlie Jacobs

I. CALL TO ORDER

The Regular Meeting of the Town Board of the Town of Ossining was held on July 8, 2008 in the Police/Court Facility, 86-88 Spring Street in Ossining. The meeting was called to order at 7:30 p.m. by Interim Supervisor Martha Dodge. Other members of the Board present were: Geoffrey Harter, Northern Wilcher and Kimberlie Jacobs. Councilmember David Krieger was absent. Also present were: Thomas Beirne, Town Attorney and Mary Ann Roberts, Town Clerk.

II. PUBLIC HEARING – In the matter of an application for a Cabaret License by Studio Hill Mansion.

The Public Hearing was opened at 7:32 P.M.

Bey Dilemano, owner of Studio Hill Mansion located at 25 Studio Hill Mansion, advised the Board that his establishment would be open from 11 a.m. thru 11 p.m., but might be closed one day a week. Mr. Dilemani advised the Board that he was in the process of renovating the entire facility and was hoping to open sometime in mid-August.

Councilmember Harter questioned whether he had applied for a liquor license? Mr. Dilemani responded that he has applied, but thus far has not received his license.

Ellen Kahan, Ganung Drive, stated that she was asleep long before 11 p.m. and did not want to hear the noise. The Town enforcement is spotty at best. There were tents put up on the property for long periods of time by the prior owner which is against the zoning law. Random noise readings should be done by the Town police. The Judge who presided over the law suit should be made aware of any violations.

Lorraine Giametta, Haymont Terrace, stated that nothing has changed over the years. The enforcement is not consistent. The original owner was never made to complete an application for a Cabaret License, but did it anyway. The zoning ordinance does not allow for a tent, but they were there anyway. In her opinion the facility is not large enough for a catering hall. In reviewing police records covering 2000 – 2008, there were 66 calls made to the police regarding 25 Studio Hill Road with 28 of those noise complaints. The Board has lacked in enforcement forcing residents to move out of the area. It was also noted that the Town Attorney is no longer allowed to participate in the process.

Supervisor Dodge responded that the Town Attorney was recusing himself due to the fact that he recently changed law firms and is now employed by the law firm representing Mr. Nayeem owner of the property located at 25 Studio Hill Road.

Stuart Kahan, Ganung Drive, cited restrictions on the cabaret license and also stated that the Zoning Board of Appeals decided that a tent was not allowed on the property. Has the Board addressed the issue whether tents are temporary or

permanent? The Noise Ordinance doesn't go far enough to cover loud conversation in the parking lot.

Andre LaMarre, Haymont Terrace, stated that the use of a tent at this location was non-conforming. The Board should check with previous residents as to the fact that tents were never an issue with the prior owner. The community has drastically changed due to outsiders coming into our area. The fines for violations are too small and many violations are not properly resolved. Mr. DeMeo, owner of Unique Affairs, did try to be a good neighbor.

Dennis Giametta, Haymont Terrace, stated that the settlement turned this property into a commercial zone. This is going the wrong way. Supervisor Dodge stated that the facts will be discovered during this process. A number of misstatements have been made this evening regarding a number of issues.

Lorraine Giametta, Haymont Terrace, questioned that since Mr. DeMeo violated the use of the property by the use of the second floor, does that mean that the settlement may be null and void.

Michael Tawil, Woods Brooke Circle, a member of the Town Zoning Board of Appeals, stated that the Zoning Board unanimously denied the tent at this location with certain limitations. Mr. Tawil was not representing the Zoning Board, but merely speaking as a resident.

Art Sullivan, Haymont Terrace, questioned whether the Town Board has adopted tent standards. Supervisor Dodge responded that the Board has not adopted such standards.

At 8:02 pm, Councilmember Harter moved and it was seconded by Councilmember Jacobs that the public hearing be adjourned to July 22nd meeting.

Motion Carried: Unanimously

III. ANNOUNCEMENTS

Supervisor Dodge announced that the Environmental Assessment form for Engel Park plantings will be discussed at the July 22nd meeting. The plantings will be done in the fall with the bid for such going out this summer. The plan has changed significantly and will no longer be creating a salt marsh, but will be using shrubs, grasses etc.

IV. TOWN BOARD RESOLUTIONS

A. Approval of Minutes – June 24, 2008

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

Resolved, that the Town Board of the Town of Ossining hereby approves the Minutes of the June 24, 2008 Regular Meeting as presented.

Motion Carried: Unanimously

B. Approval of Voucher Detail Report

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

Resolved, that the Town Board of the Town of Ossining hereby approves the Voucher Detail Report dated July 8, 2008 in the amount of \$258,929.47.

Motion Carried: Unanimously

C. Calling for a Public Hearing in the matter of the Increase and Improvement of the Facilities of the Stormytown Sewer District in the Town of Ossining, Westchester County, New York

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

WHEREAS, the Town Board of the Town of Ossining, Westchester County, New York (the "Town"), has had under consideration the increase and improvement of the facilities of the Stormytown Sewer District (the "District") in said Town, consisting of the acquisition of pumping equipment for said District, including incidental expenses in connection therewith; and

WHEREAS, the Town Board of said Town has caused to be prepared a map, plan and report, including an estimate of cost, relating to the increase and improvement of the facilities in said District; and

WHEREAS, the estimated maximum cost to said District of such increase and improvement of facilities is determined to be \$13,000; and

WHEREAS, such cost shall be annually apportioned within such District by said Town Board, and the amounts so apportioned shall be annually apportioned and assessed upon the several lots and parcels of land within said District in the manner provided by law in an amount sufficient to pay the principal and interest on any obligations issued to finance all or any portion of said estimated maximum cost;

WHEREAS, the Town Board has heretofore determined that the aforesaid increase and improvement is a "Type II" action under the regulations of the Department of Environmental Conservation of the State of New York promulgated under the State Environmental Quality Review Act, with no significant impact on the environment.

WHEREAS, it is now desired to call a public hearing on said proposed increase and improvement of facilities and the map, plan and report, including estimate of cost pursuant to Section 202-b of the Town Law; NOW, THEREFORE, BE IT

ORDERED, by the Town Board of the Town of Ossining, Westchester County, New York, as follows:

Section 1. A meeting of the Town Board of the Town of Ossining, Westchester County, New York, shall be held at the Birdsall/Fagan Police Court Facility, 86-88 Spring Street, in Ossining, New York, in said Town, on July 22, 2008, at 7:30 o'clock P.M., Prevailing Time, for the purpose of conducting a public hearing on the proposed increase and improvement of the facilities of said District in said Town, including the report and estimate of cost referred to in the preambles hereof, at which time and place said Town Board will hear all persons interested in the subject thereof concerning the same.

Section 2. The Town Clerk is hereby authorized and directed to cause a notice of said public hearing to be published in the Journal News, the official newspaper of said Town, and posted in the manner prescribed by law, which notice shall be in substantially the following form, to-wit:

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Town Board of the Town of Ossining, Westchester County, New York, will meet at the Birdsall/Fagan Police Court Facility, 86-88 Spring Street, in Ossining, New York, in said Town, on July 22, 2008, at 7:30 o'clock P.M., Prevailing Time, for the purpose of conducting a public hearing relating to the proposed increase and improvement of the facilities of the Stormytown Sewer District (the "District") in said Town, consisting of the acquisition

of pumping equipment for said District, including incidental expenses in connection therewith, at an estimated maximum cost of \$13,000, at which time and place said Town Board will hear all persons interested in the subject thereof concerning the same.

Such cost shall be annually apportioned within said District by said Town Board, and the amounts so apportioned shall be levied and collected in said District in the manner provided by law in an amount sufficient to pay the principal and interest on any obligations issued to finance all or any portion of said estimated maximum cost.

The report, including the estimate of cost, relating to this project is on file in the Office of the Town Clerk where it is available for public inspection during normal business hours.

The Town Board has heretofore determined that the aforesaid increase and improvement is a "Type II" action under the regulations of the Department of Environmental Conservation of the State of New York promulgated under the State Environmental Quality Review Act, with no significant impact on the environment.

Dated: Ossining, New York
July ____, 2008

BY ORDER OF THE TOWN BOARD
OF THE TOWN OF OSSINING,
WESTCHESTER COUNTY, NEW YORK

Town Clerk

Section 3. This resolution shall take effect immediately.

Motion Carried: Unanimously

D. 2008 Budget Adjustment

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

Resolved, that the Town Board of the Town of Ossining hereby authorizes the following budget transfer to be made to the 2008 budget:

TRANSFER TO G/L ACCOUNT ACCOUNT	AMOUNT	TRANSFER FROM G/L ACCOUNT
058-8120-0201-Equipment	\$12,829.00	058-8120-0419-Maint/Repair

Motion Carried: Unanimously

E. Indemnification Agreement – Town of Harrison Pistol Range

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

Whereas, the Town of Ossining Police Department desires to use the Town of Harrison Police Department Pistol Range; and

Whereas, the Town of Harrison and Village of Harrison require from any municipality requesting the use of its Pistol Range proper insurance naming the Town of Harrison and Village of Harrison as additional insured and a fully executed Indemnification Agreement insuring to the benefit of the Town of Harrison and Village of Harrison;

Now therefore be it Resolved, that the Indemnification Agreement benefiting both the Town of Harrison and Village of Harrison be executed; and be it further

Resolved, that the Town Board of the Town of Ossining authorizes the Supervisor to execute the Indemnification Agreement, and to deliver same to the Town Attorney of the Town of Harrison, and be it further

Resolved, that a copy of this resolution be forwarded to the Town Attorney of the Town of Harrison with a fully executed copy of the Indemnification Agreement.

Motion Carried: Unanimously

F. Town Property - Surplus Vehicle

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

Resolved, that the Town Board of the Town of Ossining hereby authorizes the following surplus vehicle to be sold to the best offer made by sealed proposals submitted to the Town Clerk by Monday, July 28, 2008 at 10:00 am:

2000 Ford Crown Victoria VIN # 2FAFP71W6Y196188
(Police Vehicle)

Motion Carried: Unanimously

G. GOTV IMA – Extension Agreement

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

Resolved, that the Town Supervisor is hereby authorized to enter into an Extension Agreement between the Ossining UFSD and Greater Ossining Television, Inc., said agreement extends the provisions of the Cable TV IMA agreement dated October 28, 2007 between the Town of Ossining, Village of Ossining and the Ossining UFSD and GOTV for a period from June 1, 2008 through August 31, 2008.

Motion Carried: Unanimously

H. Finance-Re-opening Police Headquarters Capital Project

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

Whereas, on February 26, 2008, the Town Board passed a resolution to close the Police Headquarters capital project and to transfer the unexpended balance of \$34,499.49 to Debt Service; and

Whereas, B.A.C. Electrical Construction Company, Inc. failed to submit an Affidavit & Final Release of Lien and consequently the Town was unable to release retainage in the amount of \$20,448.50; and

Whereas, the Town Attorney and Calgi Construction Company, Inc. recently conferred with B.A.C. Electrical Construction Company, Inc. and the Affidavit & Final Release of Lien was provided to the Town, now therefore be it

Resolved, that the Town Board of the Town of Ossining authorizes the Budget Officer to re-open the Police Headquarters capital project, release payment in the amount of \$20,448.50 to B.A.C. Electrical Construction Company, Inc, reduce transfer to debt service from \$34,499.49 to \$14,050.99 and close the Police Headquarters capital project immediately thereafter; and be it further

Resolved, that the Town Board authorizes the following budget adjustment to accomplish the above mentioned payment release:

<u>TRANSFER TO G/L ACCOUNT</u>	<u>AMOUNT</u>	<u>TRANSFER FROM G/L ACCOUNT</u>
37-3120-0413-2002-0015-0015-Transfer to Debt Service Police Headquarters Capital Project	\$20,448.50	37-9901-0900-2002-

Motion Carried: Unanimously

VI. MONTHLY REPORTS – JUNE 2008

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

Resolved, that the Town Board of the Town of Ossining hereby accepts the Monthly Reports for June 2008 from the Town Clerk, Building Inspector and Receiver of Taxes.

Motion Carried: Unanimously

VII. CORRESPONDENCE TO BE RECEIVED AND FILED.

Councilmember Wilcher moved and it was seconded by Councilmember Jacobs that the following correspondence be received and filed:

Minutes of Town of Ossining Zoning Board of Appeals – Public Hearing
June 2, 2008

June 2008 Helicopter Log from G.E.

Motion Carried: Unanimously

VIII. VISITOR RECOGNITION

Rich Gudaneck, Downey Road, questioned why Mr. Beirne was speaking to the owner of the old Santana Property on Route 9A? Mr. Beirne responded that the Town was looking to purchase the property for use of the Highway Department for storage of equipment, etc.

IX. ADJOURNMENT

At 8:33 P.M., Councilmember Harter moved and it was seconded by Councilmember Wilcher that the Regular meeting be adjourned.

Motion Carried: Unanimously

Mary Ann Roberts, Town Clerk

Approved: