

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

JULY 22, 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 22, 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, David Krieger and Kimberlie Jacobs. Also present was Mary Ann Roberts, Town Clerk. Town Attorney Thomas Beirne was absent.

II. PUBLIC HEARING – Continuation – Application for Cabaret License -
Studio Hill Mansion

At 7:31 p.m., Supervisor Dodge opened the continuation of this public hearing by stating that the Board has reviewed the public comments and have directed some of the comments to our Deputy Town Attorney Wayne Spector. Supervisor Dodge and Deputy Town Attorney Spector also met with Mr. Dilemani, owner of Studio Hill Mansion, to discuss some of these issues. Supervisor Dodge then introduced Mr. Dilemani and requested that he address some of the issues. Mr. Dilemani commented on the tent issue as well as the loud music. A tent will be erected on an as needed basis. The doors will not be kept open thus the building will contain the music. He is paying approximately \$60,000 per year in taxes in addition to his rent and payroll. He estimates that it will cost him approximately \$17,000 per week to meet his expenses at this establishment. He stated that he will respect the privacy of the neighbors, but also expects them to respect his privacy. He is leaning more towards a five star restaurant rather than a catering hall. Dining is not loud as individuals come to have dinner and/or a drink and then leave. He does not anticipate going thru the same issues as in the past. The cooking will be done on the premises as a new kitchen is being put in at the present time. There will be no use of the second floor by the public. It is possible that his chef may sleep up there. He has been in business for 30 years and wants to be a good neighbor. He must receive his liquor license prior to the granting of the Cabaret License by the Board. Councilmember Jacobs questioned whether his contracts address the noise issue. Mr. Dilemani stated he would make sure that the contracts do.

Ellen Kahan, Ganung Drive, questioned what the activity will be in the tent? The Town Attorney should have known about commercial versus residential decibels. What is being done to protect the neighbors? Deputy Town Attorney Spector stated that the Zoning Board of Appeals application stated that the occupancy would never be increased. The tent will never increase the occupancy level of the property. The property was never re-zoned and it is still non-conforming.

Mindy LaMarr, Haymont Terrace, stated that restaurant use expired after July 2007. Deputy Town Attorney Spector discussed the difference between a restaurant and a catering hall. The Code stated that a restaurant and a catering hall served food and provided entertainment. Mrs. LaMarr questioned whether prospective brides and grooms were notified that power tools may be in use if

they have a Saturday afternoon event. A reference was made to July 10, 2007 Town Board Minutes. There were events on the back lawn including an air castle. Supervisor Dodge stated that the Town could not restrict the use of the property. Deputy Town Attorney stated that these things are of a temporary nature. Mrs. LaMarr questioned where we draw the line with ponies, etc. Who gave the okay for a temporary tent to be erected? Deputy Town Attorney Wayne Spector stated that there were many non-conforming locations in the Town. The settlement which was dated February 20, 2005 does not contain an approval of zoning change from residential to commercial.

Lorraine Giametta, Haymont Terrace, stated that they have put up with this nuisance for 9 years. The Town Supervisor met with the owner of the establishment, but not the residents. Deputy Town Attorney Spector stated that there were specific conditions if the cabaret license is granted. It will prohibit the use of power, water, heat, etc in the tent.

Supervisor Dodge stated that the Board did not want to impinge on person rights of anyone. They have considered every step and had much discussion along the way. Mrs. Giametta questioned what the process is for residents to address the Zoning Board of Appeals regarding the temporary tent issue? Deputy Town Attorney Spector stated that the Zoning Board of Appeals did not opine temporary use of a tent. Mrs. Giametta questioned whether the Town Board could petition the Zoning Board of Appeals. Deputy Town Attorney Wayne Spector stated that he could not give the residents legal advise, however, the Town Board could refer this to the Zoning Board of Appeals.

Mr. Dilemani stated that the tent would be used for the cocktail hour, which is one hour weather permitting. It is not a continuing situation as individuals have cocktails outside in the tent for one hour and then go inside for the dinner reception at which time the doors are closed. There is no reason once the cocktail hour is over for guests to be outside. He is not responsible for the past. Prior to his commitment he met with the Building Inspector and read through the entire file as well as meeting with the Chief of Police and reviewing all of those files. He is not desperate to open this business. This is not a way to welcome out of towners to your community. He has done his homework and intends to abide by the law. This is certainly not a way to sell the Town. Weddings begin at 7 p.m. Mrs. LaMarr questioned whether Brides and Grooms are told about the possibility of mowing grass during their ceremony? He stated he would take it under advisement. Supervisor Dodge stated that the Town wanted Mr. Dilemani to have a wonderful restaurant and hoped that he could co-exist with the neighbors.

Stuart Kahan, Ganung Drive, questioned whether the Building department and the Police Department had signed off on this application. Supervisor Dodge responded that they had.

Dennis Giametta, Haymont Terrace, questioned the definition of a catering hall and a restaurant. This establishment is non-conforming and the use of a 6 piece band will certainly create a lot of noise. Mr. Dilemani stated that up to a 6 piece band would only be used in the event of a wedding.

Ellen Kahan, Ganung Drive, stated that with the history of this establishment many items are not being well defined. The cabaret will be fully enclosed. Can we prohibit music outdoors? Mr. Dilemani stated that the music was only inside. Mrs. Kahan stated that microphones are not addressed.

Councilmember Krieger stated that the Board has been listening to the neighbors concerns and will continue to review to hopefully come up with an appropriate decision.

At 8:37 p.m., Councilmember Krieger moved and it was seconded by Councilmember Harter that the public hearing be adjourned to a future meeting.

Motion Carried: Unanimously

III. PUBLIC HEARING – In the matter of the proposed Increase & Improvement of the Facilities of the Stormytown Sewer District

At 8:37 p.m., Supervisor Dodge opened the Public Hearing and reported that this was an aged facility which is in need of sewer line replacement. One pump has already failed. There are two alternative available one being the replacement with a new pump or the re-creation of an impeller. The second alternative is not deemed appropriate and cost effect. The Superintendent of Highway has done a study and determined that if the pump is not replaced it could cost up to \$43,000 per week by increasing and improvements of the facilities of the Stormytown Sewer District which consists of the acquisition of pumping and other incidental expenses the cost associated with this process will be approximately \$13,000.

Bobby Williams, Spring Street, questioned whether this was the same district as Cedar Lane Park? Will it affect other locations in the area? Councilmember Harter stated that it was not the same area as there is a substantial hill between the systems. It needs replacement as the alternative dare not be allowed.

At 8:45 p.m., Councilmember Krieger moved and it was seconded by Councilmember Harter that the public hearing be closed.

Motion Carried: Unanimously

IV. ANNOUNCEMENTS

Councilmember Krieger announced the passing of Federal District Judge in the Southern District of New York Charles L. Brieant on July 21st. Judge Brieant was nominated by President Richard Nixon in 1971 and has held the seat since then. Judge Brieant also served as Town Supervisor of the Town of Ossining from 1960 – 1963. The wake will be held on Wednesday, July 23, 2008 at Leach & Thomas Funeral Home, 32 State Street, Ossining, New York from 2 – 4 p.m. and 7 – 9 p.m. The funeral will take place on Thursday, July 24, 2008 at the Trinity Church, South Highland Avenue, Ossining, New York at 10 a.m. In lieu of flowers the family is requesting donations be made to the Ossining Historical Society, 196 Croton Avenue, Ossining, New York 10562.

V. TOWN BOARD RESOLUTIONS

A. Approval of Minutes – July 8, 2008

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 approves the Minutes of the July 8, 2008 Regular Meeting as presented.

Vote: 4 – 0 – 1

Voting Yes: Harter, Wilcher, Jacobs
Dodge

Abstaining: Krieger

Councilmember Krieger was absent from the July 8, 2008 meeting.

B. Approval of Voucher Detail Report

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

Resolved, that the Town Board of the Town of Ossining hereby approves the Voucher Detail Report dated July 22, 2008 in the amount of \$265,248.15.

Motion Carried: Unanimously

C. Resolution Authorizing the Town Clerk to Advertise for Proposals for Samstag Avenue Retaining Wall

Councilmember Jacobs 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 Town Clerk to advertise for proposals for Samstag Avenue Retaining Wall, to be returnable no later than 10:00 a.m. prevailing time, on Thursday, August 14, 2008 in the Office of the Town Clerk, 16 Croton Avenue, Ossining, New York.

Motion Carried: Unanimously

D. Public Interest Order - In the matter of the Increase & Improvement of the Facilities of the Stormytown Sewer District in the Town of Ossining

Councilmember Harter moved and it was seconded by Councilmember Krieger 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;

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, at a meeting of said Town Board duly called and held on July 8, 2008, an Order was duly adopted by it and entered in the minutes specifying that the said Board would meet to consider the increase and improvement of the facilities of the Stormytown Sewer District in said Town at an estimated maximum cost of \$13,000, and to hear all persons interested in the subject thereof concerning the same 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; and

WHEREAS, the said Order duly certified by the Town Clerk was duly published at least ten, but not more than twenty, days prior to the date of said hearing and posted, as required by law, to-wit: a duly certified copy thereof was published in the official newspaper of this Town, on July 12, 2008, and a copy of such order was posted on July 9, 2008, on the signboard maintained by the Town Clerk of the Town of Ossining, pursuant to Section 30, subdivision 6, of the Town Law and remained thereon to the date hereof; and

WHEREAS, a public hearing was duly held at the time and place set forth in said notice, at which all persons desiring to be heard were duly heard; NOW, THEREFORE, BE IT

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

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to increase and improve the facilities of the Stormytown Sewer District in the Town of Ossining, Westchester County, New York, consisting of the acquisition of pumping equipment for said District, including incidental expenses in connection therewith, at an estimated maximum cost of \$13,000.

Section 2. This order shall take effect immediately.

Motion Carried: Unanimously

E. Senior Services – Supplemental Nutrition Assistance Program (SNAP) And Nutrition Services Incentive Program (NSIP)

Councilmember Jacobs 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 authorizes the Town Supervisor to sign an agreement with Westchester County Department of Senior Programs and Services for the Supplemental Nutrition Assistance Program (SNAP) and the Nutrition Services Incentive Program (NSIP), effective April 1, 2008 – March 31, 2009. The Town shall receive funds not to exceed \$62,707.

Motion Carried: Unanimously

F. Adopting Revised Negative Declaration-Engel Park Shoreline Restoration Phase III

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

Whereas, On March 27, 2007, the Town Board adopted a Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA) for the vegetative restoration of approximately 280 linear feet of shoreline along the Hudson River and installation of upland shrub plantings along the new riprap stabilization at Engel Park; and

Whereas, the Town Board in consultation with the Westchester County Department of Planning has revised the scope of work for vegetative restoration at Engel Park to eliminate plantings on the sandy beach and return to the original plan of 600 linear feet of upland plantings, an asphalt pathway and an overlook within Engel Park; and

Whereas, the Town's Planning Consultant has also revised the Full Environmental Assessment Form and Negative Declaration and the Town Board has determined that the proposed action, namely the installation of upland plantings, an asphalt walkway and an overlook within Engel Park ("the Proposed Action") is an unlisted action under the State Environmental Quality Review ("SEQRA") and has revised the long form Environmental Assessment form ("EAF") resulting in determination that the installation of plantings, a walkway and an overlook will not have any significant adverse impacts upon the environment ("Negative Declaration") and therefore, that no environmental impact statement

need be prepared and the process required by SEQRA may be deemed complete;

Now, therefore be it Resolved, that the Town Board of the Town of Ossining hereby finds that the proposed action, namely the installation of 600 linear feet of upland plantings, an asphalt walkway and an overlook within Engel park will not directly result in any significant adverse impacts on the environment, but rather will help to foster a healthy habitat and promote the enjoyment of the Hudson River's waterfront beauty and recreational opportunities through plantings and a walkway with scenic viewpoints. More specifically,

- The Proposed Action will not have a significant adverse environmental impact on any Critical Environmental Area (CEA).
- The Proposed Action will not have a significant adverse environmental impact on any unique or unusual land forms.
- The Proposed Action will not have a significant adverse environmental impact on any water body designated as protected.
- The Proposed Action will not have a significant adverse environmental impact on any non-protected existing or new body of water.
- The Proposed Action will not have a significant adverse environmental impact on surface or groundwater quality or quantity.
- The Proposed Action will not have a significant adverse environmental impact on or alter drainage flows or patterns, or surface water runoff.
- The Proposed Action will not have a significant adverse environmental impact on air quality.
- The Proposed Action will not have a significant adverse environmental impact on any threatened or endangered species.
- The Proposed Action will not have a significant adverse environmental impact on any non-threatened or non-endangered species.
- The Proposed Action will not have a significant adverse environmental impact on agricultural land resources.
- The Proposed Action will not have a significant adverse environmental impact on aesthetic resources.
- The Proposed Action will not have a significant adverse environmental impact on any site or structure of historic, prehistoric or paleontological importance.
- The Proposed Action will not have a significant adverse environmental impact on the quantity or quality of existing or future open spaces or recreational opportunities.
- The Proposed Action will not have a significant adverse environmental impact on existing transportation systems.
- The Proposed Action will not have a significant adverse environmental impact on the community's sources of fuel or energy supply.
- The Proposed Action will not have a significant adverse environmental impact as a result of objectionable odors, noise or vibration.
- The Proposed Action will not have a significant adverse environmental impact on the public health and safety.

- The Proposed Action will not have a significant adverse environmental impact on the character of the existing community.

Motion Carried: Unanimously

G. Resolution Authorizing the Town Clerk to Advertise for Proposals for Engel Park Planting and Overlook Project – Phase III

Councilmember Jacobs 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 authorizes the Town Clerk to advertise for proposals for Engel Park Planting and Overlook Project – Phase III, to be returnable no later than 11:00 a.m. prevailing time on Thursday, August 14, 2008 in the Office of the Town Clerk, 16 Croton Avenue, Ossining, New York.

Motion Carried: Unanimously

H. Senior Citizens – Call-a-Cab Program

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 authorizes the Town Supervisor to sign a Call-a-Cab contract with J & A Cab Services, Inc, 927 Paulding Street, Peekskill, NY, effective immediately through December 31, 2008.

Motion Carried: Unanimously

I. Dale Cemetery- Sprinkler Irrigation System Supplies

Councilmember Harter 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 authorizes NBA Sprinkler Systems of Hopewell Junction, NY to furnish and install a new 3” PVC pipe from the Dale Cemetery Havell Street entrance to the cul-de-sac at the end of Fox Conner Drive to be used for small scale portable sprinklers at the cemetery at a cost not to exceed \$7,300.00.

Motion Carried: Unanimously

VI. VISITOR RECOGNITION

Peter Tripodi, Quail Hollow Road, stated that he had submitted a FOIL request for the Pace University IMA Study and was denied. Also questioned was when it would be made available to the public and will it be before the budget cycle? Supervisor Dodge advised that the Town Board as well as the Village Board would be submitting comments to Pace as there were several incorrect statements. This study is being funded by a grant.

Bobby Williams, Spring Street, announced that he had attended the Village Board Work Session two weeks ago where discussion took place regarding the purchase of a proposed fireboat in the amount of approximately \$500,000. This is a boat that will cover roughly 5 miles of shoreline. He also commented on a Journal News and NAACP website regarding Governor Patterson and the 100th Anniversary of the NAACP. Mr. Williams commented on the fact that there is still

a difference between men and women in the workplace which includes pay scales. Councilmember Wilcher agreed with Mr. Williams that women have carried this Country. Women are strong at home as well as in the workplace and have only received half the credit. Thank you for making this statement.

VII. ADJOURNMENT

At 9:13 p.m., Councilmember Krieger moved and it was seconded by Councilmember Harter that the meeting be adjourned in memory of Judge Charles L. Briant. The Board was adjourning into Executive Session for the purpose of Personnel.

Motion Carried: Unanimously

Mary Ann Roberts, Town Clerk

Approved: