

TOWN BOARD
TOWN OF OSSINING
BIRDSALL-FAGAN POLICE/COURT FACILITY
86-88 SPRING STREET – OSSINING, NEW YORK

OCTOBER 28, 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 October 28, 2008 in the Birdsall-Fagan Police/Court Facility, 86-88 Spring Street in Ossining. The meeting was called to order at 7:33 p.m. by Supervisor Martha Dodge. Members of the Board present were: Geoffrey Harter, David Krieger, Northern Wilcher and Kimberlie Jacobs. Also present were: Thomas Beirne, Town Attorney and Constance Evans, Deputy Town Clerk.

II. ANNOUNCEMENTS

Councilmember Krieger announced that Cablevision has extended the time to receive the free converter box to December 31st. He also announced that on Thursday, November 13th at 7:30 p.m., the Ossining Public Library presents the live production of "Moonlight and Magnolias". Also, on Friday, November 14th from 11:30 a.m. to 1 p.m., "The Farm Comes to You" by Community Markets Director Miriam Haas, speaking about the benefits of fresh produce, cooking demonstrations as well as recipes. These events are both free.

Supervisor Dodge announced that because next Tuesday is Election Day, the next Work Session of the Town Board has been moved to Thursday, November 6th at 6:30 p.m. at 16 Croton Avenue, 3rd Floor.

III. Presentation – Employee of the Season – Summer, 2008

Supervisor Dodge presented the 'Employee of the Season' Proclamation to Nelga Farrelly who is a Deputy Receiver of Taxes for the Town of Ossining. Mrs. Farrelly is a dedicated employee and has worked for the Town for 15 years.

IV. BOARD RESOLUTIONS

A. Approval of Minutes – October 14, 2008

Councilmember Krieger 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 October 14, 2008 Regular Meeting as presented.

Motion Carried: Unanimously

B. Approval of Voucher Detail Report

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

Resolved, that the Town Board of the Town of Ossining hereby approves the Voucher Detail Report dated October 28, 2008 in the amount of \$193,969.35.

Motion Carried: Unanimously

C. Alarm Review Board

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 reduces the false alarm fine for permit number 877 to \$50.00 pursuant to Local Law 2 of 2002.

Motion Carried: Unanimously

D. Alarm Review Board

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

Resolved, that the Town Board of the Town of Ossining hereby denies the request to waive false alarm fines for permit number 2725 pursuant to Local Law 2 of 2002.

Motion Carried: Unanimously

E. Finance – Capital Project # 2008-2154 – Justice Court Assistance Program (JCAP)

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

Whereas, the Town of Ossining established Capital Project # 2008 – 2154 entitled Justice Court Assistance Program (JCAP) in the amount of \$9,597.20 to be fully funded by a grant from the New York State Office of Court Administration, and

Whereas, the Town was awarded additional grant money in the amount of \$9,784.00 by the New York State Office of Court Administration, now therefore be it

Resolved, that the Town of Ossining hereby increases Capital Project # 2008-2154 entitled Justice Court Assistance Program (JCAP) for a total amount of \$19,381.20 to be fully funded by a grant from the New York State Office of Court Administration.

Motion Carried: Unanimously

F. Finance-2008 Budget Adjustment

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

Whereas, The Town of Ossining received a check in the amount of \$1,000 from the Ossining Historical Society for Dale Cemetery's assistance in cleaning up Sparta Cemetery, now therefore be it

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

Increase: 010-0010-2193-Dale Cemetery Funds Recognized	\$1,000
010-9901-0907-Transfer to Dale Cemetery	\$1,000

Motion Carried: Unanimously

G. Deerfield Condominium Address Change

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

Whereas, the Board of the Deerfield Homeowners Association has requested address changes to the homes in the condominium complex, which were incorrectly depicted as apartments, and

Whereas, after residents of Deerfield Condominiums were notified and after discussions with the Town Supervisor, Police Chief and the Postmaster, it was determined that the address change would be beneficial and that there would be no financial implications to the Town, now therefore be it

Resolved, that the Town Board of the Town of Ossining hereby authorizes the changes to the addresses within Deerfield Condominiums as attached.

Motion Carried: Unanimously

H. Agreement – NYS Municipal Workers' Compensation Alliance

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

Whereas, there has been proposed a "New York State Municipal Workers' Compensation Alliance Plan Document" pursuant to Section 50 3-a of the Workers' Compensation Law (hereinafter "the Plan"); and

Whereas, the Town of Ossining is eligible for membership in the Plan; and

Whereas, the Town of Ossining has made an independent investigation of the Plan and reviewed the Plan document, and has concluded that it would be in the interests of the Town of Ossining to participate therein; now therefore, be it

Resolved, that the Town of Ossining enter into membership in the Plan pursuant to section 50 Subdivision 3-a of the Workers' Compensation Law; and be it further

Resolved, that the Town Supervisor be and hereby is authorized and instructed to execute the Plan's charter document on behalf of the Town of Ossining; and be it further

Resolved, that the custody of all joint Plan moneys by the Plan Administrator under the Plan be and the same hereby is approved.

Motion Carried: Unanimously

I. "Workers' Compensation – Self Insurance"

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

Resolved, that the Town of Ossining hereby elects, pursuant to Subdivision 3-a of Section 50 of the Workers' Compensation Law, to become a self-insurer as to Workers' Compensation claims against this Municipality; and be it further

Resolved, that pursuant to Section 50 Subdivision 3-a of said Workers' Compensation Law, notice of such election shall be filed forthwith with the

Chairman of the Workers' Compensation Board, Self-Insurance Section; and be it further

Resolved, that this election shall become effective on January 1, 2009.

Motion Carried: Unanimously

J. Highway Department – Termination of Seasonal Employee

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

Resolved, that the Town of Ossining hereby terminates the following seasonal employee in the Highway Department effective September 3, 2008:

John Codman IV, Ferris Place, Ossining

Motion Carried: Unanimously

K. Justice Court – Termination of Employee

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

Resolved, that the Town of Ossining hereby terminates the following employee in the Justice Court effective October 30, 2008:

Maria Gorordo-Daly, Spring Pond Drive, Ossining

Motion Carried: Unanimously

L. CERTIORARI SETTLEMENT
SLEEPY HOLLOW COUNTRY CLUB
vs.
TOWN OF OSSINING

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

WHEREAS, proceedings pursuant to Article 7 of the Real Property Tax Law of the State of New York were instituted by SLEEPY HOLLOW COUNTRY CLUB (the "CLUB"), Petitioner, against the Town of Ossining to review the tax assessments made on Petitioner's property located at Albany Post Road, Tower Hill Road, Long Hill Road, Andre Road and Sleepy Hollow Road in the Town of Ossining, and designated on the tax assessment map of the Town of Ossining as Parcels 4.31C-027-4, a/k/a 104.11-1-41; 4.31C-027-3, a/k/a 104.12-1-1; 4.31C-027-6, a/k/a 104.16-1-10; 4.32-027-6.G, a/k/a 104.16-1-7; 4.32B-027-7, a/k/a 104.08-1-51; and 4.33-028-28, a/k/a 105.09-1-1 ("the CLUB property"), for assessment years 2006 and 2007, which proceedings are now pending in the Supreme Court of the State of New York, County of Westchester, under Index Nos. 20315/06 and 19614/07; and

WHEREAS, the Town Attorney and the Town Assessor, believing that the CLUB property was not over-assessed, recommended that a real estate appraiser with particular expertise in the area of golf course valuation be retained in order to prepare for possible trial of the matter; and

WHEREAS, the Town thereafter retained Laurence A. Hirsch, CRE, MAI, SGA, a highly-regarded expert in the said area of golf course valuation, for the purpose of preparing an appraisal report concerning the CLUB property and otherwise preparing for trial; and

WHEREAS, Mr. Hirsch did thereafter prepare an appraisal report which was filed with the Court and exchanged with Petitioner pursuant to the applicable rules; and

WHEREAS, the parties, including the Briarcliff School District, appeared, by their attorneys, for pre-trial conferences on January 24, 2008 and February 4, 2008, at which time settlement of the proceedings was discussed among the said attorneys and with participation by the Court's representative; and

WHEREAS, it became apparent during those discussions that because of the possible application by the Court of a valuation technique which had been approved in recent decisions by the New York Supreme Court, Nassau County, and the Appellate Division, Second Department, the Town would not be able to defend and sustain the value which it believed was appropriate and fair for the CLUB property and, in fact, faced the risk of a reduction of the CLUB's tax assessment by the Court of as much as 70%; and

WHEREAS, the Town's own appraisal report, again because of the income capitalization methodology used in these proceedings, indicated an assessment reduction of more than 40%; and

WHEREAS, the Town was able to negotiate the reductions below in settlement of the proceedings representing reductions in the original assessment of between 53% and 56%; and

WHEREAS, in the opinion of the Town Attorney and the Attorney for the Briarcliff School District, the result available by settlement approximates the likely outcome of a trial, given the appraisal reports and the currently applicable law, and avoids the risk of a considerably more unfavorable result and, in light of the expenses of trial, the obligation to pay interest on a judgment after trial and the risk that the Court might reach a lower value conclusion based upon use of the punitive, for tax districts, income approach mentioned above; now therefore be it

RESOLVED that settlement of the proceedings, on the terms set forth below, is hereby accepted and approved, subject to the approval of the Supreme Court, Westchester County, wherein such proceedings are pending:

Tax Map. 4.31C-027-3 a/k/a 104.12-1-1

Assessment Year	Original Assessment	Corrected Assessment	Reduction
2006	400,000	188,600	211,400
2007	400,000	176,960	223,040

Tax Map. 4.31C-027-6 a/k/a 104.16-1-10

Assessment Year	Original Assessment	Corrected Assessment	Reduction
2006	50,325	23,728	26,597
2007	50,325	22,264	28,061

Tax Map. 4.32B-027-7 a/k/a 104.08-1-51

Assessment Year	Original Assessment	Corrected Assessment	Reduction
2006	15,810	7,454	8,356
2007	15,810	6,994	8,816

Tax Map. 4.32-027-6G a/k/a 104.16-1-7

Assessment Year	Original Assessment	Corrected Assessment	Reduction
2006	17,700	8,346	9,354
2007	17,700	7,830	9,870

Tax Map. 4.33-028-28 a/k/a 105.09-1-1

Assessment Year	Original Assessment	Corrected Assessment	Reduction
2006	4,685	2,209	2,476
2007	4,685	2,073	2,612

Tax Map. 4.31C-027-4 a/k/a 104.11-1-41

Assessment Year	Original Assessment	Corrected Assessment	Reduction
2006	1,036,780	488,842	547,938
2007	1,086,100	480,491	605,609

and it is further

RESOLVED, that the Town Attorney is hereby authorized and directed to procure and execute any documents necessary to effectuate such settlement; and it is further

RESOLVED, that the Assessor is authorized and directed to make the changes and corrections to the tax assessment rolls of the Town of Ossining, which will be ordered pursuant to the Consent Judgment to be entered in accordance with the terms of this settlement, and the Receiver of Taxes is authorized and directed to process and pay the refund of Town of Ossining taxes, estimated to be \$12,353.15, which will be ordered pursuant to said Consent Judgment; and it is further

RESOLVED, that the Supervisor be, and she is hereby, authorized and directed to forward a copy of this resolution to all appropriate New York State representatives and officials with a request for review and remediation with appropriate legislation of this damaging and unfair valuation methodology which has and will cost tax districts in Westchester County, where so many private country clubs and golf courses are located, millions of dollars of tax revenue because of the undervaluation of private golf course property.

Motion Carried: Unanimously

M. Change Order Authorization – Engel Park Planting & Overlook Phase III Project

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

Resolved, that the Town Board of the Town of Ossining hereby authorizes the Supervisor to sign the following Change Order with Vernon Hills Contracting Corp. for the Engel Park Planting & Overlook Phase III project:

Automatic Irrigation System	\$5,000.00
Topsoil > 185 CY	\$5,550.00
Grass Seed > 1700 SY	<u>\$5,100.00</u>
	\$15,650.00

Motion Carried: Unanimously

N. Memorandum of Agreement – Indian Brook – Croton Gorge Watershed Committee

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 enter into a Memorandum of Agreement establishing the Indian Brook-Croton Gorge Watershed Committee.

Motion Carried: Unanimously

O. Finance-2008 Budget Adjustment-Stormytown Sewer District

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

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

Increase: 058-8120-0201-Equipment	\$5,804.00
058-0058-4795-Fund Balance	\$5,804.00

Motion Carried: Unanimously

P. Finance – 2008 Budget Adjustments

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 approves the following budget adjustments to be made to the 2008 budget:

TRANSFER TO G/L ACCOUNT	AMOUNT	AMOUNT	TRANSFER FROM G/L ACCOUNT
Town Justice			
010-1110-0436-Postage	300.00	300.00	010-1110-0438-Miscellaneous
010-1110-0401-Supplies	213.44	513.69	010-1355-0201-Equipment
010-1110-0408-Books	255.25		
010-1110-0428-Dues	45.00		
Tax Collection			
010-1330-0105-Overtime	267.81	489.81	010-1330-0402-Printing
010-1330-0417-Education	177.00	500.00	010-1010-0101-Personnel
010-1330-0424-Consult/Comp	1253.34	708.34	010-1110-0201-Equipment
Assessment			
010-1355-0424-Consult/Comp	301.10	301.10	010-1355-0105-Overtime
Town Clerk			
010-1410-0402-Printing	3000.00	500.00	010-1410-0424-Consult/Computer
010-1410-0419-Maint/Repair	1150.00	250.00	010-1410-0417-Education
		533.00	010-1410-0201-Equipment
		2867.00	010-1910-0413-Consultant
Elections			
010-1450-0437-West Cty. Reimburse.	11492.32	2000.00	010-1450-0419-Maint/Repair
		1200.00	010-1450-0401-Supplies
		1000.00	010-1620-0436-Postage
		1845.15	010-1950-0438-Miscell
		3250.00	010-1989-0487-Pace Study

		2197.17	010-1110-0414-Contr. Steno
Town Attorney			
010-1420-0420-Litigation	6605.5	48736.76	010-9010-0817-Hospital/Med
010-1420-0422-Certiorari	42,131.26		
Buildings			
010-1620-0419-Maint/Repair	2060.92	2000	010-1320-0438-Indep. Audit
010-1620-0438-Miscellaneous	546.36	300	010-1356-0437-Profess. Fees
		188.28	010-1420-0405-Conference
		119.00	010-1620-0201-Equipment
Veterans			
010-6510-0438-Miscellaneous	1765.61	725.00	010-7550-0438-Celebrations
		1040.61	010-9730-0403-Filing Fees
Nutrition			
010-6772-0429-Call a Cab	8307.20	6000.00	010-9010-0814-Life/Dental
		2307.20	010-1355-0105-Overtime
Parks Dept.			
010-7110-0103-Out of Title Pay	576.12	12323.36	010-9010-0813-Workers Comp
010-7110-0105-Overtime	425.75	931.51	010-7110-0442-Capital Improv
010-7110-0410-Water	11,442.05		
010-7110-0441-Paper Cleaning Supplies	114.00		
010-7110-0449-Parts/Labor	696.95		
Parks Sewer Lift Stations			
010-7112-0419-Maint/Repair	1535.77	1535.77	010-7110-0442-Capital Improv.
Bond Anticipation Notes			
010-9730-0710-Interest	6.34	6.34	010-1010-0405-Conference
Engineer			
020-1440-0413-Consultant	7,675.00	1,700.00	020-1910-0468-Auto Insurance
		5,975.00	020-9010-0817-Hosp/med
Police			
020-3120-0402-Printing	129.12	129.12	020-3120-0405-Conference
020-3120-0419-Maint/Repair	1000.00	4553.00	020-3120-0201-Equipment
020-3120-0428-Dues	53.00		
020-3120-0411-Gasoline	3500.00		
Building Dept.			
020-3620-0438-Miscellaneous-Rent	2576.58	2576.58	020-9010-0817-Hosp/med
			020-8020-0423-Affordable Housing
020-8010-0436-Postage	202.07	202.07	
020-8740-0413-Stormwater	1239.44	500	020-8020-0201-Equipment
		739.44	020-8020-0414-Contr. Steno
Highway Dept.			
031-5010-0110-Part-time	310.00	310.00	031-5010-0417-Education
			031-5142-0451-Sand
031-5010-0401-Supplies	500	500	031-5132-0410-Water
031-5010-0410-Water	700	700	031-1910-0467-Liability
031-5010-0425-Labor Counsel	9642.01	2886.37	031-1910-0468-Auto Insurance
		1000	031-9010-0817-Hosp/med
		5755.64	
031-5110-0412-Diesel Fuel	3,000.00	3000.00	031-5140-0438-Maint. Of Trees
031-5130-0105-Overtime	2500.00	2500.00	031-5142-0414-Contr. Snow
031-5130-0449-Parts/Labor	25000	15000	031-5110-0447-Road Drainage
		10000	031-5110-0448-Road Paving
031-5140-0201-Equipment	439.85	439.85	031-5140-0438-Maint of Trees

031-9730-0710-Interest	131.57	131.57	031-5132-0428-Reg/Permit Fees
Dale Cemetery Trust Fund			
032-8810-0201- Equipment	845.95	3800.00	032-8810-0467 - Liability Insurance
032-8810-0409 - Electricity	900.00	1568.42	032-8810-0413 - Consultant
032-8810-0409- Water	422.47	20.00	032-8810-0438- Misc.
032-8810-0411 - Gasoline	3200.00	183.87	032-8810-0405 - Conference
032-8810-0416 - Uniforms	125.00	705.20	032-8810-0492 - Contractual/Misc
032-8810-0442 - Improvements/Capital	99.87		
032-8810-0474 - Heating/Natural Gas	684.20		
050 Town Wide Water			
050-1930-0438 - Judgements & Claims	5.77	5.77	050-9901-0902 -Interest
051 North State Road Sewer			
051-8120-0201- Equipment	709.92	709.92	051-8120-0419 Maint/Repair
054 - Torbank Sewer			
054-8120-0201 - Equipment	1017.85	1017.85	054-8120-0419 - Maint/Repair
055 - Lakeville Sewer			
055-8120-0105 - Overtime	878.47	878.47	055-8120-0101- Personnel Services
055-8120-0201 - Equipment	337.58	2737.58	055-8120-0419 - Maint/Repair
055-8120-0409 - Electricity	2400.00		
056 - Lakeville Ext. Sewer			
056-8120-0201 - Equipment	100.00	100.00	056-8120-0101 - Personnel Services
056-8120-0409 - Electricity	2430.00	500.00	056-8120-0419 - Maint/Repair
		1930.00	056-0056-4795-Fund Balance
058 - Stormytown Sewer District			
058-8120-0201 - Equipment	707.77	1000.00	058-8120-0105 - Overtime
058-8120-0413 - Consultant	5070.00	3000.00	058-8120-0101 - Personnel
058-8120-0419 - Maint/Repair	4858.84	2000.00	058-9730-0403-Filing Fees
		4636.61	058-0058-4795-Fund Balance
059- Croton Sewer			
059-1930-0438 - Misc	536.70	3374.96	059-8120-0101 - Personnel
059-8120-0105- Overtime	649.26		
059-8120-0201 - Equipment	2176.88		
059-9730-0710 - Interest	12.12		
065 -Refuse/Recycle			
065-1930-0438 - Misc.	5088.41	5088.41	065-8160-0471-Refuse Cty of West.

Motion Carried: Unanimously

V. CORRESPONDENCE TO BE RECEIVED AND FILED

Councilmember Harter moved and it was seconded by Councilmember Krieger that the following correspondence be received and filed:

1. Certioraris: V & B Realty; Briarcliff Self Storage Inc.; Monte Kalfa Corp.; Mavis Tire Supply Corp.; Kenneth Dengler; Robert & Maria Solari; Sunoco Inc.; Riverfront Properties; CWBP #1 & 2; CWBP Section 2; 40 South Highland Ave.; Eagle Bay Condos; Plateau Assoc.; Birch Brook Manor; Ossining Land; 140 South Highland Ave.; JCL Realty; JPMorganChase as successor in Interest to Bank of New York; 97 Croton Avenue; 7-Eleven Inc.; Board of

Managers of Briarcliff Woods Condo; Deerfield Condo I,
II, III; Arthur DeMarchis;

Motion Carried: Unanimously

VI. VISITOR RECOGNITION

Bobby Williams, Spring Street, announced that next Tuesday was Election Day and urged everyone to get out and vote.

VII. ADJOURNMENT

At 8:22 p.m., Councilmember Harter moved and it was seconded by Councilmember Krieger that the meeting be adjourned.

Motion Carried: Unanimously

Constance Evans, Deputy Town Clerk

Approved: