



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

**APRIL 13, 2010  
7:30 P.M.**

**SUPERVISOR  
Catherine Borgia**

**COUNCILMEMBERS  
Geoffrey Harter    Michael L. Tawil  
Peter Tripodi     Northern Wilcher**

**I. CALL TO ORDER – PLEDGE OF ALLEGIANCE – ROLL CALL**

The Regular Meeting of the Town Board of the Town of Ossining was held on April 13, 2010 in the Police/Court Facility, 86-88 Spring Street in Ossining. The meeting was called to order at 7:30 p.m. by Supervisor Catherine Borgia. Members of the Board present were: Councilmembers, Geoffrey Harter, Michael Tawil, Peter Tripodi and Northern Wilcher. Also present were Town Attorney, Wayne Spector, Budget Officer, Connie Cerny and Town Clerk, Mary Ann Roberts.

**II. PUBLIC HEARING-Local Law amending the code of the Town of Ossining  
Local Law #1- Fines and Penalties.**

The public hearing was opened at 7:31 p.m.

Town Attorney Wayne Spector stated that after review of the fines and penalties it was determined that revisions were required providing for more flexibility.

There was no public comment at this public hearing.

At 7:32 p.m., Councilmember Tawil moved and it was seconded by Councilmember Wilcher that the public hearing be closed.

**Motion Carried: Unanimously**

**III. ANNOUNCEMENTS**

Councilmember Tawil announced that Ossining High School student Florence Kool is a winner of the National Scholarship Award which is funded by GKN Foundation. There are 800 outstanding black American High School Seniors.

Supervisor Borgia announced that on Saturday, April 17<sup>th</sup> beginning at 9 a.m. at Roosevelt School there will be a Little League Parade which will end at Veteran's Park. There is also a banner contest. Supervisor Borgia will throw out the first ball to begin the season.

The Ossining High School is presenting Beauty and the Beast which will be presented at various times this weekend. The Rotary Club will host "Polio Plus Spaghetti Dinner" at the Methodist Church on Saturday evening. Please make sure and complete your census as we will receive between \$10 and \$12,000 per resident. The Highway Department has a significant amount of clean up to do after the recent storms, however, the schedule will be a bit slower as they must now clean up the catch basins. Thank you for your cooperation at this time.

**IV. PUBLIC COMMENT ON AGENDA ITEMS**

**V. BOARD RESOLUTIONS**

**A. Approval of Minutes**

Councilmember Tawil moved and it was seconded by Councilmember Tripodi that the following be approved:

Resolved, that the Town Board of the Town of Ossining hereby approves the March 23, 2010 Minutes of the Regular Meeting as presented.

Motion Carried: Unanimously

**B. Approval of Voucher Detail Report**

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

Resolved, that the Town Board of the Town of Ossining hereby approves the Voucher Detail Report dated April 13, 2010 in the amount of \$ 426,819.92 for 2010.

Vote: 4 –0 –1

Voting Aye: Harter, Tawil,  
Borgia, Wilcher

Voting Nay: Tripodi

Councilmember Tawil requested that Councilmember Tripodi reconsider his vote on the voucher detail report due to the fact that the following essential and desirable services are being paid for in this weeks voucher detail: Fire Coverage for the Unincorporated area of the Town; ambulance service for the Town through the dedicated professionals at OVAC; emergency repair to Old Albany Post Road which had actually collapsed and was declared an emergency by the Board; emergency tree removal after the last big snow storm; emergency parts for the snow plows; a motor for the Parks Department, wood chipper to help clean up after the snow storm; emergency rental of a septic truck to help clear the sewer lines; monthly repair and maintenance and gas to run for the Town's sewer lift stations; alarms and phone service for all of the town's sewer lift stations; lights for our parks; rags for the Highway garage; labor counsel required to defend the Town against legal actions by the municipal unions; printer cartridges for the Town printers; life and dental insurance for the Town's CSEA union member; food for the Town Senior Nutrition Program; replacement parts for Town vehicles; tax refunds for citizens who overpaid their taxes; postage for the Town; uniforms for the police; monthly web casting services for Town meetings so that the public can see our meetings and make them more accessible to the public.

Councilmember Tripodi responded that the following items are also on the voucher detail report and in his opinion are too costly: \$3,000 Taxi Companies; \$485 Take Home Car for the Assessor; \$105,000 IMA's; \$13,000 trees; \$1,000 art instructor and \$17,000 on consultants.

**C. Telecommunications-MetroPCS New York, LLC Special Permit for Wireless Telecommunications Facility**

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

Whereas, MetroPCS, LLC ("the Applicant") filed an application, including a Full Environmental Assessment Form (Part I and II) ("the EAF"), for a Special Permit pursuant to Chapter 182A of the Code of the Town of Ossining to locate a wireless telecommunications facility, consisting of six (6) panel antennas, two (2) Global Positioning Satellite ("GPS") antennas on the rooftop of an existing commercial

**building, and related unmanned equipment necessary to operate its facility in a proposed secure equipment room in the ground level of the building, and two (2) HVAC units outside of the building on grade and behind existing landscaping, at 400 Executive Boulevard in the unincorporated area of the Town of Ossining; and**

**Whereas, the Applicant is licensed by the Federal Communications Commission and is deemed a public utility for zoning purposes under New York law; and**

**Whereas, the Applicant's status as a public utility is underscored by the fact that its services are an important part of the national telecommunications infrastructure and will be offered to all persons that require advanced digital wireless communications services, including local businesses, public safety entities, and the general public; and**

**Whereas, the property is located in the O-RM (Office-Research Manufacturing) Zoning District, and is known as Section 80.20 Block 9, Lot 19 on the Town of Ossining Assessment Map; and**

**Whereas, the required pre-application meeting and site visit was conducted on March 31, 2009, at which the Town Board's Telecommunications Consultant Russ Bogie and the Building Inspector were present; and**

**Whereas, on December 8, 2009, MetroPCS filed a complete application for special permit with the Town of Ossining Town Board; and**

**Whereas, the Town Board of the Town of Ossining thereafter declared itself "lead agency" as defined in 6 NYCRR 617 ("SEQRA") and caused notice of the application to be sent to all appropriate agencies of the State of New York, the County of Westchester, the Village of Ossining and those municipalities which adjoin the Town of Ossining; and**

**Whereas, the Town Board referred the application to the Planning Board of the Town of Ossining and Telecommunications Consultant Russ Bogie, to be reviewed and analyzed in accordance with Section 182 (A)-6(a) of the Code; and**

**Whereas, the Planning Board and Telecommunications Consultant have submitted correspondence to the Town Board recommending approval of the Application; and**

**Whereas, the Town Board of the Town of Ossining held a Public Hearing, on notice, to review the Application on Tuesday, March 23, 2010 at 7:30pm at the Police/Court Facility, 86-88 Spring Street, Ossining, at which time all persons wishing to speak on the application were provided an opportunity to speak and the hearing was closed on this date; now therefore be it**

**Resolved, that in reviewing the special permit application and the Full Environmental Assessment Form, the Town Board of the Town of Ossining hereby determines the following:**

- 1. The proposed installation of a wireless telecommunications public utility facility is permitted in the O-RM Zoning District by special use permit from the Town Board.**
- 2. The applicant has submitted all applicable materials and met all applicable submission requirements and standards outlined in Chapter 182A of the Code of the Town of Ossining.**
- 3. The Applicant meets the standards and regulations regarding wireless telecommunications facilities as set forth in Chapter 182A of the Code for the following reasons:**
  - A. The applicant agrees to maintain the facility in a safe manner, and in compliance with all legal and enforceable conditions of the Special**

**Permit, as well as all legal, enforceable, applicable and permissible local codes, ordinances, and regulations, including any and all applicable County, State and Federal laws, rules and regulations.**

- B. The construction of the Facility is legally permissible, and the Applicant is authorized to do business in the State of New York.**
- C. The applicant proposes to utilize an existing building; therefore, construction of a new telecommunications tower is not required.**
- D. The Facility has been designed and will be constructed in accordance with all applicable standards.**
- E. The Facility has been sited to have the least practical adverse visual effect on the environment and the residences in the area since the Facility is proposed on an existing commercial building within an office park. In addition, since the Facility eliminates the need for additional towers within the Town in the vicinity of the site, the potential visual impacts are further minimized. Therefore, the facility will not have a significant visual impact on the surrounding area.**
- F. The HVAC equipment cabinets at the base of the existing building will be effectively screened from view by the existing building and existing vegetation.**
- G. The facility will be designed to harmonize with the surroundings.**
- H. The proposed utilities will be connected to an existing source within the existing building.**
- I. The facility will be accessed by an existing street, and existing parking is sufficient to accommodate routine maintenance visits of approximately once per month.**
- J. The applicant will construct, operate, maintain, repair, modify or restore the Facility in strict compliance with all applicable technical and safety related codes.**
- K. The Facility will be located on an existing tall structure, which is the highest priority location under Chapter 182A of the Zoning Code.**
- L. The antennas are proposed at the minimum height necessary to provide reliable coverage within the vicinity of the Property.**
- M. The proposed equipment cabinets shall be secured in the building, which shall be locked except when necessary to gain access by authorized personnel only.**
- N. The only signs proposed in connection with the Facility are a small sign, with the name and emergency telephone number of the Applicant, which will be placed on the fence securing the related equipment cabinets, and a sign in accordance with the FCC Rules on Radio Frequency Emissions (47 CFR 1.1307(b)). No commercial or retail signage is proposed.**
- O. The Facility will be set back from abutting parcels, recorded rights-of-way and road and street lines a distance sufficient to substantially contain on-site ice fall or debris from the Facility and to preserve the privacy and sanctity of any adjoining properties. The accessory equipment is proposed to be located in a secure equipment room, on the ground level of the existing building.**

- P. The Facility is necessary because MetroPCS does not have wireless telecommunications infrastructure to provide service in the vicinity of the Property.**
- Q. The Facility will comply with the applicable FCC regulations regarding radio frequency emissions; and it is further**

**Resolved, that pursuant to the State Environmental Quality Review Act (SEQRA) regulations, the Town Board hereby adopts a Negative Declaration, thereby finding that the Proposed Action will not result in any significant adverse impacts on the environment for many of the reasons enumerated in Items 3.A through Q above, and thereby finding that a Draft Environmental Impact Statement will not be required and that the SEQRA process is therefore complete; and be it further**

**Resolved, that the Town Board of the Town of Ossining hereby approves the application of MetroPCS, LLC for a special use permit for a wireless telecommunications facility at 400 Executive Boulevard in the unincorporated area of the Town of Ossining, subject to the conditions and limitations set forth in Chapter 182A of the Code of the Town of Ossining; and be it further**

**Resolved, that the requirements for Performance of Security and Liability Insurance set forth in Sections 182-A-21 and 182A-24 be satisfied prior to the issuance of a building permit and to the satisfaction of the Town Attorney. The applicant shall have paid to the Town all expenses in processing the application prior to the issuance of a building permit.**

**Motion Carried: Unanimously**

**D. Emergency Repair-Old Albany Post Road “S” Curve**

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

**Whereas, the March 13 and 14, 2010 rain storm resulted in a road collapse at Old Albany Post Road “S” Curve requiring immediate attention and correction thereby constituting an emergency; and**

**Whereas, the Town’s engineering consultant has inspected the condition and concurred in the finding that an emergency exists and has prepared a report describing remedial measures to be taken as soon as possible in order to protect the road and the safety of persons traveling the road, including homeowners on Old Albany Post Road and emergency response vehicles; now therefore be it**

**Resolved, that the Town Board of the Town of Ossining hereby declares Phase I of the Old Albany Post Road “S” Curve road collapse an emergency situation and authorizes payment to Steve Giordano Builders, Ossining, in the amount of \$7,800 for emergency work that has been completed to the satisfaction of the Town’s Consulting Engineer; and be it further**

**Resolved, that Phase II of the Old Albany Post Road stabilization and remediation project requires further attention and will be a significant expenditure requiring proper bidding practices to be followed in accordance with the Town’s procurement policy and Section 103 of the General Municipal Law; and be it further**

**Resolved, that the Town Board hereby authorizes the Town’s consulting engineer to immediately prepare bid specifications for the additional remediation and stabilization (Phase II) of Old Albany Post Road; and be it further**

**Resolved, that the Town Board authorizes the establishment of Capital Project # 2010-2171 entitled Old Albany Post Road in the amount of \$7,800.00 to be funded by the Federal Emergency Management Agency or a Highway Fund transfer. This**

amount shall be increased upon the receipt of the formal bid proposals and funding will be established once the bid proposals are received and accepted.

Motion Carried: Unanimously

**E. Receiver of Taxes-Payment Plan-74 Hemlock Road**

Councilmember Tawil moved and it was seconded by Councilmember Tripodi that the following be approved:

Whereas, certain property taxes have not been paid on the parcel located at 74 Hemlock Road resulting in commencement of In Rem foreclosure proceedings, and the property owner has requested a payment plan for outstanding taxes due on the property; and

Whereas, the Town Board desires to allow the property owner an opportunity to pay for all outstanding taxes by authorizing the Receiver of Taxes to institute a payment plan with the property owner; now therefore be it

Resolved, that the Town Board of the Town of Ossining hereby authorizes the Receiver of Taxes to set up a payment plan in accordance with the Town Code with the owner of property located at 74 Hemlock Road, Briarcliff Manor, to satisfy all taxes, interest, penalties and fees due to the Town of Ossining; and be it further

Resolved, that based on the unique circumstances of this case, this arrangement shall not set a precedent with how future cases are handled.

Motion Carried: Unanimously

**F. Town Historian-Martha R. Mesiti**

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

Resolved, that the Town Board of the Town of Ossining hereby appoints Martha R. Mesiti, Town Historian for 2010.

Motion Carried: Unanimously

**G. Parks Department-Seasonal Employees**

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 appoints the following employees to the seasonal position of Laborer in the Parks Department effective April 14, 2010

<u>NAME</u>	<u>RATE</u>
Arthur Gerald Stokeley	\$7.25/hr.
Tavar R. Young	\$8.50/hr.
Robert Tyrone Hinson	\$8.50/hr.

Motion Carried: Unanimously

**H. A RESOLUTION AUTHORIZING THE ISSUANCE PURSUANT TO SECTION 90.10 OF THE LOCAL FINANCE LAW OF REFUNDING BONDS OF THE TOWN OF OSSINING, WESTCHESTER COUNTY, NEW YORK, TO BE DESIGNATED SUBSTANTIALLY "PUBLIC IMPROVEMENT (SERIAL) BONDS", AND PROVIDING FOR OTHER MATTERS IN RELATION THERETO AND THE PAYMENT OF THE BONDS TO BE REFUNDED THEREBY.**

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

WHEREAS, the Town of Ossining, Westchester County, New York (hereinafter, the "Town") heretofore issued an aggregate principal amount of \$1,561,000 Public Improvement (Serial) Bonds, 2000, pursuant to various bond resolutions to pay the cost of various capital improvements, as set forth in Exhibit A attached hereto and thereby made a part hereof, and a bond determinations certificate of the Supervisor (hereinafter referred to as the "Refunded Bond Certificate"), such Public Improvement (Serial) Bonds, 2000, being dated October 15, 2000 and maturing or matured on June 15 annually on each of the years 2001 to 2020, both inclusive, as more fully described in the Refunded Bond Certificate (the "Refunded Bonds"); and

WHEREAS, it would be in the public interest to refund all or a portion of the \$815,000 outstanding principal balance of the Refunded Bonds maturing in the years 2011 to 2020, both inclusive, by the issuance of refunding bonds pursuant to Section 90.10 of the Local Finance Law; and

WHEREAS, such refunding will result in present value savings in debt service as so required by Section 90.10 of the Local Finance Law; NOW, THEREFORE, BE IT

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

**Section 1.** For the object or purpose of refunding the \$815,000 outstanding aggregate principal balance of the Refunded Bonds maturing in the years 2011 to 2020, both inclusive, including providing moneys which, together with the interest earned from the investment of certain of the proceeds of the refunding bonds herein authorized, shall be sufficient to pay (i) the principal amount of the Refunded Bonds, (ii) the aggregate amount of unmatured interest payable on the Refunded Bonds to and including the date on which the Refunded Bonds which are callable are to be called prior to their respective maturities in accordance with the refunding financial plan, as hereinafter defined, (iii) the costs and expenses incidental to the issuance of the refunding bonds herein authorized, including the development of the refunding financial plan, as hereinafter defined, compensation to the underwriter or underwriters, as hereinafter defined, costs and expenses of executing and performing the terms and conditions of the escrow contract or contracts, as hereinafter defined, and fees and charges of the escrow holder or holders, as hereinafter mentioned, (iv) the redemption premium to be paid on the Refunded Bonds which are to be called prior to their respective maturities, and (v) the premium or premiums for a policy or policies of municipal bond insurance or cost or costs of other credit enhancement facility or facilities, for the refunding bonds herein authorized, or any portion thereof, there are hereby authorized to be issued not exceeding \$950,000 refunding serial bonds of the Town pursuant to the provisions of either Section 90.10 or Section 90.00 of the Local Finance Law, as appropriate (the "Town Refunding Bonds" or the "Refunding Bonds"), it being anticipated that the amount of Refunding Bonds actually to be issued will be approximately \$910,000, as provided in Section 4 hereof. The Refunding Bonds described herein are hereby authorized to be consolidated for purposes of sale in one or more refunding serial bond issues. The Town Refunding Bonds shall each be designated substantially "PUBLIC IMPROVEMENT (SERIAL) BOND" together with such series designation and year as is appropriate on the date of sale thereof, shall be of the denomination of \$5,000 or any integral multiple thereof (except for any odd denominations, if necessary) not exceeding the principal amount of each respective maturity, shall be numbered with the prefix R-10 (or R with the last two digits of the year in which the Refunding Bonds are issued as appropriate) followed by a dash and then from 1 upward, shall be dated on such dates, and shall mature annually on such dates in such years, bearing interest semi-annually on such dates, at the rate or rates of interest per annum, as may be necessary to sell the same, all as shall be determined by the Supervisor pursuant to Section 4 hereof. It is hereby further determined that (a) such Refunding Bonds may be issued in series, (b) such Refunding Bonds may be sold at a discount in the manner authorized by paragraph a of Section 57.00 of the Local Finance Law and by subdivision 2 of paragraph f of Section 90.10 of the Local Finance Law, and (c) such Refunding Bonds may be issued as a single consolidated issue. It is hereby further determined that such Refunding Bonds may be issued to refund all, or

any portion of, the Refunded Bonds, subject to the limitation hereinafter described in Section 10 hereof relating to approval by the State Comptroller.

**Section 2.** The Refunding Bonds may be subject to redemption prior to maturity upon such terms as the Supervisor shall prescribe, which terms shall be in compliance with the requirements of Section 53.00 (b) of the Local Finance Law. If less than all of the Refunding Bonds of any maturity are to be redeemed, the particular refunding bonds of such maturity to be redeemed shall be selected by the Town by lot in any customary manner of selection as determined by the Supervisor.

The Refunding Bonds shall be issued in registered form and shall not be registrable to bearer or convertible into bearer coupon form. In the event said Refunding Bonds are issued in non-certificated form, such bonds, when issued, shall be initially issued in registered form in denominations such that one bond shall be issued for each maturity of bonds and shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“DTC”), which will act as securities depository for the bonds in accordance with the Book-Entry-Only system of DTC. In the event that either DTC shall discontinue the Book-Entry-Only system or the Town shall terminate its participation in such Book-Entry-Only system, such bonds shall thereafter be issued in certificated form of the denomination of \$5,000 each or any integral multiple thereof (except for any odd denominations, if necessary) not exceeding the principal amount of each respective maturity. In the case of non-certificated Refunding Bonds, principal of and interest on the bonds shall be payable by check or draft mailed by the Fiscal Agent (as hereinafter defined) to The Depository Trust Company, New York, New York, or to its nominee, Cede & Co., while the bonds are registered in the name of Cede & Co. in accordance with such Book-Entry-Only System. Principal shall only be payable upon surrender of the bonds at the principal corporate trust office of such Fiscal Agent (or at the office of the Town Clerk as Fiscal Agent as hereinafter provided).

In the event said Refunding Bonds are issued in certificated form, principal of and interest on the Refunding Bonds shall be payable by check or draft mailed by the Fiscal Agent (as hereinafter defined) to the registered owners of the Refunding Bonds as shown on the registration books of the Town maintained by the Fiscal Agent (as hereinafter defined), as of the close of business on the fifteenth day of the calendar month or first business day of the calendar month preceding each interest payment date as appropriate and as provided in a certificate of the Supervisor providing for the details of the Refunding Bonds. Principal shall only be payable upon surrender of bonds at the principal corporate trust office of a bank or trust company or banks or trust companies located or authorized to do business in the State of New York, as shall hereafter be designated by the Supervisor as fiscal agent of the Town for the Refunding Bonds (collectively the “Fiscal Agent”).

Refunding Bonds in certificated form may be transferred or exchanged at any time prior to maturity at the principal corporate trust office of the Fiscal Agent for bonds of the same maturity of any authorized denomination or denominations in the same aggregate principal amount.

Principal and interest on the Refunding Bonds will be payable in lawful money of the United States of America.

The Supervisor, as chief fiscal officer of the Town, is hereby authorized and directed to enter into an agreement or agreements containing such terms and conditions as he shall deem proper with the Fiscal Agent, for the purpose of having such bank or trust company or banks or trust companies act, in connection with the Refunding Bonds, as the Fiscal Agent for said Town, to perform the services described in Section 70.00 of the Local Finance Law, and to execute such agreement or agreements on behalf of the Town, regardless of whether the Refunding Bonds are initially issued in certificated or non-certificated form; provided, however, that the Supervisor is also hereby authorized to name the Town Clerk as the Fiscal Agent in connection with the Refunding Bonds if said Refunding Bonds are issued in non-certificated form.

The Supervisor is hereby further delegated all powers of this Town Board with respect to agreements for credit enhancement, derived from and pursuant to Section 168.00 of the Local Finance Law, for said Refunding Bonds, including, but not limited to the



determination of the provider of such credit enhancement facility or facilities and the terms and contents of any agreement or agreements related thereto.

The Refunding Bonds shall be executed in the name of the Town by the manual or facsimile signature of the Supervisor, and a facsimile of its corporate seal shall be imprinted thereon. In the event of facsimile signature, the Refunding Bonds shall be authenticated by the manual signature of an authorized officer or employee of the Fiscal Agent. The Refunding Bonds shall contain the recital required by subdivision 4 of paragraph j of Section 90.10 of the Local Finance Law and the recital of validity clause provided for in Section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Supervisor shall determine. It is hereby determined that it is to the financial advantage of the Town not to impose and collect from registered owners of the Refunding Bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the Fiscal Agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the Fiscal Agent.

**Section 3.** It is hereby determined that:

(a) the maximum amount of the Refunding Bonds authorized to be issued pursuant to this resolution does not exceed the limitation imposed by subdivision 1 of paragraph b of Section 90.10 of the Local Finance Law;

(b) the maximum period of probable usefulness permitted by law at the time of the issuance of the Refunded Bonds, for each of the objects or purposes for which such Refunded Bonds were issued is as shown upon Exhibit A attached hereto and hereby made a part hereof;

(c) the last installment of the Refunding Bonds will mature not later than the expiration of the period of probable usefulness of the objects or purposes for which said Refunded Bonds were issued in accordance with the provisions of subdivision 1 of paragraph c of Section 90.10 of the Local Finance Law;

(d) the estimated present value of the total debt service savings anticipated as a result of the issuance of the Refunding Bonds, if any, computed in accordance with the provisions of subdivision 2 of paragraph b of Section 90.10 of the Local Finance Law, is as shown in the Refunding Financial Plan described in Section 4 hereof.

**Section 4.** The financial plan for the aggregate of the refundings authorized by this resolution (collectively, the “Refunding Financial Plan”), showing the sources and amounts of all moneys required to accomplish such refundings, the estimated present value of the total debt service savings and the basis for the computation of the aforesaid estimated present value of total debt service savings, are set forth in Exhibit B attached hereto and hereby made a part of this resolution. The Refunding Financial Plan has been prepared based upon the assumption that the Refunding Bonds will be issued in one series to refund all of the Refunded Bonds in the principal amount of \$910,000, and that the Refunding Bonds will mature, be of such terms, and bear interest as set forth on said Exhibit B. This Town Board recognizes that the Refunding Bonds may be issued in one or more series, and for the Refunded Bonds, or portions thereof, that the amount of the Refunding Bonds, maturities, terms, and interest rate or rates borne by the Refunding Bonds to be issued by the Town will most probably be different from such assumptions and that the Refunding Financial Plan will also most probably be different from that attached hereto as Exhibit B. The Supervisor is hereby authorized and directed to determine which of the Refunded Bonds will be refunded and at what time, the amount of the Refunding Bonds to be issued, the date or dates of such bonds and the date or dates of issue, maturities and terms thereof, the provisions relating to the redemption of Refunding Bonds prior to maturity, whether the Refunding Bonds will be insured by a policy or policies of municipal bond insurance or otherwise enhanced by a credit enhancement facility or facilities, whether the Refunding Bonds shall be sold at a discount in the manner authorized by paragraph e of Section 57.00 of the Local Finance Law, and the rate or rates of interest to be borne thereby, whether the Refunding Bonds shall be issued having substantially level or declining annual debt service and all matters related thereto, and to prepare, or cause to be provided, a final Refunding Financial Plan for the Refunding Bonds and all powers in connection therewith are hereby delegated to the Supervisor;

provided, that the terms of the Refunding Bonds to be issued, including the rate or rates of interest borne thereby, shall comply with the requirements of Section 90.10 of the Local Finance Law. The Supervisor shall file a copy of his certificates determining the details of the Refunding Bonds and the final Refunding Financial Plan with the Town Clerk not later than ten (10) days after the delivery of the Refunding Bonds, as herein provided.

**Section 5.** The Supervisor is hereby authorized and directed to enter into an escrow contract or contracts (collectively the “Escrow Contract”) with a bank or trust company, or with banks or trust companies, located and authorized to do business in this State as said Supervisor shall designate (collectively the “Escrow Holder”) for the purpose of having the Escrow Holder act, in connection with the Refunding Bonds, as the escrow holder to perform the services described in Section 90.10 of the Local Finance Law.

**Section 6.** The faith and credit of said Town of Ossining, Westchester County, New York, are hereby irrevocably pledged to the payment of the principal of and interest on the Refunding Bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. To the extent not paid from other sources, there shall be annually levied on all the taxable real property in said Town a tax sufficient to pay the principal of and interest on such Refunding Bonds as the same become due and payable.

**Section 7.** All of the proceeds from the sale of the Refunding Bonds, including the premium, if any, but excluding accrued interest thereon, shall immediately upon receipt thereof be placed in escrow with the Escrow Holder for the Refunded Bonds. Accrued interest on the Refunding Bonds shall be paid to the Town to be expended to pay interest on the Refunding Bonds. Such proceeds as are deposited in the escrow deposit fund to be created and established pursuant to the Escrow Contract, whether in the form of cash or investments, or both, inclusive of any interest earned from the investment thereof, shall be irrevocably committed and pledged to the payment of the principal of and interest on the Refunded Bonds in accordance with Section 90.10 of the Local Finance Law, and the holders, from time to time, of the Refunded Bonds shall have a lien upon such moneys held by the Escrow Holder. Such pledge and lien shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder for the Refunded Bonds in the escrow deposit fund shall immediately be subject thereto without any further act. Such pledge and lien shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Town irrespective of whether such parties have notice thereof.

**Section 8.** Notwithstanding any other provision of this resolution, so long as any of the Refunding Bonds shall be outstanding, the Town shall not use, or permit the use of, any proceeds from the sale of the Refunding Bonds in any manner which would cause the Refunding Bonds to be an “arbitrage bond” as defined in Section 148 of the Internal Revenue Code of 1986, as amended, and, to the extent applicable, the Regulations promulgated by the United States Treasury Department thereunder.

**Section 9.** In accordance with the provisions of Section 53.00 and of paragraph h of Section 90.10 of the Local Finance Law, in the event such bonds are refunded, the Town hereby elects to call in and redeem each of the Refunded Bonds which the Supervisor shall determine to be refunded in accordance with the provisions of Section 4 hereof and with regard to which the right of early redemption exists. The sum to be paid therefor on such redemption date shall be the par value thereof plus the redemption premium, as provided in the Refunded Bond Certificate, and the accrued interest to such redemption date. The Escrow Agent for the Refunding Bonds is hereby authorized and directed to cause notice of such call for redemption to be given in the name of the Town in the manner and within the times provided in the Refunded Bond Certificate. Such notice of redemption shall be in substantially the form attached to the Escrow Contract. Upon the issuance of the Refunding Bonds, the election to call in and redeem the callable Refunded Bonds and the direction to the Escrow Agent to cause notice thereof to be given as provided in this paragraph shall become irrevocable, provided that this paragraph may be amended from time to time as may be necessary in order to comply with the publication requirements of paragraph a of Section 53.00 of the Local Finance Law, or any successor law thereto.

**Section 10.** The Refunding Bonds shall be sold at private sale to an underwriter to be hereafter determined by the Supervisor (the "Underwriter") for purchase prices to be determined by the Supervisor, plus accrued interest from the date or dates of the Refunding Bonds to the date or dates of the delivery of and payment for the Refunding Bonds. Subject to the approval of the terms and conditions of such private sale by the State Comptroller as required by subdivision 2 of paragraph f of Section 90.10 of the Local Finance Law, the Supervisor, is hereby authorized to execute and deliver a purchase contract for the Refunding Bonds in the name and on behalf of the Town providing the terms and conditions for the sale and delivery of the Refunding Bonds to the Underwriter. After the Refunding Bonds have been duly executed, they shall be delivered by the Supervisor to the Underwriter in accordance with said purchase contract upon the receipt by the Town of said purchase price, including accrued interest.

**Section 11.** The Supervisor and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby.

**Section 12.** All other matters pertaining to the terms and issuance of the Refunding Bonds shall be determined by the Supervisor and all powers in connection thereof are hereby delegated to the Supervisor.

**Section 13.** The validity of the Refunding Bonds may be contested only if:

1. Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
2. The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
3. Such obligations are authorized in violation of the provisions of the Constitution.

**Section 14.** A summary of this resolution, which takes effect immediately, shall be published in the official newspapers of said Town, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Dated: April \_\_\_\_, 2010.

Voting Yes in a Roll Call Vote:  
Harter, Wilcher, Tawil, Tripodi,  
Borgia

## VI. MONTHLY REPORTS

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

Resolved, that the Town Board of the Town of Ossining hereby accepts the Monthly Helicopter Report for the month of March, 2010.

Motion Carried: Unanimously

## VII. VISITOR RECOGNITION

Bobby Williams, Spring Street, stated that he was glad that the Town was refinancing. He also reminded the public that this is the last week to get your census. Please pick up and return your census as we need the money.

**VIII. ADJOURNMENT-EXECUTIVE SESSION-PERSONNEL**

**At 8:22 P.M. Councilmember Tawil moved and it was seconded by Councilmember Wilcher that the meeting be adjourned to Executive Session.**

**Motion Carried: Unanimously**

**Approved:**

\_\_\_\_\_  
**Mary Ann Roberts, Town Clerk**