



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

**MAY 25, 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 May 25, 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 and Deputy Town Clerk, Ann Marie Rocco

**II.     ANNOUNCEMENTS**

Supervisor Borgia announced that on Monday, May 31, 2010 the Village will be celebrating Memorial Day with a parade. The parade will start at 9:30 a.m. from Croton Avenue and will go down to Nelson Park followed by a Memorial Day ceremony. In addition, Briarcliff Manor will be holding its 5k Run/Walk on Memorial Day and the parade will start at 12:00 p.m.

**III.    PRESENTATION-STORMWATER ANNUAL REPORT FOR YEAR ENDING MARCH 9, 2010**

Consulting Engineer, Mr. Jim Vanoli was present to discuss the March 9<sup>th</sup>, 2010 Annual Stormwater report. Mr. Vanoli advised that the Town passed the audit with the highest grade and we are now in compliance with the regulations. Mr. Vanoli discussed steps 1 through 6 that were involved in the audit.

Mr. Bobby Williams, Spring St. commented that we get our water from different sources. When we have an increase in storm water management does it still meet certain regulations? Mr. Vanoli stated that the town has to sign off on permits. There are many safe guard built into this system.

Supervisor Borgia thanked all the members that were involved in the Stormwater project.

**IV.    PUBLIC COMMENT ON AGENDA ITEMS-None**

**V. BOARD RESOLUTIONS**

**A. Approval of Minutes**

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 approves the May 11, 2010 Minutes of the Regular Meeting as presented.

Motion Carried: Unanimously

**B. Approval of Minutes**

Councilmember Wilcher 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 May 13, 2010 Minutes of the Special Meeting as presented.

Vote: 3-0-2  
Voting Aye: Wilcher, Tripodi,  
Borgia  
Abstaining: Harter, Tawil

Councilmember Harter and Tawil were absent from the May 13, 2010 meeting.

**C. Approval of Voucher Detail Report**

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 Voucher Detail Report dated May 25, 2010 in the amount of \$ 379,068.80.

Vote: 4-1-0  
Voting Aye: Harter, Tawil,  
Wilcher, Borgia  
Voting Nay: Tripodi

**D. Adoption of Local Law No. 1 of 2010 – amending the Code of the Town of Ossining-Fines and Penalties**

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 adopts the attached Local Law No. 1 of 2010 entitled Fines and Penalties.

Motion Carried:5-0-0  
Roll Call Vote:  
Ayes: Councilmembers  
Harter, Tawil, Tripodi, Wilcher  
& Supervisor Borgia

**E. Consolidated Edison of New York-Enhanced Transmission Right of Way Management Practice**

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

WHEREAS, the Town of Ossining continues to receive numerous complaints from property owners throughout the Town of Ossining on whose property, or adjacent

**to whose property, Consolidated Edison Company of New York, Inc., (“Con Edison”) has an easement or right-of-way for the erection and maintenance of high voltage towers and wires, concerning the cutting and/or removal of trees and other vegetation thereon by Con Edison and/or by contractor(s) hired by Con Edison for that purpose; and**

**WHEREAS, Con Edison has asserted that its tree clearing activities are mandated by rules adopted by the New York State Public Service Commission (“PSC”) “Requiring Enhanced Transmission Right of Way Management Practices by Electric Utilities” in Case 04-E-0822 issued and effective June 20, 2005 (“PSC’s Rules”); and**

**WHEREAS, the tree clearing activities allegedly mandated by the PSC’s Rules have been implemented in an arbitrary and intermittent manner; and**

**WHEREAS, Con Edison’s interpretation and implementation of PSC’s Rules has resulted in the unlawful and unreasonable cutting of trees in such a way that often amounts to unnecessary clear-cutting, excessive and unsightly debris piles, and extreme vegetation removal that exposes bare soil in the entire easement area and beyond resulting in a “scorched earth” appearance (hereinafter referred to as “Scorched Earth Practice”); and**

**WHEREAS, Con Edison has not provided adequate public notice of its plans to implement the PSC Rules, including failure to properly survey affected properties and failure to communicate with affected property owners regarding the work that is to be performed by contractors of Con Edison; and**

**WHEREAS, a lack of an appropriate communication and complaint handling protocol between Con Edison, its contractors, PSC and the public has caused significant frustration and exacerbated the problem; and**

**WHEREAS, the PSC has failed to properly oversee Con Edison’s implementation of its transmission vegetation management plan, resulting in unnecessary economic, environmental, and aesthetic harm to numerous property owners and communities; and**

**WHEREAS, the PSC’s Rules were not accompanied by a fair and adequate environmental review, as only a limited, inaccurate review was conducted, with little notification to the affected public; and**

**WHEREAS, the PSC’s Rules remain unrevised, even though the North American Electric Reliability Corporation (“NERC”), under authority provided by Congress in the Energy Policy Act of 2005, has developed national transmission vegetation management standard FAC-003-1 in 2007 and as of January 2010 is reviewing a revised standard FAC-003-2; and**

**WHEREAS, the Ossining Town Board has consulted with experts that believe that given the size and location of many of the trees being removed, the trees are not now, nor in the future, likely to reach or otherwise interfere with Con Edison’s transmission lines and towers; and**

**WHEREAS, the Ossining Town Board believes that the PSC’s Rules, to the extent the Rules actually mandate the Scorched Earth Practice being employed by Con Edison and/or Con Edison’s interpretation of the regulations far exceed those steps reasonably required to protect Con Edison’s transmission assets and the legitimate public interest in maintaining an uninterrupted flow of power through the region; and**

**WHEREAS, the Ossining Town Board believes that Con Edison’s scorched earth practice, as it is being implemented in Westchester County’s densely populated suburban communities, violates the real property rights of the immediately affected property owners and otherwise adversely affects the legitimate land use interests of**

**the residents of Westchester County, resulting in unsightly visual impacts, unnecessary and uncontrolled erosion due to denuded land, and the virtual decimation of carefully planned and maintained buffers; and**

**WHEREAS, there are equally important town, county and state laws that must be enforced and honored, which regulate land usage, zoning, permits, land preservation, easement agreements, trespassing outside of legal easements and right-of-ways, that are being violated and ignored by the Public Service Commission and Con Edison in the adoption and implementation of this Scorched Earth Practice; and**

**NOW THEREFORE BE IT RESOLVED, that the Ossining Town Board demands that the New York State Public Service Commission direct Con Edison to immediately cease its Scorched Earth Practice, until such time as there has been a full, open public examination by the PSC, within the communities affected, as to the conditions that exist and the management steps required to be taken in Westchester County, to ensure compliance with town, county and state law and to revisit the PSC Rules as being interpreted by Con Edison and to make adjustments to same so that certain goals can be achieved, including but not limited to (i) preservation of non-offensive vegetation, (ii) control of erosion and run-off, (iii) retention and maintenance of sight lines and integrity of the residential appearance, (iv) retention and maintenance of vegetation providing noise abatement, (v) preservation of woodland and wetland habitats to the greatest extent possible, (vi) avoidance of herbicide use for vegetation management, but if required, that only herbicides approved by NYS DEC for use along wetlands and watercourses be utilized, and (vii) compliance with local and state laws; and that the Ossining Town Board:**

**FURTHER REAFFIRMS that Con Edison should further be directed to implement a full mitigation plan, establish a proper plan of public notification of future work sites, establish a management plan that requires it to properly remove and dispose of all debris generated by its clearing and/or cutting activities within three weeks, including but not limited to the remnants of any tree cut or cleared from its easements or other right-of-ways, as well as to develop a replanting plan whereby any tree removed as undesirable is replaced with a more desirable and right-of-way compatible species and not by seedlings but rather more mature trees. Such replanting plan should apply both going forward and to those areas already affected by Con Edison's clearing activities; and be it further**

**RESOLVED, that the Ossining Town Board further reaffirms that Congress enact legislation requiring the North American Electric Reliability Corporation to include proper environmental review, dispute resolution, and mitigation and restitution measures in the revision of its transmission vegetation management standard; and be it further**

**RESOLVED, that the Town of Ossining Attorney continues to see what actions can be taken with regard to the PSC's Rules and the way these have been implemented in Westchester County and to take whatever actions may be necessary to achieve the goals stated herein, including but not limited to initiating litigation against Con Edison or bringing a proceeding against the Public Service Commission on behalf of the Town of Ossining citizens; and be it further**

**RESOLVED, that the Town of Ossining Clerk be and is hereby authorized and directed to once again send a certified copy of this resolution to U.S. Senators Charles Schumer and Kirsten Gillibrand; U.S. Representative John Hall; New York State Governor David Paterson; New York State Senator Vincent L. Leibell, III; New York State Assembly Member Gregory Ball; the President Pro Tem of the New York State Senate; the Speaker of the New York State Assembly; the Majority and Minority Leaders of New York State Senate and Assembly; Westchester County Executive Robert Astorino, Westchester County Board of Legislators Chairman Kenneth Jenkins, Westchester County Legislators Michael Kaplowitz and John Testa, Chairman Kevin Burke of Consolidated Edison, Inc.; the New York State Public Service Commission; the New York State Department of Environmental**

Conservation and to such other persons as the Clerk, in his discretion, may deem proper in order to effectuate the purpose of this resolution.

Motion Carried to TABLE: Unanimously

**F. Adopting Fund Balance Policy**

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

Whereas, the Town of Ossining does not have a formal Fund Balance Policy; and

Whereas, the Government Finance Officers Association (GFOA) and bond rating agencies recommend that governments establish a formal policy on the level of unreserved fund balance that should be maintained in the general fund and other types of funds; and

Whereas, the Citizen Finance Advisory Committee (CFAC) prepared and recommended the adoption of the fund balance policy; and

Whereas, after careful review and discussion the Town Board wishes to adopt the formal fund balance policy,

Now, therefore be it Resolved, that the Town Board of the Town of Ossining hereby adopts the Fund Balance Policy as set forth in the document which is attached to and becomes part of this resolution.

Motion Carried: Unanimously

Councilmember Tripodi Thanked the Citizen Finance Advisory Committee for all their hard work on the fund balance policy. They are great group of people.

Supervisor Borgia added that this policy was needed for a long time. She thanked all of those involved in creating this policy. This policy will help guide future Boards. Also, CDAC will be losing one of its members. If anyone is interested in joining this committee, please send your letter of interest and resume to the Supervisor's office.

**G. Westchester County-Senior Citizens-SNAP Funds**

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 authorizes the Town Supervisor to sign agreements with Westchester County Department of Senior Programs and Services to receive federal funding for the Supplemental Nutrition Assistance Program (SNAP) for the period April 1, 2010-March 31, 2011 in the amount of \$47,306 and estimated SNAP NSIP (Nutrition Services Incentive Program) in the amount of \$13,664.

Motion Carried: Unanimously

**H. Teamsters-Letter of Agreement**

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

Resolved, that the Town Board hereby ratifies and approves the Letter of Agreement between Albert Rivera, the Town and Local 456, I.B.T. dated May 10, 2010; and be it further

Resolved, that the Town Board hereby authorizes the Town Supervisor to execute the Letter of Agreement on its behalf.

Vote: 4-0-1  
Voting Aye: Wilcher, Harter,  
Tawil, Borgia  
Abstaining: Tripodi

**I. Environmental Advisory Committee-Suzie Ross**

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 Suzie Ross, Meadow Road, Briarcliff Manor, NY to the Environmental Advisory Committee for a five year term expiring December 31, 2014.

Motion Carried: Unanimously

**J. Receiver of Taxes-Payment Plan-46 Lincoln Place**

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

Whereas, certain property taxes have not been paid on the parcel located at 46 Lincoln Place which will result in the 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 46 Lincoln Place, Ossining, 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

**K. Resignation-Deputy Town Attorney**

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

Resolved, that the Town Board of the Town of Ossining hereby accepts, with regret, the resignation of Sonia Tanksley as Deputy Town Attorney effective May 20, 2010.

Motion Carried: Unanimously

**L. Appointment-Deputy Town Attorney**

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 Mark I. Reisman to the position of deputy Town Attorney at a salary of \$18,000 effective May 26, 2010. The probationary period shall be a minimum of twelve (12) weeks to a maximum of fifty-two (52) weeks. The 2010 salary shall be prorated.

**Vote: 4-0-1**  
**Voting Aye: Wilcher, Harter,**  
**Tawil, Borgia**  
**Abstaining: Tripodi**

**Councilmember Tripodi advised the reason why he abstained on this resolution. He advised that we had a choice of hiring a Prosecutor or a Police Officer. Councilmember Tripodi advised that if the Board opted for the Police Officer we would have saved \$18,000. Instead, the Board chose to hire a prosecutor based on Judge Preference.**

**Supervisor Borgia added that they did consider have a Police Officer handle the prosecutions and felt that he would have done a great job. At this time, the Town needs adequate legal counsel.**

#### **VI. MONTHLY REPORTS**

**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 accepts the Monthly Report for the month of April 2010 from the Town Police Department and Building Department.**

**Motion Carried: Unanimously**

#### **VII. VISITOR RECOGNITION**

**Mr. Bobby Williams, Spring Street, advised the Board that he was not surprised that 2010-2011 School Budget was turned down. He hopes that the School Board comes up with a new budget that the community can vote yes on.**

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

**At 8:16 P.M. Councilmember Tripodi moved and it was seconded by Councilmember Tawil that the meeting be adjourned.**

**Motion Carried: Unanimously**

**Approved:**

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**Ann Marie Rocco, Deputy Town Clerk**