



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

**JULY 27, 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 July 27, 2010 in the Police/Court Facility, 86-88 Spring Street in Ossining. The meeting was called to order at 7:30 p.m. by Deputy Supervisor, Geoffrey Harter. Members of the Board present were: Councilmembers, Michael Tawil, Peter Tripodi and Northern Wilcher. Supervisor, Catherine Borgia was absent. Also present were Town Attorney, Wayne Spector, Budget Officer, Connie Cerny and Deputy Town Clerk, Ann Marie Rocco

II. ANNOUNCEMENTS

Councilmember Tripodi announced that the St. Augustine's Italian Festival begins tonight, July 27, 2010 through Sunday, August 1, 2010. Weather permitting; there will be a fireworks display on Wednesday, July 28, 2010 and Sunday, August 1, 2010. Admission to this event is free.

III. PUBLIC COMMENT ON AGENDA ITEMS

Mr. Duval Cellai, Stormytown Road questioned Resolution – "F" Tree Protection Law and Resolution "C" -Consolidated Edison of New York-Enhanced Transmission Right of Way Management Practice. Mr. Cellai added that he has not seen any tree cutting in the area.

Deputy Supervisor Harter explained that this is a supportive resolution and the cause of concern was that Con Edison was cutting down trees close to boundary areas. This Board believes that Con Edison has a responsibility in managing its resources appropriately.

Councilmember Tawil clarified that this resolution is not a law and that this is a request to Con Edison that when they do their clearing of brush, trees, etc...that they take into account the aesthetics of the area.

Councilmember Tripodi added that this resolution will help get the message across to Con Edison.

IV. BOARD RESOLUTIONS

A. Approval of Minutes

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 approves the July 13, 2010 Minutes of the Regular Meeting as presented.

Motion Carried: Unanimously

B. Approval of Voucher Detail Report

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 Voucher Detail Report dated July 27, 2010 in the amount of \$ 163,053.60.

Vote: 3 –1–0
Voting Aye: Harter, Tawil,
Wilcher
Voting Nay: Tripodi

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

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

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 requests 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 Nita Lowey; New York State Governor David Paterson; New York State Senator Suzi Oppenheimer; New York State Assembly Member Sandra Galef; 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 Legislator, William Burton, 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 her discretion, may deem proper in order to effectuate the purpose of this resolution.

Motion Carried: Unanimously

D. Authorizing the use of Town streets and Buck Johnson Park for Greater Ossining Chamber of Commerce Fall Fair

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

Whereas, the Greater Ossining Chamber of Commerce requests permission to hold a Fall Fair on Saturday, October 30, 2010 from 10:00am to 5:00pm (rain date October 31, 2010) at Briar's Restaurant Parking Lot, North State Road (back of lot), Sunrise Construction Parking Lot, North State Road and Blue Lantern Road, between Gordon Avenue and North State Road;

Now, therefore be it Resolved, that the Town Board of the Town of Ossining hereby authorizes the use of Town streets on October 30, 2010 from 10:00am to 5:00pm (rain date October 31, 2010) as described in the letter dated July 21, 2010 from Gayle Marchica, President of the Greater Ossining Chamber of Commerce; and be it further

Resolved, that Town streets shall be used in compliance with the terms and/or conditions established by the Town of Ossining Police Department and Highway Department; and be it further

Resolved, that vendors participating in the event shall comply with Chapter 144 of the Town Code concerning Peddlers, Canvassers, Solicitors and Vendors of Goods, Wares and Merchandise unless compliance is waived by the Town Board; and be it further

Resolved, that the Greater Ossining Chamber of Commerce shall comply with any and all conditions required by Town Officials and the use of any Town assets in connection with the event shall be subject to further agreement between the Town Supervisor and the Greater Ossining Chamber of Commerce; and be it further

Resolved, that the Greater Ossining Chamber of Commerce shall submit to the Supervisor's Office a Certificate of Insurance that complies with the requirements listed in Section 138-4 (2) of the Town of Ossining Code.

Deputy Supervisor Harter thanked Gayle Marchica for speaking up and wanting to help sponsor our first Fall Fair. This fair will include business and industries on North State Road.

Motion Carried: Unanimously

E. Personnel-Police Officer-Grade and Salary Change

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 acknowledges that Manuel T. Dacruz moves to Patrol 2nd Grade effective July 30, 2010 with a salary of \$82,246 in accordance with the Town of Ossining Police Association Agreement.

Motion Carried: Unanimously

F. Calling for a Public Hearing to consider a Local Law to amend Chapter 138, Tree Protection of the Town Code

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 calls for a Public Hearing on Tuesday, August 10, 2010 at the Police/Court Facility, 86-88 Spring Street, Ossining, NY to consider a local law to amend Chapter 183, Tree Protection, in the Town of Ossining Code.

Deputy Supervisor Harter explained that this was the proposed Local Law that Mr. Charlie was questioning. Deputy Supervisor Harter added that this is an amendment to the existing tree ordinance and the public will be able to comment on the amendments at the next meeting which will be held on August 10, 2010.

Motion Carried: Unanimously

G. Parks Department-Seasonal Employee

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 appoints Brett A. Wells, Spring Street, Ossining, to the seasonal position of Laborer in the Parks Department effective July 28, 2010 at an hourly rate of \$9.00/hr.

Motion Carried: Unanimously

H. Receiver of Taxes-Payment Plan-33 Hillcrest Avenue

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

Whereas, certain property taxes have not been paid on the parcel located at 33 Hillcrest Avenue 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 33 Hillcrest Avenue, 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

I. Taxes-Foreclosure 2010 Title Search

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 authorizes Maureen Redmond of Judicial Title Insurance Agency, Inc. to perform the title and lien searches required in connection with the 2010 In Rem foreclosure proceedings at a fee of \$250 per parcel.

Motion Carried: Unanimously

J. Taxes-In Rem Foreclosure-Re-appointment

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 S. Tulis, Esq. of Oxman, Tulis, Kirkpatrick, Whyatt & Geiger LLP, 120 Bloomingdale Road, White Plains, New York as Special Counsel to conduct In Rem foreclosure proceedings upon its tax liens appearing in the 2009 list of delinquent taxes as to which payment has not been made. Compensation to Mr. Tulis shall be in accordance with his letter to the Town of Ossining dated July 20, 2010.

Motion Carried: Unanimously

K. Finance-2010 Budget Adjustment

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 authorizes Capital Project # 2008-2162 entitled Highway Department Pre-wetting roads in the amount of \$18,000 to be closed to debt service; and be it further

Resolved, that the 2010 Highway Budget be amended as follows:

Increase the following accounts by the amounts listed:

31-0031-5038 Transfer from Debt Service	\$18,000
31-9730-0610-Principal	\$18,000

Budget Officer, Connie Cerny explained that the Board decided at the last worksession that they wanted to close out this capital project for the Highway Department.

Motion Carried: Unanimously

L. Endorsing a New York State Congressional Delegation resolution to ensure the United States Department of Veterans Affairs Health Care System establish limitations on the utilization and disposal of properties and buildings in the State of New York

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

WHEREAS, Veterans of the United States Armed Services from New York State who served their country so honorably have had the most comprehensive system of assistance at their disposal of any nation in the world; and

WHEREAS, The State of New York has 988,217 veterans as of September 30, 2009, broken down by 724,592 wartime veterans and 263,625 peacetime veterans; and

WHEREAS, New York State has 12 VA medical centers; 2 domiciliary facilities, 47 outpatient clinics; and 15 vet centers; and

WHEREAS, VA health care facilities provide a broad spectrum of medical, surgical, and rehabilitative care; and

WHEREAS, It is critical that the policies of the federal Department of Veterans Affairs reflect a policy that places the continued needs of New York veterans and the New York veterans community in the forefront of consideration, including encouraging the Secretary of Veterans Affairs to retain all properties currently used by the Department of Veterans Affairs in New York State, as an element of the veteran delivery service system, that the Secretary may not enter into an enhanced-use lease of properties or buildings located in New York unless activities under such lease include the provision of services for veterans, including veterans of limited financial means and that the Secretary shall continue to provide through the facility of the Department of Veterans Affairs at the statewide facilities, the types and levels of health care services for veterans that are provided through these facilities as of the date of the adoption of this Resolution; now, therefore, be it

RESOLVED, that the Town Board of the Town of Ossining hereby endorses the New York State Congressional delegation resolution to encourage the Secretary of the Department of Veterans Affairs to continue to provide for the needs of all veterans of New York State at all facilities operated by the Department in the State of New York, to enact policies that retain all properties currently used by the Department of Veterans Affairs, that enhanced-use lease of properties or buildings include the provision of services for veterans, including veterans of limited financial means and that the Secretary continue to provide through the Department the types and level of health care the veterans of New York State are currently receiving; and be it further

RESOLVED, that the Town Clerk shall forward a copy of this resolution to United States Department of Veterans Affairs and the New York State Congressional Delegation.

Motion Carried: Unanimously

V. MONTHLY REPORTS

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 the Monthly Reports for the month of June 2010 from the Tax Receiver's office .

Motion Carried: Unanimously

VI. VISITOR RECOGNITION

Bobby Williams, Spring Street discussed resolution "L" and he added that he is familiar with some of the services that they provide and he once worked at the VA Hospital in Montrose.

Art Sullivan, Haymont Terrace questioned the following:

- **What is the status of the Town Police consolidation and what are the upcoming procedures?**

Deputy Supervisor Harter advised that Supervisor Borgia is arranging for some public hearings. The Board is currently reviewing the contents of the proposals. Deputy Supervisor Harter added that the public meetings are tentatively scheduled for August 25th and September 5th.

- **What is the status of the Highway Department consolidation?**

Deputy Supervisor Harter advised that the Board is currently reviewing the reports. At this time, the Board is tackling the Police Department first and then the Highway Department. Based on the preliminary ICMA findings, it appears to recommend that it was most likely for the Village and the Town to consolidate or share services.

VII. ADJOURNMENT

At 8:20 P.M. Councilmember Tawil moved and it was seconded by Councilmember Wilcher that the meeting be adjourned.

Motion Carried: Unanimously

Approved:

Ann Marie Rocco, Deputy Town Clerk