



AGENDA
TOWN BOARD
TOWN OF OSSINING
BIRDSALL-FAGAN POLICE/COURT FACILITY
86-88 SPRING STREET
OSSINING, NEW YORK
DECEMBER 22, 2015
7:30 P.M.

SUPERVISOR
Susanne Donnelly

COUNCILMEMBERS
Geoffrey Harter Eric P. Blaha
Kim L. Jeffrey 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 December 22, 2015 at the Birdsall-Fagan Police Court/Facility, 86-88 Spring Street in Ossining. The meeting was called to order at 7:30 p.m. by Supervisor Susanne Donnelly. Members of the Board present were: Councilmembers Geoffrey Harter, Northern Wilcher and Eric Blaha. Councilmember Kim Jeffrey was absent. Also present were Town Attorney Wayne Spector, Budget Officer Madeline Zachacz and Town Clerk Mary Ann Roberts.

II. PRESENTATION: Town Board of Ethics

Deputy Town Attorney Mark Reisman made a presentation describing the Board of Ethics which is a proactive group. The latest revisions are as follows: Section 1 which discusses procedures making it a requirement that the Board meet twice a year in a location anywhere in the Town of Ossining. Section 2 is General Protocol which undertakes the investigation process. How the Chairperson is selected and that service will be on a rotating basis for one year.

Supervisor Donnelly thanked the Board for providing a living document. Complaints will be resolved within 45 days. The ethics complaint form will be amended and will be site specific in the code.

III. ANNOUNCEMENTS

Supervisor Donnelly read the following statement:

As 2015 comes to a close so does this administration. We have accomplished so much in the four years and it is thanks to many of our employees as well as the residents of the Town of Ossining.

As we wind down the year we have passed the laws we have worked on, we have done infrastructure projects that have provided our residents with better drinking water, paved roads and a complete road where there was none. We have reduced flooding and removed a sewer lift station resulting in not only better conditions but also a visibly better community.

I have recounted other accomplishments to you in my opening statements and Supervisor's Updates so I do not have to again. This is a time of thanks for the hard work and dedication of the departments who understand that their responsibility is to the stakeholders (you) and not personal agendas or entitlements.

The team that has developed has allowed us to work together on projects, union contracts and everyday work. All departments are asked to do more with less and

except for a few everyone tightened their belts and got to work without comment or complaint

Our IMA partners especially the people we interface with everyday have proven to be a tremendous asset to the Town of Ossining. Each has shared their expertise with us and we have all grown in knowledge and experience.

Our contract partners came to the table prepared to give the Town of Ossining the best possible price while providing excellent services. Our contract partners cover such a wide range from sanitation to planning to labor attorneys. Each has been available to us when needed and again their expertise has been priceless for us accomplishing our goals.

The Administration has been hard at work every day leading by example and accomplishing so much. The role of CEO/CFO requires that the Supervisor be responsible for all finances as well as working with all Department Heads on goals and objectives as well as everyday work flow. Being available to discuss any issues as well as opportunities that a department could take advantage of allows the team to function better. Staying on top of the budget is essential throughout the year as is planning for the future.

The Budget Officer's job is so much more than that – personnel/attendance, organizing of the meetings, controlling supplies and dealing with residents.

Thanks cannot begin to express how I feel about these folks and their accomplishments. I have had the privilege to work alongside of the departments learn so much from each member of the department and together have made changes benefiting the residents (through controlling expenditures) but also employees updating the different job functions making them

It is essential that each person takes the time to understand and learn the job they have been elected or appointed to. Knowledge is power and the residents and commercial property owners in Ossining expect that each has done their “homework” on all issues including asking appropriate questions and of course not jumping to conclusions before all the facts and repercussions are explained.

This evening we have so much to celebrate today is Geoff Harter Day in the Town of Ossining. Geoff is retiring after giving 24 years to this community as a Town Board member, many of those years as the Deputy Supervisor and has been a dedicated member of the Recreation Advisory Board as the Town Lesion

IV. PUBLIC COMMENT ON AGENDA ITEMS

Wendy Masserman read the following statement:

Kenneth Kamber and Donna Sharrett have asked that I, as Chairperson of the Concerned Citizens of Ossining, read the following on their behalf as they could not be here in person.

Regarding the Town Board's vote to amend the Town's zoning code to allow assisted living as a usage in the General Business district:

This is a Type 1 action under New York State Department of Environmental Conservation regulations # 617.4 because the adoption of changes in the allowable uses within the zoning district affects 25 or more acres, and this change has been requested by an applicant.

This is also a Type 1 action by the Town of Ossining Environmental Quality Review code # 85.6.A.10 because the proposed action will take place within a freshwater wetland and within the setbacks as prescribed in the Town's Freshwater Wetlands Protection Law.

Therefore, a SEQRA Negative Declaration is required prior to the Town Board adopting this change in usage.

The Planning Board, as lead agency for the SEQRA review, has approved a SEQRA Negative Declaration Memo prepared by Frederick P. Clark Associates, Inc.

This SEQRA Memo is inaccurate and should be corrected before the Town Board adopts the zoning usage change.

We do not oppose the addition of assisted living as a usage in the General Business district. We adamantly oppose any decisions, to include votes, based on inaccurate documents.

Climate change is the environment's response to the past and continued degradation and destruction of its natural resources. It is our understanding that this degradation and destruction will absolutely have a significant adverse impact on future generations. It has been made abundantly clear that this understanding is either not shared or is ignored by others, to include those in decision making positions and those who guide the decision makers.

The word "significance" is subjective; even when considering the possibility of adverse impacts from an action which proposes to use herbicides in a wetland and

watercourse, create slopes of compacted imported fill directed towards a wetland and watercourse, destruction of all required wetland and watercourse buffers, and demolition of an old structure in the vicinity of a wetland and watercourse without a risk mitigation plan, as examples.

Note: the demolition of this old structure, with the possibility of asbestos, lead, septic and oil tank contaminants, is also in the immediate vicinity of a public shopping center.

Our understanding of the word “significance” differs greatly from that of the Town’s Planning Board and consultant. Destruction or degradation of the ephemeral wetland and watercourse on our property would adversely impact the wildlife which depends on them; wildlife which includes hawks, owls, bats, fox, songbirds, and other mammals, amphibians and avian species. Ephemeral wetlands, in particular, are crucial to wildlife during the spring breeding season. It is only from a human perspective that the possibility of adverse impacts could be subjective.

Although we could never agree with the finding that this action as proposed will have little or no possibility of significant adverse environmental impacts, we regretfully accept that others do not share our understanding of this.

We do however adamantly oppose that inaccurate documents, and the review of proposed projects based on knowingly inaccurate and incomplete information, be condoned by our Town Board.

We ask our Town Board to require that the SEQRA Negative Declaration Memo be made accurate and complete prior to voting on this zoning change.

Thank you,

Kenneth Kamber & Donna Sharrett
84 Morningside Drive, Ossining

V. BOARD RESOLUTIONS

A. Approval of Minutes-Regular Meeting

Councilmember Blaha 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 December 8, 2015, Minutes of the Regular Meeting as presented.

Motion Carried: Unanimously

B. Approval of Minutes-Special Meeting

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 December 15, 2015, Minutes of the Special Meeting as presented.

Motion Carried: Unanimously

C. Approval of Voucher Detail Report

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

Resolved, that the Town Board of the Town of Ossining hereby approves the Voucher Detail Report dated December 22, 2015 in the amount of \$ 629,867.25.

Motion Carried: Unanimously

D. Board of Ethics- Policies and Procedures

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

Whereas, the Town of Ossining has charged the Board of Ethics with establishing procedures for expanding the Town Code of Ethics and establishing a system for the process of providing ethics opinions;

Now, therefore be it Resolved, that the Town Board of the Town of Ossining hereby accepts the policies, rules and procedures adopted by the Board of Ethics for the Town of Ossining.

Motion Carried: Unanimously

E. Lakeville Sewer Lift Station Resolution to increase capital project

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

Resolved, that the Town Board of the Town of Ossining hereby authorizes a budget amendment for capital project #2013-2185, entitled "Lakeville Sewer Lift Station Remediation", from \$167,534.09 to \$175,658.09. The project budget increase of \$8,124 will be funded by a transfer from fund balance from the Consolidated Sewer Fund.

Increase: 037.8120.2185	\$8,124 Lakeville Sewer Lift Station Remediation (Expense)
Increase: 037.0037.5031.0188	\$8,124 Lakeville Sewer Lift Station Remediation (Revenue)
Increase: 045.9901.0906	\$8,124 Consolidated Sewer Transfer to Capital (Expense)
Increase: 045.0045.4795	\$8,124 Consolidated Sewer Fund Balance (Revenue)

Motion Carried: Unanimously

F. TAX CERTIORARI

**529 T & R Realty LLC,
vs.
Town of Ossining**

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

WHEREAS, proceedings pursuant to Article 7 of the Real Property Tax Law of the State of New York were instituted by T & R Realty LLC, against The Town of Ossining, to review the tax assessments made on Petitioner's property located at 95 Croton Avenue, Town of Ossining, and designated on the tax assessment map of The Town of Ossining as Section 89.16-1-52 for Tax Assessment Years 2012 through 2015; which proceedings are now pending in the Supreme Court of the State of New York, County of Westchester, under Index Nos. 66842/12; 65640/13; 67280/14 and 67337/15; and

WHEREAS, the above Petitioner has agreed to a compromise and settlement of such proceedings, subject to the approval of the Town Board, correcting and reducing the assessed valuation of its real property and improvements, as follows: 95 Croton Avenue, Ossining, N.Y. 10562 SBL: 89.16-1-52

Assessment Year	Tax ID No.	Original Assessed Value	Reduction	Final Assessed Value
2012	89.16-1-52	\$80,000	\$20,000	\$60,000
2013	89.16-1-52	\$80,000	\$17,100	\$62,900
2014	89.16-1-52	\$80,000	\$20,000	\$60,000
2015	89.16-1-52	\$80,000	\$20,000	\$60,000

WHEREAS, any and all refunds necessitated by said settlement will be made without interest; and

WHEREAS, the Town Board, upon the recommendation of the Assessor, concurred by the Town Attorney, finds the proposed settlement appropriate and in the best interest of the Town of Ossining; now therefore it is

RESOLVED, that settlement of the proceedings, on the terms set forth herein, is hereby accepted and approved, subject to the approval of the Supreme Court, Westchester County, wherein such proceedings are pending; 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, subject to the approval of the Supreme Court, Westchester County, that the Assessor is authorized and directed to make the changes and corrections to the individual unit assessment on the tax assessment roll 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 \$ 899.23,, which will be ordered pursuant to said Consent Judgment.

Motion Carried: Unanimously

STP Briarcliff LLC
vs.
Town of Ossining

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

WHEREAS, proceedings pursuant to Article 7 of the Real Property Tax Law of the State of New York were instituted by STP Briarcliff LLC, against The Town of Ossining, to review the tax assessments made on Petitioner's property located at 325 South Highland Avenue, Town of Ossining, and designated on the tax assessment map of The Town of Ossining as Section 97.19-2-1 for Tax Assessment Years 2011 through 2015; which proceedings are now pending in the Supreme Court of the State of New York, County of Westchester, under Index Nos. 15692/11; 66925/12; 66153/13; 66966/14 and 67427/15; and WHEREAS, the above Petitioner has agreed to a compromise and settlement of such proceedings, subject to the approval of the Town Board, correcting and reducing the assessed valuation of its real property and improvements, as follows:
325 South Highland Avenue, Ossining, N.Y. 10562 SBL: 97.19-2-1

Assessment Year	Tax ID No.	Original Assessed Value	Reduction	Final Assessed Value
2011	97.19-2-1	\$209,675	\$28,325	\$181,350
2012	97.19-2-1	\$209,675	\$20,575	\$189,100
2013	97.19-2-1	\$209,675	\$14,685	\$194,990
2014	97.19-2-1	\$215,625	\$43,075	\$215,625
2015	97.19-2-1	\$215,625	\$60,250	\$155,375

WHEREAS, any and all refunds necessitated by said settlement will be made without interest; and

WHEREAS, the Town Board, upon the recommendation of the Assessor, concurred by the Town Attorney, finds the proposed settlement appropriate and in the best interest of the Town of Ossining; now therefore it is

RESOLVED, that settlement of the proceedings, on the terms set forth herein, is hereby accepted and approved, subject to the approval of the Supreme Court, Westchester County, wherein such proceedings are pending; 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, subject to the approval of the Supreme Court, Westchester County, that the Assessor is authorized and directed to make the changes and corrections to the individual unit assessment on the tax assessment roll 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 \$ 1,264.93, which will be ordered pursuant to said Consent Judgment.

Motion Carried: Unanimously

H. RESOLUTION ADOPTING LOCAL LAW #12 OF 2015
FOR THE PURPOSE OF ADDING ASSISTED LIVING FACILITIES
AS A PERMITTED PRINCIPAL USE IN THE GENERAL BUSINESS DISTRICT

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

WHEREAS, the Town Board is considering the adoption of a Local Law for the purpose of adding Assisted Living Facilities as a Permitted Principal Use in the General Business (GB) zoning district; and

WHEREAS, the proposed action also includes the issuance of Site Plan, Wetlands Permit and Tree Removal Permit approvals by the Planning Board to the proposed Artis Senior Living LLC assisted living facility (the “Proposed Action”); and

WHEREAS, in accordance with the requirements of the New York State Environmental Quality Review Act (SEQRA), the Planning Board declared its intent to be the Lead Agency with respect to the Proposed Action and thereafter became the Lead Agency; and

WHEREAS, on December 16, 2015, after taking a “hard look” at the Full Environmental Assessment Form and all of the associated materials prepared in connection with the Proposed Action, the Planning Board, as Lead Agency, adopted a Negative Declaration regarding the Proposed Action for the reasons stated therein; and

WHEREAS, the Town Board held a public hearing regarding the subject Local Law on July 22, 2014 during which all persons interested were given an opportunity to be heard; and

WHEREAS, in accordance with Section 200-52 of the Town’s Zoning Law, the Town Board referred the subject Local Law to the Town Planning Board and via a memorandum dated June 25, 2014 received comments and a positive recommendation in response; and

WHEREAS, the Town Board has given due consideration to the Planning Board’s comments and recommendation; and

WHEREAS, in accordance with Sections 239-l and m of the New York State General Municipal Law, the Town Board referred the subject Local Law to the Westchester County Department of Planning (WCDP) and received a response from the WCDP by letter dated June 16, 2014; and

WHEREAS, said letter from the WCDP states in part, “We have reviewed the proposed zoning petition and find the zoning text amendment to be a matter for local determination in accordance with the Town’s planning and zoning policies;” and

WHEREAS, Town Board has given due consideration to the comments of the WCDP.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

- 1. The Town Board hereby adopts and incorporates the recitations and statements set forth above as if fully set forth and resolved herein.**
- 2. The Town Board hereby adopts Local Law #12 of 2015; except as specifically modified by the amendments contained therein, the Town of Ossining Zoning Law, as originally adopted and amended from time to time thereafter, is to remain in full force and effect.**

Motion Carried: Unanimously

VI. CORRESPONDENCE TO BE RECEIVED AND FILED

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

Resolved, that the Town Board of the Town of Ossining hereby accepts the following meeting minutes:

- Planning Board Meeting Minutes dated October 21, 2015.**
- Planning Board Meeting Minutes dated November 18, 2015.**

Motion Carried: Unanimously

VII. MONTHLY REPORTS

VIII. VISITOR RECOGNITION

Dana Levenberg Supervisor Elect, Emwilton Place, thanked Supervisor Donnelly for her hours and hours of hard work and also for her guidance to me. Also thank you for your fiduciary responsibility of keeping the taxes under the tax cap. You have improved the parks, instituted new laws, worked with the IMA's and also Solarize Ossining.

Maddi Zachcaz read a proclamation for Councilman Geoffrey Harter who is retiring from the Board after 24 years of service. December 22nd will forever be dedicated as Geoffrey Harter Day in the Town of Ossining.

Councilman Wilcher stated that Councilman Harter has served well when we even worked on our days off and are still working.

Councilman Blaha extended his thanks to Dana Levenberg, Jeff Harter and wished Northern Wilcher a Happy Birthday. I have enjoyed the 4 years and 15 minutes of fame while serving as Town Councilman. A great deal has been accomplished and I would like to thank the whole team as well as my family. I wish the new board the best. We have a community made up of amazing residents.

Supervisor Donnelly commented that it has been an honor serving both the Village and Town of Ossining. It has always been my goal to make things better and I am leaving in a positive manner. The Inauguration of the Chief of Police and elected Officials will take place on January 1, 2016 at noon at the Ossining Public Library.

IX. ADJOURNMENT

At 8:22 P.M. Councilmember Blaha moved and it was seconded by Councilmember Wilcher that the meeting be adjourned.

Motion Carried: Unanimously

Approved:

Mary Ann Roberts, Town Clerk