



SPECIAL MEETING

**TOWN BOARD
TOWN OF OSSINING
MUNICIPAL BUILDING
16 CROTON AVE. 1ST FLOOR
OSSINING, NY 10562**

JULY 7, 2015

9:12 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 July 7, 2015 in the Municipal Building, 16 Croton Avenue, 1st Floor Board Room in Ossining. The meeting was called to order at 9:12 P.M. by Supervisor Susanne Donnelly. Members of the Board present were: Councilmembers Eric Blaha, Kim Jeffrey, Northern Wilcher and Geoffrey Harter. Also present were Town Attorney Wayne Spector, Budget Officer Madeline Zachacz and Deputy Town Clerk Ann Marie Rocco.

II. PUBLIC COMMENT ON AGENDA ITEMS

Mark Fry of Sleepy Hollow advised the board that he has done research on Dale Cemetery and he stated that the Town Board has all of Dale Cemetery records dating back to 2004. Mr. Fry questioned Town Counsel if he would advise the Board on how to proceed given the information they received such as the by-laws, license agreement and termination letter?

Councilmember Blaha questioned if Mr. Fry was a tax payer in the Town of Ossining? Also, questioned if he was a paid representative for a particular entity and what legal interest does he have?

Mr. Fry answered no, but he has a right to appear in any municipality and he would like to address the Board on whatever reason he should choose. He would like to see Dale Cemetery well managed.

Town Attorney Wayne Spector would like to know the purpose of the challenge to the Town Board and what benefit would this challenge have? Town Attorney feels that there is no harm in continuing to use the legal corporation unless there are legal challenges.

Mr. Fry suggested to wait until the Town Counsel reviews the documents and defer any action on resolution B.

Town Attorney stated that there should be some kind of extension in order for the Town Board to appoint a director.

Councilmember Blaha questioned that since there is no license agreement shouldn't the Board create a brand new license agreement?

Town Attorney Wayne Spector stated that unless it's challenged it will be valid. Mr. Spector recommends the agreement be resurrected.

Gloria Fried of Ryder Road stated once the agreement was terminated the town no longer had the right to appoint anyone to the Board. The Town had four options. 1. The Town could have allowed this agreement to go year by year. 2. Use an outside company to manage Dale Cemetery 3. Set up another corporation. 4. Make the Dale Cemetery employees all Town employees. Ms. Fried recommends that Town Attorney should review the material that was turned over to the Town Clerks office by the former Town Attorney's office.

Supervisor Donnelly recommends that Resolution B be tabled this evening and the Town will move forward with the research on Dale Cemetery.

III. RESOLUTIONS

A. Fireworks Approval – St. Augustine's Church

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

Whereas, the Church of St. Augustine, by letter dated June 24, 2015 has requested a permit from the Town of Ossining for a fireworks display to be held on the evening of Wednesday, July 22, 2015 at 9:15 p.m. (rain date of July 23, 2015); and

Whereas, the Church has submitted the information required by Section 101-5 of the Code of the Town of Ossining and Section 405(2) of the Penal Law of the State of New York; and

Whereas, the bond/insurance coverage submitted by the Church has been found by the Town Attorney to comply with the requirements of Section 101-6 of the Ossining Code and Section 405 of the State Penal Law; and

Whereas, the Fire Chief has made an inspection of the premises where the fireworks display will be held and reported that such display will not be hazardous to persons or property;

Now, Therefore, Be It Resolved, that the application of the Church of St. Augustine's for a fireworks display on July 22, 2015 at 9:15 p.m. (rain date July 23, 2015,) is approved subject to the following conditions pursuant to Section 405(3) of the Penal Law:

1. The actual point at which the fireworks are to be fired shall be at least 200 feet from the nearest permanent building, public highway or railroad or other means of travel and at least 50 feet from the nearest above-ground telephone or telegraph line, tree or other overhead obstruction;
2. The audience at such display shall be restrained behind lines at least 150 feet from the point at which the fireworks are discharged and only persons in active charge of the display shall be allowed inside these lines;
3. All fireworks that fire a projectile shall be so set up that the Projectile will go into the air as nearly as possible in a vertical direction, unless such fireworks are to be fired from the shore or a lake or other large body of water, in which case they may be directed in such manner that the falling residue from the deflagration will fall into such lake or body of water;
4. Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining;
5. No fireworks display shall be held during any wind storm in which the wind reaches a velocity of more than 30 miles per hour;
6. All persons in actual charge of firing the fireworks shall be over the age of 18 years, competent and physically fit for the task;
7. There shall be at least 2 such operators consistently on duty during the discharge; and

8. At least 2 soda acid or other approved type fire extinguishers of at least 2 and one-half gallons capacity each shall be kept at as widely separated points as possible within the actual area of the display; and it is further
9. Resolved, that a copy of this Resolution duly certified by the Town Clerk of the Town of Ossining shall constitute a Permit, meeting the requirements of the Code of the Town of Ossining and the Penal Law of the State of New York.

Motion Carried: Unanimously

B. Dale Cemetery- Board of Trustees Appointment

Councilmember Blaha moved and it was seconded by Councilmember Jeffrey that the following be TABLED:

WHEREAS, the Dale Cemetery is owned by the Town of Ossining, ownership having been acquired in accordance with section 291 of the New York State Town Law; and

WHEREAS, the Dale Cemetery Management Corporation was established, on behalf of the Town, as a type C public benefit Not For Profit Corporation for the sole purpose of managing the Dale Cemetery with all funds used for the Cemetery operation and maintenance originating either from cemetery operations or from allocations from the Town; and

WHEREAS, the Dale Cemetery Management Corporation is a party to a license agreement with the Town whereby the Corporation undertook the management of Dale Cemetery; and

WHEREAS, the original term of license agreement expired but the agreement remains in effect in accordance with a year to year renewal option on the part of the Town; and,

WHEREAS, the license agreement provides that the Corporation will be governed by three Trustees, one of whom will be appointed by the Town; and,

WHEREAS, the Corporation does not currently have a functioning Board of Trustees;

Now, therefore be it RESOLVED that Eric Blaha is hereby appointed as a Trustee of the Dale Cemetery Management Corporation, effective immediately; AND

Be it further RESOLVED that Eric Blaha shall forthwith seek to fill the remaining vacancies on the Board of Trustees of the Dale Cemetery Management Corporation so that the Board of Trustees can undertake management of the Dale Cemetery in accordance with its corporate purpose and the license agreement with the Town.

Motion Carried: TABLED

C. 94 State Street Sale

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

WHEREAS, pursuant to a judgment of foreclosure for unpaid taxes, entered by the Supreme Court of the State of New York, Westchester County, the Town of Ossining conducted an auction of foreclosed properties at 16 Croton Ave. on August 13, 2014, in order to sell off properties with delinquent taxes owed to the town of Ossining, one of which was 94 State Street, Ossining, New York, Tax ID number 97.11 – 1 – 84; and

WHEREAS, Mr. Darwin Yunga was the successful bidder for 94 State Street, Ossining, New York at a bid price of \$49,000; and

WHEREAS, the Town Board, by resolution, accepted the high bid of \$49,000 by Mr. Darwin Yunga; and

WHEREAS, Mr. Yunga thereafter failed to close on the purchase in accordance with the terms of sale for the property, due to an inability, at that time, to procure a title insurance policy for the property; and

WHEREAS, Mr. Yunga was thereafter declared in default of his obligation to close on the purchase and his nonrefundable down payment of \$2500 was retained by the town; and

WHEREAS, Mr. Yunga has now declared an interest in purchasing the property at its original agreed high bid price of \$49,000, with the original down payment of \$2500 being credited against that purchase price; and

WHEREAS, due to the current condition of the property, it has been determined that the original high bid price by Mr. Yunga of \$49,000 is a fair and reasonable price for the property and that re-auctioning the property will unlikely result in a higher bid price and will result in the property likely remaining in a state of disrepair, and in an unsafe and unsecure condition, detrimental to the neighborhood;

Now, be it RESOLVED, that the Town again accepts the offer by Mr. Yunga to purchase the property for \$49,000, with a credit for the original \$2500 down payment, and the Town is authorized to accept a deed for the property from the Receiver of Taxes in a form approved by the Town Attorney and the Town Supervisor is authorized to execute a deed as well as all required transfer documents in forms acceptable to the Town Attorney, thereby effectuating the sale of the premises to Mr. Yunga for the agreed high bid price of \$49,000 with a credit given for the original \$2,500 down payment; and

Be it further RESOLVED that, upon conveyance of the property to Mr. Yunga, Mr. Yunga will pay all real property taxes for the property, as adjusted from the date of conveyance, with all the additional accrued interest and/or penalties that may have accrued against the property for unpaid taxes through the day of conveyance being hereby waived.

Motion Carried: Unanimously

D. Stipulation of Agreement between Town of Ossining and Local 456

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

BE IT RESOLVED, that upon recommendation of the Town Supervisor, the Town Board hereby ratifies and approves the Stipulation of Agreement regarding John Orlando, between the Town and Local 456, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO, effective July 7th, 2015; and

BE IT FURTHER RESOLVED that the Town supervisor is authorized to execute the Stipulation on the Town's behalf.

IV. ADJOURNMENT- EXECUTIVE SESSION -CONTRACTS

At 9:34 P.M., Trustee Blaha moved and it was seconded by Trustee Harter that the Regular Meeting be adjourned.

Motion Carried: Unanimously

Approved:

Mary Ann Roberts Village Clerk