



MINUTES
TOWN BOARD
TOWN OF OSSINING
AUGUST 25, 2020
REGULAR MEETING
7:30 P.M.

MEETING WAS HELD VIA VIDEO CONFERENCING ONLY
Pursuant to Governor's Executive Order 202.1 dated March 12, 2020

SUPERVISOR
Dana A. Levenberg

COUNCILMEMBERS
Elizabeth R. Feldman Gregory G. Meyer
Jackie G. Shaw Northern Wilcher, Jr.

I. CALL TO ORDER-PLEDGE OF ALLEGIANCE-ROLL CALL

The Regular Meeting of the Town Board of the Town of Ossining was held on August 25, 2020 via video conference, pursuant to Governor's Executive Order 202.1 dated March 12, 2020. The meeting was called to order at 7:30 p.m. by Supervisor Dana A. Levenberg. Members of the Board present were: Councilmembers Jackie G. Shaw, Elizabeth R. Feldman, Gregory G. Meyer, and Northern Wilcher Jr. Also present were Town Counsel Christie Tomm-Addona, Budget Officer Victoria Cafarelli, and Deputy Town Clerk Martha C. Quituisaca.

II. PUBLIC HEARING

At 7:31 p.m., the Public Hearing opened.

- **Local Law – Temporary Outdoor Dining Permits**

Supervisor Levenberg said the following: We are starting tonight with a continuation of a public hearing regarding a proposed local law to create a Temporary Outdoor Dining permit process in the Town of Ossining. We opened this public hearing at our last meeting, and continued the discussion in work session, also at our last meeting. I am not going to go into too much detail, but we hope this local law will help our local restaurants operate safely during the COVID pandemic. Additionally, this local law may have other applications in the future, when a business may need to close their indoor space due to a fire, or some event similar. We had received some comments from the public concerned about ensuring this legislation addresses compliance with Governor Cuomo's Executive Orders and some quality of life ordinances, such as playing outdoor music. This legislation requires that establishments to be in compliance with all local, county, and state regulations, including Governor's Executive Orders and local laws addressing noise and music. The administration of these permits will also allow for a good deal of interaction between the applicant and our Building Department. The Board will be asking our Building Inspector to be sure applicants are aware of their requirement to follow all local, county, and state laws and regulations, which we hope will assuage these concerns as the permits are administered.

Town Counsel Tomm Addona gave a summary of the local law as it reads now. The local law allows the Building Inspector to issue an outdoor dining permit for up to 45 days to an eating establishment. The law will allow for only dining to occur outdoors. The Building Inspector will make sure that the establishment is adhering to the Town code and executive orders during the COVID-19 pandemic. The permit can be renewed after 45 days and must

state reasons for its need. If applicant gets more than 5 permits during a 12-month period he/she must seek to get a permanent application for outdoor dining.

Mindy Lamarre, Briarcliff Manor, asked if anyone had read the cabaret license permit that allows establishments to be exempt from policing during an event being held. She does not believe that an establishment that is non-conforming in a zoning area should get an outdoor permit.

Town Counsel Tomm Addona said that she would look over the cabaret licensing process.

Trustee Wilcher asked if at any point during the permit process the Building Inspector will be reporting back to the Town Board about eating establishments.

Town Counsel Tomm Addona said that permits are renewed after 45 days and that any issues with an eating establishments can be brought up then.

Supervisor Levenberg said that local law is a fair way to protect businesses from failing during the pandemic.

Trustee Feldman said that she had never heard of police not coming into the event of an establishment with a cabaret license. Mrs. Lamarre said that the codebook gives establishments with cabaret licenses that provision. She discussed times in which the police said they were going to go to an establishment but never went. Police Chief Kevin Sylvester said he was not aware that the Town Code allows establishments with a cabaret license to deny police officers entry. No police officer has ever been denied entry at an establishment with a cabaret license. He spoke about noise complaints being taken from property line and that it is a very rare for the Ossining Police Department not to go to an establishment when they receive a call.

At 7:49 p.m., Councilmember Shaw moved and it was seconded by Councilmember Wilcher that the Public Hearing be closed.

III. ANNOUNCEMENTS

Supervisor Levenberg made the following announcements:

This past weekend, an event was scheduled to be held at Louis Engel Park. The Town had previously denied a permit for this event. The Town has not, and will not, permit events in our parks that clearly defy Governor Cuomo's Executive Orders restricting the size of public gatherings. That being said, we are all still afforded our First Amendment right to freedom of speech and freedom of assembly, and several protests have been held on public property in the Town of Ossining, as well as elsewhere throughout the County, the State and the Country, within the past few months.

As advertisements of Saturday's events were circulated, the Ossining Police Department received an opinion from the Westchester County Department of Health that the event, as advertised, would violate the Executive Orders and State guidance restricting the size of public gatherings and prohibiting concerts and performances. The Ossining Police Department and Town began taking steps to cancel this event, including shutting power off to the Louis Engel Park stage and communicating with the organizer. Despite these attempts and without permission from the Town, the organizer continued on with this event utilizing generator power.

The Ossining Police Department was faced with the difficult task of maintaining safety in this public space. Ultimately, the event continued, primarily as a concert, and the organizer will need to face the consequences for his actions. We

know the Ossining Police Department made the best decision available to them in the moment, and their professionalism and measured approach was key in ensuring the safety of our community to the best extent possible.

We also recently learned of a peaceful rally planned for Louis Engel Park this coming Saturday. Today, I spoke with the organizer, Mr. Thomas and he has decided to postpone the event until he can be sure it will be following all regulations identified in the Governor's Executive orders relating to events and that he wants to make sure he is in compliance. He is looking forward to being able to have this event when the pandemic and size restrictions have been lifted.

We have our Police Chief Kevin Sylvester here tonight to address this topic. Chief Sylvester, do you have anything to add?

Police Chief Kevin Sylvester spoke about the challenge the Ossining Police Department faced of protecting people and their rights at the event. He knows that certain people do not agree with the decision the police department made but that the outcome was the best of a hard situation.

Thank you, Chief. Now, moving forward the Town has some difficult decisions to make regarding use of our public spaces. This is an unusually challenging time, as we do everything we can to remain vigilant and protect our community's health and safety. We are going to continue to seek guidance from the Governor's office regarding what types of events are permissible under the Executive Orders. In the meantime, we plan on communicating with people who are attempting to plan events to reschedule for when we can all be sure they are in compliance with these orders. We also hope to have a public discussion at Work Session in the future when we receive additional guidance from the Governor's Office.

Last week, we learned that gyms in New York State could begin reopening yesterday, Monday, August 24 at 33% capacity, following inspection by local health officials. That is a big task for the Westchester County Health Department, but we are happy to report that our Building Inspector has been in close communication with the Health Department to learn of any and all opportunities that he can assist with to help our local businesses open as soon as possible. And, less relevant here in the Town of Ossining, bowling alleys can also reopen. It is clear our hard work as a State to keep our distance, wear masks when out in public, wash our hands frequently, and all of those important actions have effectively curbed the spread of COVID-19. Now is not the time to let down our guard, though. Please remain vigilant, so we can continue to meet these important milestones and get our small businesses back up and running.

On that same topic, the Governor's Office continues to update the list of Restricted States included in the Travel Advisory. It is important that travelers review the information on the travel advisory section of the New York State website. Please do this before *and after* traveling to ensure you are taking the proper health precautions.

Last week, the Town's Comprehensive Plan Steering Committee met for the first time with our selected consultant, WXY Studios. This was an exciting meeting, and all of the reasons the Board selected WXY Studios – their innovative approach to planning, aesthetically pleasing presentation style, diverse and engaging project team – were all on display at our meeting. Our all volunteer committee also shined, contributing to an engaging and productive conversation about what we hope this process facilitates for the Ossining community. A staff member from Pace Land Use Law Center was also in attendance, and we look forward to expanding their role soon through community engagement and including as many members of the community we can in this important conversation. It is very exciting to see this project moving forward and really getting off the ground. We hope to schedule a Town Hall style meeting in the

very near future regarding the Comprehensive Plan, so stay tuned! We cannot wait to bring the whole community in on these discussions.

That being said, I know many of you who participate in our meetings and view afterwards on YouTube are also residents of the Village of Ossining. The Village is in the process of developing a Comprehensive Plan Update and is seeking public input to inform their next steps. Now is the time to make your voices heard on YOUR vision for the future of Ossining. I encourage Village residents to check out the dedicated webpage for the Comprehensive Plan, www.OssiningTomorrow.com to learn more. There are several options to submit your comments virtually, so please take the time to do so.

Finally – once again! -- has your household responded to the US Census yet? The Census determines our representation to the House of Representatives as well as critical funding decisions for the next ten years. Yes, the next ten years! It is extremely important that we ensure an accurate count in this year's Census as Ossining stands to lose \$2,500 per year for each uncounted person. So if there are four people living in your house, and your house does not respond to the Census, that is \$10,000 per year. That is lost money that could go towards infrastructure improvement, hospitals, schools, and many more public services we simply cannot afford to lose. It takes less than ten minutes to fill out online, at www.2020census.gov.

Tonight, we had originally scheduled a Departmental Report from our Town Clerk Sue Donnelly. Unfortunately, she had a conflict with tonight's meeting, so we look forward to hearing from her at a future meeting soon. In the meantime, the Board knows our Clerk's office is very busy right now, issuing all sorts of permits left and right. Did you know tomorrow is National Dog Day? Neither did I, until our friend Jaimie Hoffman in the Village Manager's office reminded us! Celebrate this very important national holiday by getting your dog licensed! Not only does this help keep your dog safe if they get lost and get you your ticket to use the Cedar Lane Dog Park, but it is New York State Law! Give our Clerk's office a call tomorrow at 914-762-8428 to learn more. Our Clerk's office is also ready and able to help you register to vote for the upcoming election or fill out an absentee ballot application. A one-stop-shopping service!

IV. LIAISON REPORTS

V. PUBLIC COMMENT ON AGENDA ITEMS

VI. BOARD RESOLUTIONS

A. Approval of Minutes—Regular Meeting – August 11, 2020

Councilmember Feldman moved and it was seconded by Councilmember Wilcher that the following resolution be approved as amended.

Resolved, that the Town Board of the Town of Ossining hereby approves the August 11, 2020 minutes of the Regular Meeting as presented.

Motion: Carried

B. Approval of Minutes—Special Meeting – August 14, 2020

Councilmember Shaw moved and it was seconded by Councilmember Feldman that the following resolution be approved.

Resolved, that the Town Board of the Town of Ossining hereby approves the August 14, 2020 minutes of the Special Meeting as presented.

**Motion: Carried
Abstain: Wilcher**

C. Approval of Voucher Detail Report

Councilmember Shaw moved and it was seconded by Councilmember Feldman that the following resolution be approved.

Resolved, that the Town Board of the Town of Ossining hereby approves the Voucher Detail Report dated August 25, 2020 in the amount of \$214,197.14.

Motion: Carried

D. Approval of Contract – Unmet Need State Funds for III-B Transportation Overserved Services PY 2019-2020 for Senior Nutrition Program

Councilmember Shaw moved and it was seconded by Councilmember Wilcher that the following resolution be approved.

Resolved, that the Town Board of the Town of Ossining authorizes the Supervisor to sign an agreement with Westchester County Department of Senior Programs and Services for the purposes of receiving Unmet Need State Funds for III-B Transportation Overserved Services at an amount not to exceed \$27,362 for program year 2019-2020, April 1, 2019 through March 31, 2020.

Supervisor Levenberg said the following: Our Senior Nutrition Program receives funding through the Westchester County Department of Senior Services. Due to shifts in the program as a result of COVID-19, our Site Director Kathy Asaro, recently learned that we were eligible for additional funding, including these funds for transportation. Thank you, Kathy, for navigating these complicated contracts to get us our additional \$27,000!

Motion: Carried

E. Approval of Memorandum of Understanding – Sustainable Westchester, Inc.

Councilmember Feldman moved and it was seconded by Councilmember Shaw that the following resolution be approved.

Resolved, that the Town Board of the Town of Ossining authorizes the Supervisor to sign a Memorandum of Understanding with Sustainable Westchester, Inc. to allow the Town of Ossining to participate in the Westchester Power Community Choice Aggregation Program, commencing January 1, 2021.

Supervisor Levenberg said the following: At our July 14 meeting, Sustainable Westchester came to present on the upcoming contract for Westchester Power, the community choice aggregation program available to the Town in Westchester. This program not only creates demand for clean energy by allowing municipalities to select the “green” option, it also ensures all participating residents a lower rate than Con Edison can provide. Thank you for the team at Sustainable Westchester for continuing to administer this exciting program for our residents, we are happy to join up again for 2021.

Motion: Carried

F. Resolution – Adopting Local Law #1 of 2020 – Temporary Outdoor Dining Permits

Councilmember Shaw moved and it was seconded by Councilmember Feldman that the following resolution be approved.

WHEREAS, in light of the COVID-19 pandemic and the restrictions related to social distancing and decreasing maximum capacity of indoor spaces in an

effort to reduce the risk of spread of the virus, there has been an increased focus on operating outdoors and in the open air to the extent possible, and

WHEREAS, in the context of Fully Enclosed Eating and Drinking Establishment and Eating and Drinking Establishment uses as set forth in the Zoning Code, these establishments are required to reduce their maximum indoor occupancy and have sought to create outdoor seating in order to serve their patrons in a safe environment and also generate the level of business necessary to remain viable, and

WHEREAS, the Town Board desires to create a temporary permitting process to allow for such outdoor uses under appropriate circumstances when the establishment can demonstrate that due to a risk to public health, safety and welfare, regardless of whether it is specifically related to the COVID-19 pandemic, the establishment cannot utilize all of its permitted indoor occupancy space to accommodate the designated capacity, and

WHEREAS, the Town Board held a duly noticed public hearing at its regular meeting on Tuesday, August 11, 2020 and Tuesday, August 25, 2020 via videoconferencing in accordance with the Governor's Executive Orders 202.1 and 202.15, as subsequently extended, on proposed Local Law #1 of 2020 to create a new Chapter 136 of the Town Code entitled "Outdoor Permit, Temporary" to establish a temporary outdoor permitting process for eating and drinking establishments in the Town of Ossining, and members of the public having the opportunity to attend and be heard, the public hearing was closed on August 25, 2020; and

WHEREAS, a Short Environmental Assessment Form, Part 1 was prepared pursuant to the State Environmental Quality Review Act; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of Ossining for at least seven days, exclusive of Sunday, prior to the adoption of this resolution, and

NOW THEREFORE,

BE IT RESOLVED, the Town Board hereby adopts the Short Environmental Assessment Form, Part 2 and issues a Negative Declaration determining this action does not have the potential to have any significant adverse environmental impacts as the permits are temporary, the local law is intended to provide a safe atmosphere for patrons of these establishments by enabling them to dine outdoors and with adequate social distancing, and the Building Inspector may only issue the permit upon the establishment providing plans and documentation to establish the outdoor dining can be conducted in a safe manner; and

BE IT FURTHER RESOLVED, the Town Board, after due deliberation, finds that it is in the best interest of the Town to adopt said local law, and the Town Board hereby adopts Local Law # 1 of 2020 entitled Temporary Outdoor Dining Permits to create a new Chapter 136 of the Town Code entitled "Outdoor Permit, Temporary" to establish a temporary outdoor permitting process for eating and drinking establishments in the Town of Ossining; and

BE IT FURTHER RESOLVED, the Town Clerk is directed to enter said local law in the minutes of this meeting into the local law book for the Town of Ossining; to publish said minutes in a newspaper published in the town, if any, or in such newspaper published in the county in which such town may be located having a circulation in such town, and affidavits of said publication shall be filed with the Town Clerk; and to file a copy of said local law with the Secretary of State of New York.

Supervisor Levenberg said the following: Our first local law for 2020! Thank you Counsel Addona, Town Planner Valerie Monastra, and Building Inspector John Hamilton for drafting this legislation with careful consideration for our local businesses, and their residential neighbors. I am sure I speak for the rest of the Board when I say we are pleased to be able to offer this temporary solution to local businesses to continue to operate during these challenging times.

Ayes: Levenberg, Wilcher, Shaw, Meyer, and Feldman

VII. CORRESPONDENCE TO BE RECEIVED AND FILED

Councilmember Shaw moved and it was seconded by Councilmember Wilcher that the following resolution be approved.

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

- Town Planning Board Minutes for 2/19/20 and 6/17/20
- July 15, 2020 Architectural Review Board Resolutions for
 - 39 Old Albany Post Road,
 - 125 Morningside Drive
 - 584 North State Road
- Town Zoning Board of Appeals minutes 3/2/20 and 6/29/20

Motion: Carried

VIII. VISITOR RECOGNITION

Visitors shall be accorded one (1) four (4) minute opportunity to speak

Mindy Lamarre, Briarcliff Manor, asked how to access minutes from the Town Board, Town Zoning Board, and Town Planning Board Meetings. Budget Officer Cafarelli said that once the meetings minutes are approved by the Board, they are posted online. Mrs. Lamarre asked about the uptick in the number of COVID-19 cases and on contact tracing these new cases. Supervisor Levenberg said that the patients are protected by HIPPA and as a result contact tracers only contact those that are directly impacted.

IX. ADJOURNMENT

At 8:20 P.M., Councilmember Shaw motioned to adjourn to Executive Session for advice of counsel and Councilmember Wilcher seconded.

Motion Carried: Unanimously

At 8:39 P.M., Councilmember Shaw motioned to leave Executive Session and Councilmember Wilcher seconded.

Motion Carried: Unanimously

At 8:39 P.M., Councilmember Shaw motioned to adjourn the Regular Meeting and Councilmember Wilcher seconded.

Motion Carried: Unanimously

Approved:



Susanne Donnelly, Town Clerk