

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

OCTOBER 14, 2008 – REGULAR MEETING
7:30 PM

INTERIM SUPERVISOR

Martha Dodge

COUNCILMEMBERS

Geoffrey Harter Northern Wilcher
David Krieger Kimberlie Jacobs

I. CALL TO ORDER

The Regular Meeting of the Town Board of the Town of Ossining was held on October 14, 2008 in the Police/Court Facility, 86-88 Spring Street in Ossining. The meeting was called to order at 7:30 p.m. by Supervisor Martha Dodge. Upon roll call, the following were present: Councilmembers Geoffrey Harter, Northern Wilcher, David Krieger and Kimberlie Jacobs. Also present were: Thomas Beirne, Town Attorney and Mary Ann Roberts, Town Clerk.

II. PUBLIC HEARING – Continuation – Establishment of an Ambulance District to be known as the Town of Ossining Ambulance District pursuant to Section 209-d of the Town Law

The public hearing was opened at 7:31 p.m.

A Court Stenographer was present to take the minutes at the Public Hearing for the Establishment of an Ambulance District. Listed below are the individuals that spoke at this Public Hearing.

Bobby Williams, Spring Street, supports the establishment of an Ambulance District.

Ellen Radack Kahan, Ganung Drive, discussed the economy, however, expressed the opinion that the district should be established even though there would be a tax increase as you can't put lives at risk by not having the ambulance service available.

Michael Tawil, Woods Bridge Circle, supports the establishment of an ambulance district. It makes fiscal sense. OVAC sits at Community functions for no charge.

Giovanna Conti, Dale Avenue, supports the Ambulance District and related a number of family issues experienced over the past 20 years. Please vote for the establishment of the Ambulance District.

John Flynn, Cedar Lane, Deputy Chief in Yonkers stated that there was a shortage of volunteers. The training requirements have not changed since 911. He was giving lukewarm support for this district. He expressed the opinion that regionalization should be explored.

John Perillo, Havell Street, stated that he wanted to set the record straight that he nor any member of the Perillo Family was circulating a petition against the Ambulance District. There are other alternatives and the oversight committee should do a better job of overseeing the budgets. He was also concerned about the make up of the oversight committee.

Dr. Nigro, In Charge of Emergency Room at Phelps Memorial Hospital Center gave the hours necessary for training. The response time of OVAC is 8 minutes which is the average response time. Some regionalization has taken place. The last three fly cars have been purchased by Phelps Memorial Hospital Center. Mutual aid is used quite frequently.

Peter Tripodi, Quail Hollow Road, supports OVAC.

At 8:17 p.m., Councilmember Harter moved and it was seconded by Councilmember Wilcher that the public hearing be adjourned.

Motion Carried: Unanimously

III. PUBLIC HEARING – In the matter of Application for Cabaret License-
Studio Hill Mansion, 25 Studio Hill Road

The public hearing was opened at 8:17 p.m.

At 8:20 p.m., Councilmember Jacobs moved and it was seconded by Councilmember Harter that the public hearing be closed due to the fact that the applicant was not present.

Motion Carried: Unanimously

IV. PUBLIC HEARING – In the matter of Application for Cabaret License-
The Tuscan Grille, 518 North State Road, Briarcliff
Manor, Town of Ossining

The public hearing was opened at 8:20 p.m.

Kim Corrigan, one of the current owners of the Tuscan Grille was present. Supervisor Dodge stated that the Building Inspector found a few minor issues, which have been rectified.

Mindy LaMarr, Haymont Terrace, questioned whether this was conforming use in this location? Deputy Town Attorney Spector responded that it was

At 8:22 p.m., Councilmember Jacobs moved and it was seconded by Councilmember Harter that the public hearing be closed.

Motion Carried: Unanimously

V. ANNOUNCEMENTS

Councilmember Kimberlie Jacobs announced that Westchester County was hosting Senior Law Day on October 16, 2008 which is free. Registration is required by calling 813-6400. Westchester Community Opportunity will be hosting send Kids to Camp at the Landmark Diner on October 29, 2008.

Councilmember David Krieger announced that a new County Law had gone into effect today. This law pertains to plastic bag recycling. Most of the stores have in-store plastic bag recycling bins. The Ossining Public Library will host a Concert on October 26, 2008 at 3 p.m.

Matt Glottal announced that the Fall Harvest was a great success with monies going to Family Ties, Micro Fund and OVAC. A thank you was extended to all of the merchants who participated in this wonderful event.

VI. BOARD RESOLUTIONS

A. Approval of Minutes – September 23, 2008

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

Resolved, that the Town Board of the Town of Ossining hereby approves the Minutes of the September 23, 2008 Regular Meeting as presented.

Motion Carried: Unanimously

B. Approval of Voucher Detail Report

Councilmember Jacobs 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 October 14, 2008 in the amount of \$371,281.82.

Motion Carried: Unanimously

C. Approval of Cabaret License – The Tuscan Grille – 518 North State Road, Briarcliff Manor, Town of Ossining

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

Whereas, The Tuscan Grille has filed an application for a Cabaret License for the calendar year 2008; and

Whereas, the Town Board has reviewed the application and attachments thereto, as well as reports from involved departments, including the Police Department and Building Department; Now, therefore, be it

Resolved, that the Town Board of the Town of Ossining hereby approves the application of The Tuscan Grille, 518 North State Road, Briarcliff Manor, in the Unincorporated Area of the Town of Ossining, subject to the terms of the variance granted by the Zoning Board of Appeals, subject to the correction of conditions noted by the Building Inspector in his e-mail of September 26, 2008 to the Town Supervisor and subject to the following limitations and conditions: 1 DJ using a Karaoke Machine shall be allowed on Wednesday, Friday and Saturday evenings from 7 p.m. until 11 p.m., as stated in the application; and

Be it Further Resolved, that in accordance with Local Law No.6 of 2003, The Tuscan Grille shall not be required to comply with Sections 68-11, 68-13 and 68-15 (A)(1) of the Cabaret Law (Chapter 68 of the Town Code).

Motion Carried: Unanimously

D. Stipulation of Settlement-Local 456 International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America

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

BE IT RESOLVED, that upon the recommendation of the Town Supervisor, the Town Board hereby ratifies and approves the Stipulation dated September 30,

2008 between and among a Road Maintainer in the Highway Department, the Town and Local 456, I.B.T:

BE IT FURTHER RESOLVED, that the Town Board hereby authorizes the Town Supervisor to execute the Stipulation on its behalf.

Motion Carried: Unanimously

E. Change Order Authorization-Cedar Lane Water Main Project-Capital Project #2007-2151

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

Resolved, that the Town Board of the Town of Ossining hereby authorizes the Town Supervisor to sign the following change orders with Steve Giordano Builders, Inc. for the Cedar Lane Water Main Project:

Park Entrance Road Pavement Overlay	\$7,500
Asphalt Material Price Increase	<u>\$10,500</u>
TOTAL	\$18,000

Motion Carried: Unanimously

F. CERTIORARI SETTLEMENT
 SCARBOROUGH MANOR OWNERS CORP.
 vs.
 TOWN OF OSSINING

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

WHEREAS, proceedings pursuant to Article 7 of the Real Property Tax Law of the State of New York were instituted by SCARBOROUGH MANOR OWNERS CORP., Petitioner, against the Town of Ossining to review the tax assessments made on Petitioner's property located at 16 Rockledge Avenue in the Village and Town of Ossining, and designated on the tax assessment map of the Town of Ossining as Section 3, Plate 31, Block 77, Lot 1, for assessment years 1998 through 2008, which proceedings are now pending in the Supreme Court of the State of New York, County of Westchester, under Index Nos. 16594/98, 15836/99, 13875/00, 16453/01, 17293/02, 15872/03, 14473/04, 15954/05, 19138/06, 19882/07; 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:

Assessment Year	Original Assessment	Corrected Assessment	Reduction
1998	2,204,960	2,204,960	-0-
1999	2,204,960	2,204,960	-0-
2000	2,204,960	2,204,960	-0-
2001	2,204,960	2,204,960	-0-
2002	2,204,960	2,204,960	-0-
2003	2,204,960	2,204,960	-0-
2004	2,204,960	2,204,960	-0-
2005	2,204,960	2,050,610	154,350
2006	2,204,960	1,918,315	286,645
2007	2,204,960	1,918,315	286,645
2008	2,204,960	1,918,315	286,645

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 in 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, that the Assessor is authorized and directed to make the changes and corrections to the individual unit assessments on the tax assessment rolls 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 \$6,910.46, which will be ordered pursuant to said Consent Judgment.

Motion Carried: Unanimously

G. CERTIORARI SETTLEMENT
EAGLE BAY CONDOMINIUM.

vs.

TOWN OF OSSINING

Councilmember Jacobs moved and it was seconded by Councilmember Krieger that the following resolution be approved:

WHEREAS, proceedings pursuant to Article 7 of the Real Property Tax Law of the State of New York were instituted by EAGLE BAY CONDOMINIUM, Petitioner, against the Town of Ossining to review the tax assessments made on Petitioner's property located at Eagle Bay Drive in the Town of Ossining, and designated on the tax assessment map of the Town of Ossining as Section 89.06, Block 1, various lots, for assessment years 1999 through 2007, which proceedings are now pending in the Supreme Court of the State of New York, County of Westchester, under Index Nos. 16311/99, 15457/00, 16279/01, 16916/02, 14629/03, 14783/04, 18381/05, 18230/06 and 20137/07; 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:

Assessment Year	Original Assessment	Corrected Assessment	Reduction
1999	1,328,145	1,328,145	-0-
2000	1,328,145	1,328,145	-0-
2001	1,328,145	1,328,145	-0-
2002	1,328,145	1,328,145	-0-
2003	1,328,145	1,228,562	99,583
2004	1,328,145	1,195,355	132,790
2005	1,328,145	1,168,797	159,348
2006	1,328,145	1,142,239	185,906
2007	1,328,145	1,142,239	185,906

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 in 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, that the Assessor is authorized and directed to make the changes and corrections to the individual unit assessments on the tax assessment rolls 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 \$5,068.92, which will be ordered pursuant to said Consent Judgment.

Motion Carried: Unanimously

H. Lease Agreement – Town Justice Court

Councilmember Harter 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 authorizes the Town Supervisor to enter into a lease and maintenance agreement with De Lage Landen, 1111 Old Eagle School Road, Wayne, PA, for a Sharp MX-2600N Digital Color copier for the Town Justice Court, at a monthly payment of \$241.31 for a term of forty-eight months.

Motion Carried: Unanimously

I. Standard Work Day – Town Attorney and Deputy Attorney

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

Whereas, on September 9, 2008, the Town Board passed a resolution establishing the standard work day for the Town Attorney and Deputy Town Attorney, and

Whereas, the Town's computer software for administering payroll (KVS) rounds up according to the next decimal place, and as a result, the days reported must be modified; now therefore be it

Resolved, that the Town Board of the Town of Ossining hereby modifies the following as reportable monthly hours for the Town Attorney and the Deputy Town Attorney for the purpose of days worked for the New York State and Local Retirement System:

Town Attorney: 7.3 days per payroll
Deputy Town Attorney: 5.13 days per payroll

Motion Carried: Unanimously

J. Senior Services – Supplemental Nutrition Assistance Program (SNAP) and Nutrition Services Incentive Program

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

Resolved, that the Town Board of the Town of Ossining hereby authorizes the Town Supervisor to enter into an amended agreement with Westchester County Department of Senior Programs and Services for the Supplemental Nutrition Assistance Program (SNAP) and the Nutrition Services Incentive Program (NSIP) for an increase in funds effective April 1, 2008 – March 31, 2009. The Town shall receive funds not to exceed \$72,129.

Motion Carried: Unanimously

K. Finance – Capital Project # 2008-2165 – Dale Cemetery Microfilming

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

Whereas, on September 9, 2008, the Town Board established a capital project for Dale Cemetery Microfilming in the amount of \$8,999.00 to be fully funded by the New York State Archives Local Government Management Improvement Fund, and

Whereas, the Town received a letter from the Local Government Management Improvement Fund program notifying the Town of a 6% decrease in funds to comply with the New York State Division of Budget mandate for a six-percent reduction of all local assistance funds; now therefore be it

Resolved, that the Town Board of the Town of Ossining hereby reduces Capital Project # 2008-2165 Dale Cemetery Microfilming project to \$8,459.00 to be fully funded by the New York State Archives Local Government Management Improvement Fund.

Motion Carried: Unanimously

L. RESOLUTION DATED OCTOBER 14, 2008

A RESOLUTION MAKING CERTAIN DETERMINATIONS IN RELATION TO AND APPROVING THE ESTABLISHMENT OF THE TOWN OF OSSINING AMBULANCE DISTRICT IN THE TOWN OF OSSINING, WESTCHESTER COUNTY, NEW YORK, PURSUANT TO ARTICLE 12-A OF THE TOWN LAW.

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

WHEREAS, the Town Board of the Town of Ossining, Westchester County, New York, has duly caused to be prepared a description of the boundaries of a proposed Town of Ossining Ambulance District in said Town (hereinafter, the "District") and a general plan for the proposed method of operation thereof; and

WHEREAS, the boundaries of said District shall include the entire Town of Ossining except for property within the Village of Briarcliff Manor, as definitively described in the list of tax parcels set forth in Exhibit A, which has been filed in the office of the Town Clerk, made available to the Town Board, and is hereby incorporated herein; and

WHEREAS, said description of boundaries and plan have been filed in the office of the Town Clerk of said Town, where the same are available during regular

office hours for examination by any persons interested in the subject matter thereof; and

WHEREAS, the establishment of said District will enable the Town to exercise the authority established by subdivision 10-f of Section 198 of the Town Law to supply ambulance services to the District by contracting therefore; and

WHEREAS, no debt is expected to be incurred on behalf of the District, and the maximum amount to be expended annually for the services to be provided to the District is \$395,250, subject to future increases from time to time in accordance with Section 209-h(2) of the Town Law; and

WHEREAS, an Order was duly adopted by said Town Board on September 9, 2008, specifying September 23, 2008, at 7:30 o'clock P.M., Prevailing Time, at the Birdsall/Fagan Police Court Facility, 86-88 Spring Street, in Ossining, New York, in said Town, in Ossining, New York, in said Town, as the time when and the place where said Town Board would meet for the purpose of holding a public hearing to consider the establishment of said District and to hear all persons interested in the subject thereof concerning the same;

WHEREAS, notice of the aforesaid public hearing was duly published and posted on September 13, 2008 in the manner and within the time prescribed by Section 209-d of the Town Law, and proof of publication and posting has been duly presented to said Town Board;

WHEREAS, said public hearing was opened and held at the time and place in said Order, as aforesaid, and adjourned and continued to October 14, 2008, and all persons desiring to be heard were duly heard; and

WHEREAS, said Town Board has duly considered the evidence given at said public hearing; NOW, THEREFORE, BE IT

RESOLVED, by the Town Board of the Town of Ossining, Westchester County, New York, as follows:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined as follows:

- a) The notice of hearing was published and posted as required by law and is otherwise sufficient;
- b) All the property and property owners within said proposed District are benefited thereby;
- c) All the property and property owners benefited are included within the limits of said proposed District; and
- d) The establishment of said proposed District is in the public interest.

Section 2. The establishment of the Town of Ossining Ambulance District in the Town of Ossining, Westchester County, New York, to be bounded and described as hereafter set forth, all as more fully described in the aforesaid general plan for the proposed method of operation thereof, at no estimated capital cost but at the maximum amount to be expended annually of \$395,250, subject to future increases from time to time as permitted under Section 209-h(2) of the Town Law, is hereby approved.

Section 3. Said District shall be bounded and described as set forth in Exhibit A attached hereto and hereby made a part hereof. No final order establishing the District pursuant to Section 209-f(2) of the Town Law shall be adopted unless and until the consent to the inclusion of properties in the Village of Ossining by the Village Board of Trustees adopted October 7, 2008, has become effective.

Section 4. The Town Clerk shall, within ten (10) days after the adoption date of this resolution, publish in the official newspaper and post on the official signboard of the Town, a notice which shall set forth the date of adoption of this resolution and the full text hereof.

Section 5. This resolution is adopted subject to permissive referendum.

Voting Yes in a Roll Call Vote:
Harter, Wilcher, Krieger, Jacobs,
Dodge
Motion Carried: Unanimously

VII. MONTHLY REPORTS – September, 2008

Councilmember Harter moved and it was seconded by Councilmember Jacobs that the Monthly Reports for September, 2008 from Town Clerk, Tax Receiver and Building Inspector be received and filed.

Motion Carried: Unanimously

VIII. CORRESPONDENCE TO BE RECEIVED AND FILED

Councilmember Harter moved and it was seconded by Councilmember Krieger that the following correspondence be received and filed:

1. Certioraris: The Stop & Shop Companies; Edward E. Alany; Brandy-Wine Holding Company; London Terrace Assoc.; Copley Court Condos; The Great Atlantic & Pacific Tea Co; O.K. Café of West.;The Hamlet on Spring Pond Condos; Harbor Square; Scarborough Manor Owner's Corp.; Christopher L. Trotta; David Swope; Hudson View Condos I, II and III; Borek & Company; Highland Terrace Owners Corp.; Briarcliff Racquet & Fitness Club; 510 Commons; 537 Commons; Briar Oaks Condos; General Electric; Board of Managers of Briarcliff Commons Condos; 26 South Highland Ave; 550 North State Road; 72-94 North State Road; Credendino Realty; Kemeys Cove Condos; Metalized Carbon Corp.; Ossining River Assoc;Urstadt Biddle Properties (2); Verizon; Wusthof-Trident of America; Yellow Brick Road Apts; Briarcliff Station; Tudor III Realty; Home Properties of Sparta Green; 47 Hudson Street; Al Saleh Assoc.; N & G Realty; Stony Lodge Hospital; Sleepy Hollow Country Club; Fox Hill Condo; High Meadow Coop.; The Wire Mill; Park Professional Condo; Home Properties-Sherwood Townhomes; 449 North State Road Co.; Trump National Golf Club; Truagh Dev. Corp.; Parkview Apts Co.; Trump Briarcliff Manor Dev.; Croton 2-4 LLC; Getty Petroleum Marketing, Power Test Realty (4); Deercliff Builders, Inc.; Richard Tontodonato; Pocantico Hills Realty Corp.

2. Helicopter Log for September, 2008 from GE.

Motion Carried: Unanimously

IX. VISITOR RECOGNITION

Regina Valko, Duers Court, spoke on the pond located at Veterans Park. There is a great deal of work that needs to be done at this location. The walls are deteriorating and her property floods. Apparently someone was on her property to review this situation but no one ever contacted her to discuss the issues. Is anything going to be done in 2009? The smell is terrible. Apparently the former Santana Property was being looked at as a new site for the Town Highway. No one has ever notified the neighborhood of this situation either. Supervisor

Dodge responded that the Village and Town are looking into the situation regarding the pond. Town Attorney Beirne stated that the former Santana Property was no longer being looked at as a use for the Highway Department.

John Perillo, Havell Street, stated that when he was Mayor of the Village of Ossining the trucks were steam cleaned and deodorized on a daily basis. He also requested an update on Dale Cemetery. Has any compensation been negotiated with the parents of the children allegedly responsible for the damage? Has a security system been discussed for the Cemetery? Certs in the Correspondence Filed and Received seemed numerous and has the Assessor reviewed these properties. Is there a dollar amount associated? Supervisor Dodge stated that the Dale Cemetery incident was in Family Court and it was up to the Court to determine compensation. Donations have been received and as well as volunteers to make the necessary repairs to the damaged stones. The Cemetery is patrolled at various times.

John Klapkowski, Beach Road, questioned whether the southern portion of Harbor Square to the Beach will be declared Parkland? Seniors enjoy the summer breeze. The Town owns Engel Park as well as the Boat & Canoe Club. Phase III of overlook park is being planted with native plantings. Councilmember Harter stated that this would be declared parkland shortly.

Bobby Williams, Spring Street, discussed the economy of the Country.

X. ADJOURNMENT

At 9:40 p.m., Councilmember Krieger moved and it was seconded by Councilmember Harter that the meeting be adjourned.

Motion Carried: Unanimously

Approved:

Mary Ann Roberts, Town Clerk