



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

**FEBRUARY 9, 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 February 9, 2010 in the Police/Court Facility, 86-88 Spring Street in Ossining. The meeting was called to order at 7:30 p.m. by Supervisor Catherine Borgia. Members of the Board present were: Councilmembers, Geoffrey Harter, Michael Tawil, Northern Wilcher and Peter Tripodi. Also present were Town Attorney, Wayne Spector, Budget Officer, Connie Cerny and Town Clerk, Mary Ann Roberts.

II. ANNOUNCEMENTS

Supervisor Borgia announced that the changes in the Village with the resignation of the Village Manager which is effective February 12th, made it necessary for Richard Leins to terminate his relationship with the Town. Mr. Leins was a contractor of special legal counsel to the Town. Mr. Leins will now serve as Interim Village Manager.

III. PUBLIC COMMENT ON AGENDA ITEMS

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 January 26, 2010 Minutes of the regular Meeting as presented.

**Vote: 4 –0 –1
Voting Aye: Harter, Tawil,
 Borgia, Tripodi
Abstained : Wilcher**

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

Resolution C of the January 26, 2010 was amended to reflect Councilmember Tripodi voted Aye rather than abstain.

Motion Carried: Unanimously

B. Approval of Minutes

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 January 5, 2010 Work Session Minutes as presented.

Motion Carried: Unanimously

C. Approval of Voucher Detail Report

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

Councilmember Tripodi questioned an item on the voucher detail. He will be voting against this resolution as he feels the Village rent to the Town is too high and in the true sense of consolidation there should be no rental fee. Councilmember Tawil questioned Councilmember Tripodi as to whether this was a symbolic no vote on his part.

Resolved, that the Town Board of the Town of Ossining hereby approves the Voucher Detail Report dated February 9, 2010 in the amount of \$35,026.48 for 2009 and \$431,750.10 for 2010.

Vote: 4 –1 –0

Voting Aye: Harter, Tawil,
Borgia, Wilcher

Voting Nay: Tripodi

D. Calling for a Public Hearing on the application for a Cabaret License for the Tuscan Grille, 581 North State Road, Briarcliff Manor

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 to be held on Tuesday, February 23, 2010 at 7:30p.m. in the Police/Court facility, 86-88 Spring Street in Ossining, in the matter of the application of the Tuscan Grille, 518 North State Road, Briarcliff Manor, for a Cabaret License for 2010.

Motion Carried: Unanimously

E. Referral to Planning Board-Amending Chapter 200-43 of the Zoning Code-Penalties for offenses

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

Supervisor Borgia stated that the Town Building Inspector had requested the increase in fines for zoning code offenses.

Resolved, that the Town Board of the Town of Ossining hereby refers a proposed amendment to Chapter 200, Section 200-43 of the Code of the Town of Ossining entitled Penalties for offenses, attached hereto, to the Planning Board with the request that the Planning Board review and make recommendations to the Town Board with respect to increasing penalties for offenses in the zoning code.

Motion Carried: Unanimously

F. Amending Call-a-Cab-Coupon Policy

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

Whereas, on January 13, 2009 the Town Board passed a resolution creating a policy for the purchase of call-a-cab coupons by qualified senior citizens; and

Whereas, one of the criteria's within the policy specifies that a senior citizen must show satisfactory proof of age and must be age 66 in 2009; 67 in 2010; 68 in 2011; 69 in 2012 and 70 in 2013; and

Whereas, the policy is unclear in that a senior citizen who turned age 66 in 2009 and who qualified for call-a-cab coupons in that year is not eligible for coupons until the senior reaches age 67 in 2010; and

Now therefore be it resolved, the Town Board wishes to amend the Call-a-Cab coupon policy by indicating that a Senior Citizen must show satisfactory proof of age and in order to qualify for call-a-cab coupons the Senior Citizen must be age 66 in the year 2009; 67 in the year 2010; 68 in the year 2011; 69 in the year 2012 and 70 in the year 2013.

Motion Carried: Unanimously

G. Call-a-Cab Agreement

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 the Supervisor to enter into an agreement with Ossining Taxi, Inc. for participation in the Call-a-Cab program for the period ending December 31, 2010; and be it further

Resolved, that in accordance with the agreement, a Certificate of Insurance is required to be submitted to the Supervisor's Office complying with the requirements of Section 182-11 of the Town Code.

Motion Carried: Unanimously

H. Tax Receiver –Payment Plan-67 South Highland 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 67 South Highland Avenue resulting in 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 67 South Highland Avenue 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. Resignation-Part-time Assistant Court Clerk (Spanish Speaking)

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 accepts the resignation of Glenda Prado as Assistant Court Clerk (Spanish Speaking) effective January 22, 2010.

Motion Carried: Unanimously

V. MONTHLY REPORTS

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

**January -Town Clerk's Monthly Report
January- Building Department**

VI. VISITOR RECOGNITION

Bobby Williams, Spring Street, discussed the Hudson River clean up and hoped that the EPA and DEC would continue to put pressure on GE to clean up the PCB's. The adoption of the Health Care Bill was also discussed.

Supervisor Borgia announced that there were two water main breaks in the Town of Ossining today (Tuesday, February 9th); one on Morningside Drive and the other on Stormytown Road. Congratulations to the Town Highway Department and the Village Water and DPW Departments for their prompt response in fixing the problem. Please be safe tomorrow during the upcoming snow storm. Councilmember Tawil suggested everyone stay in tomorrow.

Supervisor Borgia invited everyone to attend the Town Council Work Session which will be held on Tuesday, February 16th, at 7:30 p.m. in the third floor conference room at 16 Croton Avenue and the next Legislative Meeting will be on Tuesday, February 23rd at 7:30 p.m. at the Birdsall Fagan Police Court Facility.

Councilmember Harter made a motion to adjourn in the memory of Roberta Armino, the Town Historian who passed away last week. Mrs. Arminio was a very active member of our Community and the wife of Dr. Thomas Arminio.

VII. ADJOURNMENT

At 7:50 P.M. Councilmember Harter moved and it was seconded by Councilmember Tawil that the meeting be adjourned in memory of Roberta Arminio.

Motion Carried: Unanimously

DRAFT

LOCAL LAW NO. 1 of the Year 2010

FINES AND PENALTIES

A LOCAL LAW amending the Code of the Town of Ossining, Chapter 50 entitled "Accessory Dwelling Units In Single-Family Homes", Chapter 63 entitled "Building Construction", Chapter 82 entitled "Electrical Standards", Chapter 87 entitled "Excavations", Chapter 92 entitled "Filling and Grading", Chapter 112 entitled "Garbage, Rubbish and Refuse", Chapter 148 entitled "Plumbing" and Chapter 200 entitled "Zoning" in connection with fines and penalties fixed therein, in accordance with Town Law and the Municipal Home Rule Law of the State of New York

BE IT ENACTED by the Town Board of the Town of Ossining, as follows:

Section 1. Chapter 50 of the Code of the Town of Ossining entitled "Accessory Dwelling Units In Single-Family Homes" Section 50-10 entitled "Penalties for offenses" is hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 50-10. Penalties for offenses

Any owner or builder or agent of either of them who fails to secure a special permit for an accessory dwelling unit, as provided in this chapter, who allows occupancy of an accessory dwelling unit in violation of the provisions of this chapter or who constructs or causes to be constructed a dwelling with an accessory dwelling unit shall be guilty of an offense punishable by a fine of not less than \$100 [500] nor more than \$2000 [1000] or imprisonment not to exceed 15 days, or by both such fine and imprisonment [, upon conviction of a first offense and, for the second and each subsequent conviction, by a fine not less than \$1500 nor more than \$2000 or imprisonment not to exceed 15 days, or both. Each week's continued violation shall constitute a separate additional violation.]

Section 2. Chapter 63 of the Code of the Town of Ossining entitled "Building Construction" Section 63-14 entitled "Penalties for offenses" Subsection B is hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 63-14. Penalties for offenses

B. Any person who shall fail to comply with a written order of the Building Inspector within the time fixed for compliance therewith and any owner, builder architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction or use of any building, who shall knowingly violate any of the applicable provisions of this chapter or any lawful order, notice, directive, permit or certificate of the Building Inspector made thereunder, shall be punishable by a fine and/or imprisonment pursuant to Section 382 [385] of the New York Executive Law.

Section 3. Chapter 82 of the Code of the Town of Ossining entitled "Electrical Standards" Sections 82-7 and 82-23 both entitled "Penalties for offenses" are hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 82-7. Penalties for offenses

Any person committing an offense against any provision of this article shall be guilty of a violation punishable by imprisonment for a term not exceeding 15 days or by a fine of not less than [exceeding] \$100. [250.] nor more than \$1000 or by both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 82-23. Penalties for offenses

Any person committing an offense against any provision of this article shall be guilty of a violation punishable by imprisonment for a term not exceeding 15 days or by a fine of not less than [exceeding] \$100. [250.] nor more than \$1000 or by both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 4. Chapter 87 of the Code of the Town of Ossining entitled "Excavations" Section 87-10 and Section 87-18 both entitled "Penalties for offenses" are hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 87-10. Penalties for offenses

Any person or persons, partnership, association or corporation doing or permitting to be done or causing to be done any act contrary to the provisions of Articles I and II hereof shall be guilty of a violation, and, upon conviction thereof, shall be subject to a fine of not less [more] than \$100. [\$250.] nor more than \$1000, or to imprisonment for not more than 15 days, or both, for each offense. Every violation of any provision of Part 1 of this chapter shall be a separate and distinct offense, and in case of continuing violation, every day's continuance thereof shall be and is deemed to be a separate and distinct violation.

Section 87-18. Penalties for offenses

For a violation of the provisions of Part 2 of this chapter, the owners, general agent or contractor of a building or premises where such violations have been committed or shall exist and the lessee or tenant of the premises where such violation has been committed or shall exist and the owner, general agent, contractor, lessee, or tenant of any part of the premises in which part of said violation has been committed or shall exist and the general agent, architect, engineer, surveyor, building contractor or any other person who knows, permits, takes part in or assists in any such violation or who maintains any premises in which any such violation shall exist shall be guilty of a violation, punishable by a

fine of not less [more] than \$100. nor more than \$1000. [\$250.] or by imprisonment for not more than 15 days, or both. Each day that the said violation is permitted to continue shall constitute a separate additional violation.

Section 5. Chapter 92 off the Code of the Town of Ossining entitled "Filling and Grading" Section 92-10 entitled "Penalties for offenses" is hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 92-10. Penalties for offenses

Any person violating this chapter may be subject to a civil penalty or to a criminal penalty, enforceable and collectible by the Town in an amount [up to \$250.] of not less than \$100. nor more than \$1000. or 15 days imprisonment, or both fine and imprisonment. Each week's continued violation shall be considered to be a separate violation. Nothing contained in the preceding section of this chapter shall prevent the Town Board from maintaining an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provisions of this chapter or any rule or regulations promulgated hereunder.

Section 6. Chapter 112 of the Code of the Town of Ossining entitled "Garbage, Rubbish and Refuse" Sections 112-9, 112-15 subsection B and 112-22 subsection B, all entitled "Penalties for offenses" are hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 112-9. Penalties for offenses

Any person, firm or corporation violating any provision of this Article shall be punished by a fine of not less [more] than \$100. nor more than \$1000. [two hundred fifty dollars (\$250.)] or by imprisonment for not more than fifteen (15) days, or both, for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. The fact that any swill, garbage, refuse or rubbish remains on any occupant's premises in the town in violation of this Article shall be prima facie evidence that the occupant of such premises is responsible for the violation of the Article.

Section 112-15. Penalties for offenses

B. Any person, firm or corporation violating any provision of this Article shall, in addition, be guilty of a violation punishable by a fine of not less than \$100. nor more than \$1000. [to exceed two hundred fifty dollars (\$250.)] or by imprisonment for not more than fifteen (15) days, or both.

Section 112-22. Penalties for offenses

B. Any person, firm or corporation violating any provision of this Article shall, in addition, be guilty of a violation punishable by a fine of not less than \$100. nor more than \$1000. [to exceed two hundred fifty dollars (\$250.)] or by imprisonment for not more than fifteen (15) days, or both.

Section 7. Chapter 148 of the Code of the Town of Ossining entitled "Plumbing" Section 148-3 entitled "Penalties for offenses" is hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 148-3. Penalties for offenses

Any person who violates or refuses to comply with or resists any section of this chapter or any part of the State Building Code applicable thereto shall be subject to a fine and/or imprisonment in accordance with the provisions of Section 382 [385] of the Executive Law of the State of New York.

Section 8. Chapter 200 of the Code of the Town of Ossining entitled "Zoning" Section 200-43 entitled "Penalties for offenses" subsection A is hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 200-43. Penalties for offenses

- A. A violation of any provision or requirement of this chapter or a violation of any statement, plan, application, permit or certificate required, issued and/or approved under the provisions of this chapter, or of the terms or conditions contained therein, shall be considered an offense punishable by a fine of not less [more] than \$100. nor more than \$5000. [\$350] [and/] or imprisonment for a period not to exceed fifteen days [six months], or both such fine and imprisonment. Each and every day that any such violation continues after the specified time to abate shall constitute a separate offense. [for conviction of a first offense; by a fine of not less than \$350 nor more than \$700 and/or imprisonment for a period not to exceed six months for conviction of a second offense, both offenses of which were committed within a period of five years; and by a fine of not less than \$700 nor more than \$1,000 and/or imprisonment for a period not to exceed six months upon conviction of a third or subsequent offense, all of which offenses were committed within a period of five years.]

Section 9. Except as amended herein, all other provisions of the Code of the Town of Ossining shall remain the same.

Section 10. This Local Law shall take effect immediately upon publication and posting as required by law.