



## AGENDA

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

**AUGUST 28, 2012  
7:30 P.M.**

**SUPERVISOR  
Susanne Donnelly**

**COUNCILMEMBERS  
Geoffrey Harter    Eric P. Blaha  
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 August 28, 2012 in the 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 Northern Wilcher, Geoffrey Harter and Peter Tripodi IV. Also present were Town Attorney Wayne Spector, Budget Officer Madeline Zachacz and Town Clerk Mary Ann Roberts. Councilman Eric Blaha arrived at 7:40 p.m.

### **II. ANNOUNCEMENTS**

Supervisor Donnelly read the following statement:

Tonight we are doing our regular housekeeping of approving minutes and paying the bills. It is important to remember that this Board and the support staff of administrators, department managers and staff people continue to run this municipality every day. It is not ever about one item it is about many items moving along at the pace (some fast some slowly) that each person has to attend to during their day.

At times, we are criticized for spending too much time worrying about our young children in the park because we passed a no smoking in certain areas of the park law in June for example. Sometime we are accused of not paying attention to an individual's plight. What I can do is assure you that every issue is reviewed prioritized and dealt with on a daily basis. We may not get as much as we want done on a particular issue in a given day but we are constantly addressing each and every one of them. The key is multitasking.

That said I want to tell you how pleased I am at the pace we are moving infrastructure projects along now that we are have concerned professionals at the helm of engineering department. We are coming up with creative ideas that will save the taxpayers' money while accomplishing our goals. This professional attitude shows that we are moving in the direction of being one of the most progressive Towns in Westchester County. We have removed many roadblocks that we consider to not only take time but also cost the Taxpayers money. We have open, frank and proactive conversations in our engineering meetings which results in solutions to situations that will not only be beneficial to the residents but as importantly show our responsibility to the taxpayer.

Our open door policy has proven to be a success in the first 8 months of this administration. The Board is working as a team to accomplish the goals. I personally cannot say enough about the staff in the Town. In these very tight times each person shows what they are truly made of with their work ethic.

Tonight we are voting to replace the position of Highway Superintendent from an elected position to an appointed one. Most of you have heard our reasoning for wanting the change and I believe that we need to move forward on this for the betterment of the Town. We will have more meetings on this issue before the November vote and we will send out at least one mailing explaining why we feel this is an important step for the Town.

We will talk about this again at our next Town Hall meeting on October 2<sup>nd</sup> 2012 and each member of the Board is available to us to discuss this with any group that wants to meet with us. Please find our e-mails on the web page [www.townofossining.com](http://www.townofossining.com) or call the office at 762-6001.

The Team that we have working together chooses to leave their ego at the door, work for their true bosses the taxpayers and their desire to accomplish their goals in a cost effective manner while keeping the high standards of the Town intact.

Remember the final decision makers are the registered voters. After we approve the change in the law tonight it will appear on the ballot in November for the Taxpayers to have the last say.

### III. PUBLIC COMMENT ON AGENDA ITEMS

### IV. BOARD RESOLUTIONS

#### A. Approval of Minutes

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 August 14, 2012 Minutes of the Regular Meeting as presented.

Motion Carried: Unanimously

#### B. 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 August 28, 2012 in the amount of \$134,594.23

Motion Carried: Unanimously

#### C. Personnel- Justice Court Appointment

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 appoints Barbara Sarmiento, Harrison, to the position of Assistant Court Clerk effective September 3rd, 2012 at an annual salary of \$45,000.

Vote: 3-0-1  
Voting Aye: Wilcher,  
Harter & Donnelly  
Nay: Tripodi

**D. Justice Court Audit**

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

**RESOLVED**, that the Town Board of Town of Ossining hereby acknowledges that in accordance with the Unified Court System's Action Plan for the Justice Courts, the 2011 Audit of the Town of Ossining Justice Court was conducted as required and said Audit has been distributed to and reviewed by the Town Board of the Town of Ossining.

Motion Carried: Unanimously

**E. 2011 Audit**

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 acknowledges that in accordance Section 35 of the General Municipal Law, the 2011 Audit of the Town of Ossining Financial Statements and Supplementary Information and management letter, and said Audit has been distributed to and reviewed by the Town Board of the Town of Ossining and said report shall be filed with the Office of the Town Clerk.

Motion Carried: Unanimously

**F. Local Law #3 of the year 2012 To Abolish The Position of an Elected Superintendent of Highways and Replace It With an Appointed Superintendent Of Highways In The Town Of Ossining.**

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

**BE IT ENACTED** by the Town Board Of The Town Of Ossining, New York, as follows:

**Section 1: Title**

This Local Law shall be known and cited as "Local Law # 3 of 2012, for the purpose of eliminating the elected position of Superintendent of Highways and replacing it with an appointed position of Superintendent of Highways.

**Section 2: Legislative Intent And Statutory Authority.**

The Town of Ossining desires to eliminate the elected position of Superintendent of Highways and replace it with an appointed position of Superintendent of Highways. This Local Law is determined to be an exercise of the legislative powers of the Town and to promote the protection, health, safety and welfare of residents, to ensure the continued provision of excellent services to the public and to promote the fiscal welfare of the Town. This local law is enacted under the authority of Municipal Home Rule Law sections 10, 22 and 23. The Town hereby expressly states its intention to supersede any provision of the Town Law of the State of New York to the contrary, including but not limited to Town Law section 20.

**Section 3: Abolition of Elected Position; Creation of Appointed Position of Superintendent of Highways.**

The elected position of the Superintendent of Highways in the Town of Ossining, New York is hereby abolished, effective January 1, 2014. The appointed position of the Superintendent of Highways in the town of Ossining, New York is hereby created, effective January 1, 2014.

**Section 4: Title.**

This local law shall be incorporated in the Town of Ossining Code as a new Chapter thereof to be entitled: "The Office of the Superintendent of Highways".

**Section 5: Transfer of Duties.**

Except as set forth in section 8, all duties, authority and power previously invested in the elected Superintendent of Highways shall be vested in the appointed Superintendent of highways.

**Section 6: Minimum Qualifications.**

The Town Board shall determine the necessary minimum qualifications for the appointed position of Superintendent of Highways and shall adhere to those minimum qualifications in selecting an individual for appointment to the position.

**Section 7: Residency**

An appointee must be a resident of the Town of Ossining as of the effective date of such appointment unless the Town Board, in its sole discretion, determines that the most qualified candidate for the position resides outside the Town of Ossining and it is further determined that it is not a violation of New York State Law to hire a nonresident of the Town Of Ossining.

**Section 8: Authority of Superintendent; Appointing authority:**

- a) The appointed Superintendent of Highways shall have such powers and shall perform such duties as are or hereafter may be conferred or imposed by law, and such further duties as Town Board may determine not inconsistent with law. Any references contained in the Code of the Town of Ossining the Superintendent of Highways shall be construed as applying to the duly appointed Superintendent of Highways.
- b) The Town Board shall be the appointing authority for all employees of the Highway Department and shall have approval authority for all Highway Department procurements and expenditures.

**Section 9: Term of Office**

The appointed Superintendent of Highways of the Town of Ossining shall serve for a term of four years, upon the terms and conditions and salary determined by the Town Board. The first nine months of the term shall be considered probationary after which time the Town Board will determine whether to reaffirm the appointment. The appointment may also be terminated at any time by either party, for any reason, upon 90 days notice.

**Section 10: Mandatory Referendum**

This local law shall be subject to a mandatory referendum at the next regularly scheduled General Election on November 6, 2012.

**Section 11: Ratification, Re-adoption and Confirmation**

Except as specifically modified by the amendments contained herein, the Code of the Town of Ossining, as adopted and amended from time to time thereafter is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

**Section 12: Inclusion in The Code**

It is the intention of the Ossining Town Board and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Ossining; and that the sections and subsections of this Local Law may be renumbered or read letter to or accomplish such intention; and that the word "local law" shall be changed to "chapter", "section" or other appropriate word, as required for codification.

**Section 13: Renumbering**

The location and numerical designation of this Local Law and the sections included here in shall be delegated to the discretion of the codifier, General Code, which may renumber this Local Law and sections as are necessary to accommodate these amendments.

#### **Section 14: Codification**

**This Local Law shall be incorporated into the Code of the Town of Ossining and shall be assigned a chapter number and appropriate section number by the codifier, General Code, in accordance with the numbering system of the Code.**

#### **Section 15: Codifier's Changes**

**This Local Law shall be included in the Code of the Town of Ossining. The codifier shall make no substantive changes to this Local Law, but may renumber, rearrange and edit it without first submitting it to the Ossining Town Board. Any such rearranging, renumbering and editing shall not affect the validity of this Local Law of the provisions of the code affected thereby.**

#### **Section 16: Codifier's Changes**

**The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt therefrom.**

#### **Section 17: Effective Date**

**This Local Law shall take effect immediately upon adoption and filing with the Sec. of State as provided by the Municipal Home Rule Law and upon the affirmative vote of a majority of the qualified electors of the Unincorporated section of the Town of Ossining voting therein at such General Election on November 6, 2012, and the filing with the Office of the Sec. of State in accordance with the applicable provisions of law on January 1, 2014.**

**Councilman Tripodi stated that he has done a lot of research on this issue and explained what this resolutions means:**

- **This is a vote by the people of the unincorporated area and the Board is allowing this process to happen.**
- **Would you rather pay for an appointed position or would you want to pay for what we have now?**

**Councilman Tripodi feels that we could really see some savings from this issue and will be voting in favor of this resolution. Councilman Tripodi feels that this is a great moment for democracy.**

**Councilman Blaha explained that after hearing the public on this topic he found the comments to be very enlightening. However, it does not change my personal opinion and feels that this is a system that is broken and does require fixing, the current system is in the best interest of the Town of Ossining. Councilman Blaha feels that this is a safety is an issue. The Board needs to set minimum criteria and set accountabilities for the position. If this is an elected position, this individual may only have short sided goals instead of focusing on long term plans. Councilman Blaha hopes that the residents know that this entire process has been given a great deal of attention by the Board. This issue is about the right ideas and best ideas for the community and he will be voting for this resolution.**

**Councilman Harter added that for all of the reasons that his colleagues has stated and he has expressed his opinion and feels that this is the best move to establish this position and hopes that it will be most cost effective.**

**Supervisor Donnelley explained that we will be having more meetings regarding this topic.**

**Roll Call Vote  
Vote: 5-0-0  
Voting Aye: Wilcher,  
Harter, Blaha, Tripodi &  
Donnelly**

**V. CORRESPONDENCE TO BE RECEIVED AND FILED**

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

- **Town Planning Board Minutes dated August 8, 2012**
- **Town Planning Board Minutes dated July 11, 2012**

**Motion Carried: Unanimously**

**VI. MONTHLY REPORTS**

**VII. VISITOR RECOGNITION**

**VIII. ADJOURNMENT-EXECUTIVE SESSION-PERSONNEL**

**At 7:58 P.M. Councilmember Tripodi moved and it was seconded by Councilmember Harter that the meeting be adjourned.**

**Motion Carried: Unanimously**

**Approved:**

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**Mary Ann Roberts, Town Clerk**

