

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

DECEMBER 10, 2013 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 December 10, 2013 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, Peter Tripodi, Eric Blaha and Geoffrey Harter. Also present were Budget Officer Madeline Zachacz and Town Clerk Mary Ann Roberts. Town Attorney Wayne Spector was absent.

II. ANNOUNCEMENTS

Supervisor Donnelly read the following statement into the minutes:

Tonight we will have our last official legislative meeting of 2013. We will have a breakfast meeting on December 23rd where we will pay our bills and enact any resolutions that need to be done before the end of the year. We want to take this opportunity to Thank Peter Tripodi for being a part of this Board and bringing issues and opportunities to us over the last two years. Together we have made changes that will benefit the entire community without sacrificing the quality of service you have all come to appreciate. As we prepare for next year we will complete many of the aggressive infrastructure projects we have begun during the past couple of years.

This *bipartisan* team has accomplished a great deal and we will continue to move the agenda of all of the residents of Ossining forward during the next two years with the newest member of the Town Board Kim Jeffrey.

So thank you Peter. But we are not done yet on Thursday evening at AMD Briarcliff Manor and the Town will hold a public hearing on the 17/20 annexation issue. Briefly petitions were presented to both the Town of Ossining and the Village of Briarcliff Manor with approximately 275 valid signatures mostly from the 2011 time frame, asking to have the two election districts (17/20) moved from the Unincorporated Area of the Town of Ossining to the Village of Briarcliff Manor.

The agenda will be as follows:

- Explanation of steps
- Residents explanation as to why they are pursuing this
- Briarcliff Manor statement and Power Point
- Town of Ossining statement and Power Point

To become more informed on this subject please goes the Town of Ossining web page. This process will affect all parts of the Town the Unincorporated Area as well as the Villages of Ossining and Briarcliff Manor.

CSEA Contract

The Town Board and Administration is proud to announce a settlement in the contract with the CSEA. The employees in this Union, as in the Teamsters, truly understand the importance of working within a team to accomplish our goals, and the importance of being available for the residents of Ossining. While they are a small group, they are the back bone of every department. Employees of the Office of the Assessor, Town Clerk, Tax Receiver, Building Department, Senior Programs/Nutrition, Courts and our Highway administration are all members of this bargaining unit.

The contract we negotiated is fair to everyone, including our tax payers. We are happy to have completed this before the beginning of 2014, when the new contract is set to begin.

2014 Budget

We have completed our review of the 2014 budget and we are happy to announce we will stay below the tax cap and will continue to monitor the budget all year to control spending. It is essential that we provide the best services around, and once again, I am proud of each of the employees of the Town and the pride they take in their work every day.

As we prepare for the closing on 507 North State Road, we will realize additional savings in the unincorporated fund. As soon as the building closes, the utility budget lines for the building (for example, Heat and Electricity) will be added to the contingency account for 2014. 100% of the \$1,475,000 will be used to pay the bond on the building. This is not only good business practice, it is the law.

Harbor Square PILOT

The Town of Ossining welcomes development of real property that is fully within the law. We understand that an owner of a property is fully within its right to develop as they so choose, but it must be in accordance with all applicable laws, including the payment of property taxes.

In the current economic environment, tax revenues that we need to provide necessary services are lower- our mortgage tax revenues are lower, sales tax revenues are lower, franchise tax revenues are lower, property tax revenues are lower. That is why, now, more than ever, we must stand firm on equity and fairness.

Tonight's vote is fair to all taxpayers in Ossining WHO CONSTANTLY REMIND US THAT WE WERE ELECTED TO REDUCE THEIR TAX BURDEN. Many on our Board cannot support a proposed PILOT, or Payment In Lieu of Taxes, that will unquestionably increase the demand for services, but shifts the tax burden in excess of \$2.3 million onto our taxpayers.

The developer of Harbor Square seeks permission to circumvent the property tax laws that apply to all property owners in the Town of Ossining. According to the Westchester Industrial Development Agency, PILOT (Payment in Lieu of Taxes) plans should be used for *business* growth such as industrial manufacturing, commercial, and R&D. The IDA's guidelines for claiming Real Property Tax Exemptions does not even include an exemption for development of Real Property. The proposed residential PILOT would inappropriately excuse the developer from paying over \$2,300,000 in tax revenue that otherwise should be collected and distributed in the same way as every residential taxpayer's taxes are collected and distributed by the Town.

The potential tax losses from the proposed PILOT are as follows:

Entity Percent of total taxes (2013) Loss from PILOT	
Ossining School District	58.78%	\$1,392,498	
Ossining Library	2.36%	\$55,908	
Village of Ossining	25.80%	\$611,202	
Town General	1.64%	\$38,851	
Westchester County	8.35%	\$197,811	
Westchester County Sewer	.82%	\$19,425	
Ossining Sewer	1.74%	\$41,220	

Other residential property developers have paid their fair share of taxes, and permitting this individual developer to circumvent centuries-old tax requirements sets a dangerous and irreversible precedent for treatment of future developers and subsequent developments.

It is possible that the developer's request for tax reduction may be motivated in part by its financial condition resulting from its using Harbor Square as collateral to take out mortgages totaling \$14,400,000; if this is true, we cannot permit the taxpayers to be held responsible for the developer's profits and/or other financial concerns.

In any event, the fact that the principals of the firm used Harbor Square as collateral to take out mortgages totaling \$14,400,000 demonstrates to this Board that there was consensus between the developer and the issuing bank that the property was worth no less than \$14mm at the time of the mortgage. Therefore, despite Harbor Square's tax grievance regarding calculation of the 2014 taxes, the Town is confident that the current assessed value of \$9,600,000 will stand up in court, especially since the Village Board has recently approved a new site plan for the property that is shovel ready. With respect to the developer's tax grievance, it is important to note that no action taken now will result in any tax refund to the developer.

Some residents have been vocal about being 100% fair to all parties in all dealings, but now in the case of Harbor Square wish the Town Board to do what the developer wants. Our pledge to each resident and commercial property owner is to have fair and equitable assessments on property in the Town. That is why the Town of Ossining, and numerous other Westchester municipalities, is beginning a complete re-assessment of all properties beginning in the 2nd quarter of 2014. Many on the Town Board feel strongly that the proposal to excuse Harbor Square from its obligation to pay \$2.3mm in property taxes on the eve of a major revaluation is contrary to our mission to instill fairness in property taxation and would send precisely the wrong message to those who demand and are entitled to fair distribution of the tax burden.

The developers have indicated that, without approval of this proposed PILOT, they will not build the development. There is no good reason for the developer not to build the development if it is required to pay its property tax obligations, especially since the building will contain rental units that, once rented out by the developer, will offset a portion of the developer's tax burden. Therefore, the developer will be able to recoup the outlay of its tax obligation by charging rent. If they refuse to build, keeping in mind they have an approved site plan, then we welcome them to sell the property and let Ossining move on.

We are an Independent Board elected by the residents of Ossining- we cannot govern as others want us to, nor can we tell others how to govern. However, we feel a responsibility not to abdicate our role in this process- we made our residents a promise to do what we feel is right for this community which includes fair distribution of taxes, and we do not plan to go back on that promise.

III. PUBLIC COMMENT ON AGENDA ITEMS

Village Trustee John Codman stated that he has not been in favor of this project in the past, but too much time has passed without the significant activity necessary for the economic development of our waterfront. Ginsberg Development has stepped forward and completed the necessary steps to begin the Harbor Square Project. Substantial reviews and changes have taken place to address the concerns of the Village of Ossining Trustees and Village Departments as well as State and Federal Agencies. The Harbor Square project will not only provide economic activity unto itself but will also bolster the entire waterfront. Significant water, sewer and utility infrastructure that will support additional economic opportunity for businesses on the waterfront and east of the tracks. The Village of Ossining Board of Trustees and the lead agency in the public private partnership believe that the completion of the project will have long lasting economic benefit beyond the years of the PILOT. In addition it will also stabilize tax fees that will be paid to Ossining Village, School System and other taxing authorities. You have before you a resolution tonight that opposes the PILOT Plan. We respectfully ask to you to table this resolution. Thank you for your time.

Ingrid Richards, Morningside Drive read the following statement:

Good evening, for those of you who do not know me I serve as the Manager of Downtown and Economic Development for the Village of Ossining. Tonight I am here to comment on resolution E on your agenda. This resolution deals with the approval of a payment in lieu of taxes (PILOT) for the Harbor Square project which is located in the Village of Ossining. The purpose of my comments is to highlight three significant factors for the Town Board to contemplate prior to voting on this resolution tonight. Number one, the Village of Ossining has put significant resources behind improving the economic vitality of the community. One of the resources employed was to hire a Manager of Downtown and Economic Development and as a part of that role there has been a creation of economic development strategic objectives used to sustain the economic stability of the community. One of the objectives is to systematically and methodically work to increase the buying power which will ultimately allow the Village to create an equitable community in our downtown; thereby allowing our retail businesses in the area to thrive. This is an essential objective to maintaining good economic development health. The construction of the Harbor Square Project is directly inline with this objective. The financial health of our community is matter of concern to all of our residents, whether we live in the Village or the unincorporated Town. As you know, the Village has unanimously approved the site plan associated with this development which demonstrates execution against this crucial strategic objective. This project once built will be a significant investment in our community.

Number two, GDC has worked in partnership with the Village since my tenure with the Village of Ossining. This partnership is clearly demonstrated by the following GDC actions:

- Provided a passive recreation area at the Harbor Square property complete with benches, picnic tables, shade structure, and other needed enhanced site improvements so the area can be enjoyed by residents of the Village of Ossining and its visitors; including agreeing to allow their property to be used by the public during the annual fireworks display which allowed more people to enjoy this spectacular event;
- Provided funding for the Village/Town waterfront concert series; and
- Was the primary sponsor for the Bicentennial celebration, which allowed for the outdoor sculpture exhibit a key event that was considered an economic driver for the community and attracted many visitors to our community.
- Agreed to become the private partner on a project to provide a food and beverage incubator in downtown Ossining with a primary focus on developing the business skill set for minority and women businesses, this project was ultimately not funded by the state, but GDC generously decided to allow us to keep the funds for the purpose of investing in a future project that may benefit the downtown.

Again, GDC has and continues to actively invest in our community. Number three, with regard to the tax implications to the Village and the Town Board's generous consideration of assisting GDC in making this project economically feasible, through the approval of tonight's PILOT, please give serious consideration to the potential results in a situation where this Board decides not to move to engage in this important partnership:

If GDC does not build this project and the land remains vacant the value of the property substantially diminishes and GDC could potentially pay lower taxes than it does today. If the Town Board does decide to partner with the Village Board to make this project a reality for our community this will translate into substantially higher taxes paid by GDC to our county, town, school, library and village over the short term and certainly beyond the PILOT period.

In summary the Village and the Office of Economic Development believes that this is an important development project for the Village and is instrumental to achieving the Village's ultimate objectives as it relates to improving the economic development health of our community. I would ask that the Board seriously consider the comments outlined tonight when contemplating tonight's vote. Thank you.

Marlene Cheatham, Spring Street, stated that the waterfront is near and dear to her heart. GDC has done things but the Village had to struggle for them to complete these items. These things were done on the backs of the Village and Town. Ms. Cheatham thanked the Town Board for going forward with this resolution.

Joe Dziegelewski, a representative from GDC read a letter written to the Town Board from Martin Ginsburg. Dear Supervisor Donnelly & Ossining Town Board Members: I was surprised to learn that a proposed resolution appears on your Town Board Meeting Agenda for tonight's December 10th meeting, which opposes the proposed PILOT for the Harbor Square project in the Village of Ossining.

I do recall representation from the Town appearing at a School Board hearing and indivcated that it was important fo the Village, Town and School District to work together.

The Harbor Square project has gone through a very long multi-year process which recently evolved in Village approvals including:

- 1. Environmental Assessment for the Fifth Modified Plan of Harbor Square, specifically describing the fiscal impacts of the PILOT Proposal.
- 2. Cooperative and analytical evaluation and conclusion
- 3. Resolution of approval of the PILOT by the Village Board.
- 4. Recently agreement and approval of the PILOT by the School Board unanimously.
- 5. Presented to the Library Board with general acceptance and no further comment.
- 6. Westchester County IDA has indicated its willingness to also join and approve the IDA PILOT and induce this project.

The proposed opposition of the Town Board seems inconsistent with the concept of working together. Furthermore, the Town's share of the taxes for this project only represent 2% - 4%.

We have recently learned from counsel that a Town is not required to receive notice to an IDA application inclusive of the PILOT since the project is governed by laws of a Village. Specifically stated in NY General Municipal Law Section 923-a, "in the case of a project which is, or is to be, located within a village within the county of Westchester, notice of such village shall be sufficient as to any part or parts of the project within the village and no other notice shall be required to be given to any other municipality in which such village is located with respect thereto."

Whether one may question if the Town's concurrence is necessary with opposition indicating a lack of cooperation and enthusiasm for change to initiate a well planned and important component o the Ossining waterfront. Harbor Square is a wonderful waterfront project and park for the residents of the Village and the Town to embrace

and enjoy. I believe that Ossining has a very important role in the future of the Hudson River and the waterfront program will be a significant step which will spur additional economic growth and promote all the wonderful attributes Ossining has to offer.

We would appreciate the town's support in concluding this matter and respectively request that we continue a path of cooperation towards achieving the revitalization Ossining deserves.

Sincerely, Martin Ginsbug

The fifth modified plan was adopted after 3 years. We have been working for 3 years rebuilding the respect of the Village which has been difficult for everyone. It has been difficult for everyone in these economic times. The level of opposition is limited.

Don DeBar, Ferris Place, thanked the Town Board for this proposed resolution. He has been asking for this for years and it is finally coming to fruition. It initially began on October 6, 1998 and the title was transferred in September 2005. Lot was sold for \$2.5 million and they immediately took out a loan for \$16.5 million. They have filed for 2 certs. The Village had a reversal clause in the initial agreement which the Village could have called between 1998 and 2005. This was an absolute insult to residents. The reverter clause has been removed.

IV. BOARD RESOLUTIONS

A. Approval of Minutes-Regular Meeting

Councilmember Blaha 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 November 26, 2013, 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 Tripodi that the following be approved:

Resolved, that the Town Board of the Town of Ossining hereby approves the Voucher Detail Report dated December 10, 2013 in the amount of \$357,709.31.

Motion Carried: Unanimously

C. C.S.E.A. Contract Ratification Resolution:

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

Resolved, that the Town Board hereby ratifies and approves the Memorandum of Agreement between the Town of Ossining and the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO, Town of Ossining Unit #9182, Westchester County Local 860, dated December 2, 2013 covering the period from January 1, 2014 through December 31, 2017 and approves the funding for such Agreement; and be it further

Resolved, that the Town Supervisor is authorized to execute a collective bargaining agreement for the period from January 1, 2014 through December 31, 2017 that is consistent with the terms of the Memorandum of Agreement.

Motion Carried: Unanimously

D. Approval of the 2014 Budget

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 2014 Budget for the Town of Ossining. Total appropriations for the 2014 entire Town (10) Fund are \$5,165,311. Total appropriations for the Unincorporated Area (20) Fund are \$3,710,646, and total appropriations for the Highway (31) Fund are \$2,229,779. Total appropriations for the Water and Sewer Funds are \$550,669. Total appropriations for the Fire/ Light/ Refuse Funds are \$1,250,798. Total appropriations for the Ambulance District are \$606,105.

Motion Carried: 4-0-1 Ayes: Harter, Blaha, Wilcher and

Donnelly Nayes: Tripodi

Councilman Tripodi stated that he would vote against this resolution. It is a good budget, but he still cannot vote in favor of it.

Councilman Blaha stated that he was disappointed that Councilman Tripodi would vote against something that he, like the rest of the Board worked hard on. We worked hard and tirelessly to keep taxes in check. We did the very best that we could. I don't accept your nay vote. Take ownership of of a wonderful budget.

E. Harbor Square- PILOT (Payment in Lieu of Taxes)

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

Whereas, the Town of Ossining has been approached by Ginsburg Development Corporation about enacting a "PILOT", or "Payment in Lieu of Taxes", on their property at Harbor Square within the Village of Ossining; and

Whereas, the Town of Ossining is an entity authorized by the State of New York with the ability to levy taxes and whose revenue streams would be affected by this decision, and has the ability to make a determination about the appropriateness of such a tax payment plan; and

Whereas, after deliberation by the Town Board, it has been determined that the Board does not see the PILOT as being in the best interest of the taxpayers of the Town of Ossining, nor the Town as a whole;

Now, therefore be it Resolved, that the Town Board of the Town of Ossining hereby opposes the PILOT plan submitted to the Town/Village/School/Library of Ossining by Ginsberg Development Corporation for the Harbor Square property.

Councilman Tripodi would be voting aye on this resolution as this is a valuable piece of property and he dislikes being strong armed.

Councilman Blaha would be voting aye to this resolution as Harbor Square should pay the taxes. The IDA has no exemption to housing (residential). This project should be built and Ossining should not have to change. Ginsburg has done a lot of good projects and this should be one of them.

Motion Carried: 4-0-1 Ayes: Tripodi, Blaha, Wilcher and Donnelly

Nayes: Harter

F. Tax Payment Plan

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

Whereas, the Town of Ossining is required to collect Town, County and School taxes for the municipality, with the onus on the Town to make whole the County and the School District for any uncollected taxes; and

Whereas, the Receiver of Taxes has been approached by the owner about enacting a short-term payment plan for the residences at 31 Hamilton Avenue and 182 Spring Street; and

Whereas, the Town Board occasionally grants such a plan and has the discretion to accept or reject any such proposal by a resident or commercial property owner;

Now, therefore be it Resolved that the Town Board of the Town of Ossining hereby grants the aforementioned payment plan to this property owner, with the understanding that this sets no precedent going forward for this or any other property in the future.

Motion Carried: Unanimously

G. TAX CERTIORARI 26 South Highland Avenue LLC vs. Town Of Ossining

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

WHEREAS, proceedings pursuant to Article 7 of the Real Property Tax Law of the State of New York were instituted by 26 South Highland Avenue LLC against the Town of Ossining, to review the tax assessments made on Petitioner's property located at 26 South Highland Avenue, Village of Ossining, Town of Ossining, and designated on the tax assessment map of the Town of Ossining as Section 89.19, Block 4, Lot 50 and f/k/a Section 3.14, Block 33, Lot 35, for Tax Assessment Years 2005 through 2010, which proceedings are now pending in the Supreme Court of the State of New York, County of Westchester, under Index Nos.17298/05; 18642/06; 18882/07; 22392/08; 23419/09; and 25020/10; 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:

Amount of Reduction
\$28,650
\$20,055
\$22,610
\$20,100
\$13,400
\$6,700

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 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, subject to the approval of the Supreme Court, Westchester County, that the Assessor is authorized and directed to make the changes and corrections to the individual unit assessment on the tax assessment roll 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 \$ 1,009.92, which will be ordered pursuant to said Consent Judgment.

Motion Carried: Unanimously

H.

TAX CERTIORARI 333 South Highland LLC vs. Town Of Ossining

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

WHEREAS, proceedings pursuant to Article 7 of the Real Property Tax Law of the State of New York were instituted by 333 South Highland LLC against the Town of Ossining, to review the tax assessments made on Petitioner's property located at 333 Albany Post Road, Village of Briarcliff Manor, Town of Ossining, and designated on the tax assessment map of the Town of Ossining as Section 97.19, Block 2, Lot 2 for Tax Assessment Years 2013, which proceedings are now pending in the Supreme Court of the State of New York, County of Westchester, under Index Nos.65651/13; 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:

Assess.	Assessed Valuation		Amount of
<u>Year</u>	Reduced From	Reduced To	Reduction
2013	1,543,300	925,980	617,320

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 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, subject to the approval of the Supreme Court, Westchester County, that the Assessor is authorized and directed to make the changes and corrections to the individual unit assessment on the tax assessment roll 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 \$ 0, which will be ordered pursuant to said Consent Judgment.

Motion Carried: Unanimously

V. CORRESPONDENCE TO BE RECEIVED AND FILED

VI. MONTHLY REPORTS

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

Resolved, that the Town Board of the Town of Ossining hereby accepts the following monthly reports for the month of November 2013:

- Town Clerk's Office
- GE Helicopter Report
- Town Supervisor's Office
- Town Highway Department
- Town Tax Receiver's Office
- Town Building Department

Motion Carried: Unanimously

VII. VISITOR RECOGNITION

Councilman Wilcher stated that he has been on the Board for several years and has worked hard on budgets and any other tasks that have come before him. He has done a lot of time thinking about how things should be done. People need to understand that GDC gave us a playground. As a youth the black population has always been relegated to the railroad area. The little man is going to suffer with the POLOT. This doesn't make any sense.

VIII. ADJOURNMENT

At 8:25 P.M., Councilmember Blaha moved and it was seconded by Councilmember Tripodi that the Regular Meeting be adjourned.

Approved:	
	Mary Ann Roberts Town Clerk