



**TOWN BOARD  
TOWN OF OSSINING  
86-88 SPRING STREET  
BIRDSALL-FAGAN POLICE COURT FACILITY  
OSSINING, NEW YORK  
MAY 23, 2017  
7:30 P.M.**

**SUPERVISOR  
Dana Levenberg**

**COUNCILMEMBERS  
Karen M. D'Attore Elizabeth R. Feldman  
Kim L. Jeffrey 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 May 23, 2017 at the Ossining Municipal Building, 86-88 Spring Street Birdsall-Fagan Police Court Facility, Ossining, NY. The meeting was called to order at 7:30 p.m. by Supervisor Dana Levenberg. Members of the Board present were: Councilmembers Kim Jeffrey, Northern Wilcher, Karen D'Attore and Elizabeth R. Feldman. Also present were Town Counsel Steven Silverberg and Town Clerk Mary Ann Roberts. Budget Officer Madeline Zachacz was absent.

**II. PUBLIC HEARINGS IN THE MATTER OF:**

- **2017 Cabaret License Renewal for The Westchester Ballroom**

At 7:31 P.M., the Public Hearing was opened.

Vincent Savino attorney for Westchester Ballroom spoke regarding a letter of remediation. The soundproofing of the back rear door is between 75 and 80 percent complete. A sign has been placed

Toward the back states no use only for emergency. The work should be complete by June 15. The roll up door will be insulated with a panic bar on the side door. Councilmember Karen D'Attore questioned whether the soundproofing has been tested. The response was that it was tested by the engineer as well as John Hamilton.

At 7:45 P.M., Councilmember Feldman moved and it was seconded by Councilmember Wilcher that the Public Hearing be closed.

- **Local Law No. 4 (Formerly Local Law #2) for the Purpose of Amending the Zoning and Cabaret Chapters of the Town Code"**

At 7:46 P.M., the Public Hearing was opened.

Mr. Fiorito shared conversations he has had with neighbors and is mindful of dangerous things relating to the house, loft, etc. This property was bought as GB – 2 family house. Councilmember Feldman questioned how many letters were sent out notifying the neighbors? The response was that the letters were only sent out once, but not for every meeting.

Steve Hampden commended Mr. Fiorito but the Board needs to listen to the Community. There are no sidewalks; speed is an issue as well as traffic. Apartments will be a big problem.

**At 7:57 P.M., Councilmember Wilcher moved and it was seconded by Councilmember Feldman that the Public Hearing be adjourned until June 6, 2017.**

### **III. ANNOUNCEMENTS**

**Supervisor Levenberg read the following announcements:**

**This is the last meeting in May, as next Tuesday is a “Fifth Tuesday” for us, so there are a few announcements I would like to make covering important events that will be happening before we see each other again in June.**

**This Friday, May 26<sup>th</sup> the Village of Ossining’s Downtown Economic Development Fund Council invites you to join them to “Light the Downtown” as they light 50 trees with more than 50,000 LED bulbs and take a stroll up our newly lit downtown. Many of our great Main Street restaurants will be offering specials – keep an eye out for balloons and signs indicating those businesses that are participating. The Greater Ossining Chamber of Commerce will be providing music at Market Square. This is sure to be a great evening in our beautiful downtown. The Village of Ossining and the Downtown Economic Development Fund Council are offering opportunities to “Adopt a Tree Well” to care for the area around our downtown’s trees. More information can be found on the Village’s website at [villageofossining.org](http://villageofossining.org).**

**The forecast is looking like it will be great weather to spend time in the parks for Memorial Day weekend. On Saturday, May 27<sup>th</sup> at 3pm, join Sue Radparvar of Studio95 Zumba fitness for an outdoor Zumba workout along the riverfront at Louis Engel Park. Sue hosted many well attended classes last year, and we are very excited to have her back. Stay tuned for more dates to come, and make sure to check out the Town’s Facebook page for updates. We also anticipate that the spray park will be open for Memorial Day, so come down to Engel Park if your family needs a cool down this weekend. The spray park will be open from noon-6pm this weekend, and throughout the summer months.**

**Next weekend, Scott Craven will be guiding a three hour boat ride on the Peekskill Evening Star on Saturday, June 3<sup>rd</sup>, departing promptly at 11am from the Peekskill waterfront. Scott is quite the nautical history buff, and this promises to be a very interesting educational experience. Tickets are \$50, and must be purchased by May 27<sup>th</sup>, call the Ossining Historical Society Museum at 941-0001 for more information. Also next Saturday, June 3<sup>rd</sup>, local Grammy-nominated acoustic band Sundad will be performing in the Westchester Collaborative Theater’s black box theater at 8pm. Tickets are \$15, and are available at [WCTheater.org](http://WCTheater.org). Westchester Collaborative Theater will be hosting more bands later this month, so stay tuned for more local talents being featured.**

**Summer is creeping up on us, so please take some time to review the many great summer programs and camps being offered by the Ossining and Briarcliff Recreation Departments. This summer is the first time classes are being offered at the newly opened Cedar Lane Arts Center, and I certainly encourage you to consider enrolling yourself or your child in one of the great programs being offered. Information about summer programs are available on the Town’s website and the Village of Briarcliff’s website.**

**Finally, this coming Monday is Memorial Day, which is an important opportunity to remember the sacrifices made by members of the armed forces in our community from the Revolutionary War until today. There are parades and ceremonies in Ossining and Briarcliff hosted by our local American Legion posts that will mark this important day. The Ossining Memorial Day parade will kick off on Monday, May 29<sup>th</sup> at 9:30am at Calam Avenue and Croton Avenue, continuing along Croton Avenue and Main Street to Spring Street, and ending at Nelson Park. There will be a ceremony at Nelson Park which is expected to begin around 10:45am as the**

parade winds down. The Briarcliff Memorial Day parade begins at noon on Pleasantville Road to Law Park, where there will be a ceremony following the parade. This ceremony will also mark the rededication of the new Law Park Pavilion. At these ceremonies, keep an eye out for some very special wreath displays, which were made by troops in the Ossining Girl Scouts. Also, please be reminded that all Town offices will be closed on Monday, May 29<sup>th</sup> in observation of Memorial Day. We will be back in the office on Tuesday, May 30<sup>th</sup> at 8:30a.m.

**IV. LIAISON REPORTS**

**V. DEPARTMENTAL REPORTS**

**VI. PUBLIC COMMENT ON AGENDA ITEMS**

Audrey Gelfand 87 Dalmaney Road, Briarcliff a member of the Indivisible Committee commented on Resolution J (Resolution of the Town Board of the Town of Ossining) and suggested that there be community inclusion.

**VII. BOARD RESOLUTIONS**

**A. Approval of Minutes-Regular Meeting**

Councilmember Feldman moved and it was seconded by Councilmember Jeffrey that the following be approved:

Resolved, that the Town Board of the Town of Ossining hereby approves the May 9, 2017, Minutes of the Regular Meeting as presented.

**Motion Carried: Unanimously**

**B. Approval of Minutes-Special Meeting**

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

Resolved, that the Town Board of the Town of Ossining hereby approves the May 16, 2017, Minutes of the Special Meeting as presented.

**Motion Carried: 4-0-1  
Ayes: Feldman, Wilcher, Jeffrey  
& Levenberg  
Abstain: D'Attore**

**C. Approval of Voucher Detail Report**

Councilmember Jeffrey 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 May 23, 2017 in the amount of \$ 1,267,972.66.

**Motion Carried: Unanimously**

**D. Foreclosure- Public Auction**

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

Resolved, that the Town Board of the Town of Ossining hereby authorizes the following properties to be sold at a Public Auction on Tuesday, July 25<sup>th</sup>, 2017

pursuant to a judgment of foreclosure and sale has been entered into with New York State Supreme Court, Westchester County, New York.

1. House and Property at 48 Ellis Place, Tax I.D. # 89.20-3-75, Minimum Bid \$62,000
2. House and Property at 15 Meadowbrook Drive, Tax I.D. # 89.07-1-60, Minimum Bid \$54,000
3. House and Property at 27 Secor Road, Tax I.D. # 97.7-1-41, Minimum Bid \$102,000

Motion Carried: Unanimously

**E. Finance- Capital Project #2014-5190- Spray Park Recirculation**

Councilmember Jeffrey moved and it was seconded by Councilmember Feldman that the following be approved:

Resolved, that the Town Board of the Town of Ossining authorizes a budget adjustment for Capital Project #2014-5190, entitled "Spray Park Recirculation", of \$196,197 for project implementation, increasing the project to \$416,197 to be funded by a transfer from General fund balance.

Increase: 370.7110.200.5190 (Expense)	\$231,197 Spray Park Recirculation
Increase: 370050.503100.5190 (Revenue)	\$231,197 Transfer from General Fund
Increase: 1009901.905	\$231,197 Transfer to Capital (Expense)
Increase: 100060.4795	\$231,197 Fund Balance (Revenue)

Motion Carried: Unanimously

**F. Tax Payment Plan- 53 Brookwood Drive**

Councilmember Feldman moved and it was seconded by Councilmember Wilcher 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 School District for any uncollected taxes; and

Whereas, the Receiver of Taxes has been approached by a property owner requesting a short-term payment plan for the owner occupied property at 53 Brookwood Drive, Tax Parcel Designation ID# 97.16-1-14; and

Whereas, the Town Board, pursuant to Article 5 of the Ossining Town Code, as authorized by section 1184 of the New York Real Property Tax Law, before entry of a final judgment, may withdraw a parcel for which payment of real property taxes is delinquent, from a foreclosure proceeding and enter into an installment plan for payment of all delinquent taxes, as well as interest and penalties, and does occasionally grant such a plan and has the discretion to accept or reject any proposal by a residential or commercial property owner, providing the owner meets the eligibility requirements set forth in section 180-17 of the Town Code and the payment plan conforms to the requirements for such a repayment plan set forth in section 180-18 of the Town Code;

Now, therefore be it Resolved, that the Town Board of the Town of Ossining hereby grants the aforementioned payment plan, which terms comply with the Town Code, to this property owner, who has been determined to be eligible, with the understanding that this sets no precedent going forward for this or any other property in the future.

Motion Carried: Unanimously

**G. Addition To Property Tax Bill: 48 Gordon Avenue**

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

**Whereas, the property at 48 Gordon Avenue, Tax ID #90.15-2-38, was destroyed by fire on April 25<sup>th</sup>, 2017;**

**Whereas, an emergency existed based upon an evaluation made by the Building Inspector that created an unsafe condition and the property owners were not able to be contacted; and**

**Whereas, at the recommendation of the Town Building Inspector, a contractor was dispatched to the site and instructed to perform work to ensure the health and safety of neighboring properties as a result of the fire;**

**Therefore be it Resolved, that the Town Board of the Town of Ossining hereby directs the Receiver of Taxes to add a charge to the tax bill for the property at 48 Gordon Avenue, Briarcliff Manor, NY 10510 in the amount of \$1,758, in accordance with the bill issued to the Town by said contractor.**

**Motion Carried: Unanimously**

**H. Request for Home Rule Legislation from New York State—Mortgage Recording Tax**

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

**Whereas, the Town of Ossining has long discussed a reapportionment of the Mortgage Recording Tax revenue from Westchester County, based on the unique geographic boundaries of the Town's Unincorporated Area; and**

**Whereas, current New York State Law directs towns to apply Mortgage Recording Tax revenue to the general expenses of the town; and**

**Whereas, New York State law also dictates that this revenue is to be apportioned to an incorporated village within a town in accordance with the village's percentage assessed value within the town as a whole; and**

**Whereas, the Town Board has unanimously agreed to apply a share of this revenue in a similar fashion to which New York State law dictates to apportioning revenue to incorporated villages, in accordance with the Unincorporated Area's percentage of assessed value within the Town as a whole, to the Unincorporated Fund in the 2017 budget,**

**Now, therefore be it Resolved, that the Town Board of the Town of Ossining hereby calls upon the State of New York to permit Home Rule legislation, Assembly Bill No. A6886 and Senate Bill No. S6429, on this specific circumstance within the Town of Ossining;**

**And be it further Resolved that the Town Supervisor is hereby authorized to complete paperwork as requested by New York State to enact the above.**

**Motion Carried: Unanimously**

**I. Request for Home Rule Legislation from New York State – Peace Officers**

**Councilmember D'Attore moved and it was seconded by Councilmember Wilcher that the following be approved:**

Whereas, the Town Board wishes to designate court attendants in the Town of Ossining as peace officers;

Now, therefore be it Resolved, that the Town Board of the Town of Ossining hereby calls upon the State of New York to permit Home Rule legislation, Assembly Bill No. 6928 and Senate Bill No. S5862, to designate court attendants as such within the Town of Ossining;

And be it further Resolved that the Town Supervisor is hereby authorized to complete paperwork as requested by New York State to enact the above.

Motion Carried: Unanimously

**J. Resolution of the Town Board of the Town of Ossining**

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

WHEREAS, the Town Board of the Town of Ossining unanimously passed a resolution on December 20<sup>th</sup>, 2016, confirming the desire to affirm the Town's commitment to remaining an inclusive community and to stay true to our shared values; and

WHEREAS, the Town Board wishes to restate that commitment;

NOW THEREFORE, BE IT RESOLVED:

1. The Town of Ossining decries and denounces acts of anti-Semitism, racism, bigotry, xenophobia, Islamophobia, hatred and divisiveness (including those based on a victim's gender, sexual orientation or gender identity) and will continue to work in concert with community leaders, school officials and law enforcement agencies to apprehend individuals responsible for any crimes of this nature.
2. The Town of Ossining is committed to upholding and protecting the civil and human rights of all individuals regardless of their race, religion, ethnicity, gender, sexual orientation, gender identity or national origin.
3. The Town of Ossining is committed to protecting the life, safety and security of all individuals regardless of their race, religion, ethnicity, gender, sexual orientation, gender identity or national origin.
4. The policy of the Town of Ossining Departments, officers, personnel and agents is not to inquire about or collect from individuals, including but not limited to a crime victim, a witness, or a person who calls or approaches the police seeking assistance, information concerning citizenship or immigration status except where there is an investigation of potential illegal activity.
5. Where an investigation of potential illegal activity results in the disclosure of a person's citizenship or immigration status, that information will neither be used nor disclosed in any manner that violates local, state or federal law.
6. In carrying out such work, the Town of Ossining Departments, including the Ossining Police Department, recognize the essential need to respond to victims reporting crimes or injuries and to encourage residents to summon help when needed.
7. The Town of Ossining will coordinate with other public safety agencies, including federal law enforcement authorities, to apprehend any individual, regardless of race, religion, ethnicity, gender, sexual orientation, gender identity, national origin or immigration status, for which probable cause exists that such individual threatens the safety of our community.

8. The Town of Ossining will disseminate and publicize this resolution throughout the Town, including translating this resolution to Spanish and providing it to the Hispanic community.

Motion Carried: Unanimously

**K.RESOLUTION GRANTING A CABARET LICENSE RENEWAL TO BALLROOM STUDIO OF WESTCHESTER**

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

WHEREAS, on or about December 15, 2016, Ballroom Studio of Westchester (“Applicant”) applied for a renewal of its cabaret license originally issued August 23, 2016 pursuant to Chapter 68 of the Town Code; and

WHEREAS, when considering the original application at its August 23, 2016 meeting, the Town Board expressed concern about the noise impacts to the nearby residential properties from the studio’s operation and expressed a desire for the Applicant to conduct sound testing during appropriate hours to ensure no adverse impacts; and

WHEREAS, the Town Board opened a public hearing on the license renewal application at its February 7, 2017 meeting and has continued the hearing; and

WHEREAS, the Town Board received ample comments from nearby residents regarding the noise impacts from the operation of the studio, especially late at night, and many of which involved calls to the police; and

WHEREAS, in an effort to resolve these issues, the Town Board kept the public hearing open and directed the Applicant to, in consultation with the Village’s consultant engineer, propose and develop mitigation measures to be presented to the Town Board to show how the Applicant intends to resolve the ongoing noise issue; and

WHEREAS, as a result of this ongoing process, the Town Board has not issued the Applicant the requested cabaret license renewal; and

WHEREAS, since the last continuation of the hearing, the Applicant has finally taken some steps to mitigate the noise by installing certain soundproofing material, and

WHEREAS, irrespective of the soundproofing there is ample evidence that the Applicant:

- (a) Permits patrons to exit the rear door to smoke or otherwise congregate causing disturbance to neighboring residences;
- (b) Utilizes different amplification levels or equipment for different events, some of which create loud and disturbing noise beyond the property lines of Applicant’s property;
- (c) Reduces the volume for short periods of time when advised of noise complaints, only to raise the volume after the police have left the premises.

WHEREAS, despite the lack of responsiveness by the Applicant from August, 2016 until the installation of soundproofing material in the past week, in light of the Applicant’s recent efforts to attempt to mitigate the noise impacts, the Town Board wishes to give the Applicant an additional opportunity to remedy these issues, before considering further restrictions or even denial of additional renewals.

**NOW THEREFORE,**

**BE IT RESOLVED,** the Town Board hereby grants the Applicant a license renewal which shall expire on December 31, 2017 subject to the following conditions:

1. The Applicant shall pay the required fee for the license renewal as set forth in the Town's Fee Schedule prior to continuing operation.
2. Going forward, the Applicant shall provide the Town Supervisor's Office with at least 7 days' notice of all events, classes and/or activities that will be held at the studio that will last past 8 p.m.
3. By June 15, 2017, the Applicant shall implement all of the following or submit a written statement to the Town Board as to why the Applicant is unable to implement any of them, in which case the Town Board reserves the right to review the continuation of the Applicant's license:
  - a. Restricting access to the rear door by installing alarmed panic hardware;
  - b. Developing a direct communication system with the neighboring residents who have noise complaints;
  - c. Requiring DJs and bands performing at the studio to sign a statement acknowledging the requirement to comply with the Town's Noise Code (Chapter 130);
  - d. Prohibiting a DJ's use of their own sound equipment and requiring that only the house system (which the Town Board understands does not have subwoofers) be used.

This list is not exclusive and the Applicant is encouraged to take additional mitigation measures it believes will resolve the noise issues.

4. At any event/class/activity that will last after 8:00 p.m., Barbara Antes, or another responsible employee of the Applicant, with the ability to contact Ms. Antes in order to address complaints, shall be on-site for the entirety of the event/class/activity. If the police are called as a result of a noise disturbance, immediately after being notified by the police, the sound level shall be reduced and shall not be increased during the remainder of such event/class/activity.
5. The Applicant shall submit an application to the Town for renewal of its license for 2018 no later than November 1, 2017 to allow the Town Board adequate opportunity to review the application, review compliance with the conditions of this resolution and to receive public comment prior this current license expiring on December 31, 2017.

**BE IT FURTHER RESOLVED**, the Applicant shall make a good faith and every reasonable effort to comply with the conditions set forth above and multiple violations of these conditions may result in the Applicant's license being revoked or a renewal application being denied; and

**BE IT FURTHER RESOLVED**, the Town Board shall comply with the requirements and standards of Town Code Chapter 68 in deciding whether and under what terms to grant any future renewal license; and compliance with the above-referenced conditions does not guarantee the granting of the renewal, nor does it establish or limit the parameters or conditions that may be placed upon any future renewal, if granted.

Motion Carried: 4-0-1  
 Ayes: Feldman, Wilcher, D'Attore  
 & Levenberg  
 Abstain: Jeffrey

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

**X. MONTHLY REPORTS**

Councilmember Jeffrey 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 following monthly reports for the month of April 2017:

- GE Crotonville Helicopter Report

**Motion Carried: Unanimously**

**XI.VISITOR RECOGNITION**

**XII.ADJOURNMENT-EXECUTIVE SESSION-PERSONNEL & ADVICE OF COUNSEL**

**At 8:47 P.M., Councilmember Jeffrey moved and it was seconded by Councilmember Wilcher that the Regular Meeting be adjourned to Executive Session.**

**Approved:**

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Mary Ann Roberts Town Clerk**