



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

**NOVEMBER 13, 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 November 13, 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 Geoffrey Harter, Eric Blaha, Peter Tripodi and Northern Wilcher. Also present were Town Attorney Wayne Spector, Budget Officer Madeline Zachacz and Town Clerk Mary Ann Roberts.

II. ANNOUNCEMENTS

Supervisor Donnelly read the following statement:

Good evening,

It has been an unbelievable time the past few weeks. After waiting for over five days for the storm to move up the coast we all hoped it would move out to sea, but we got the worse case scenario.

They warned us about the full moon, the tide surge, the hurricane, the three systems crashing together to give us the storm of the century. Most of us believed the forecaster some did not. We were hit hard by the winds but little rain. Lots of us lost power for anywhere from a day or two until almost two weeks.

I am rehashing not that I need to ... we all experienced this together. I thank each of you for your patience as we worked with Con Ed and their systems and schedules. A few times we were shocked when they would schedule a part of a neighborhood and leave one street without power.

Thank you, each of you, the residents, all for your input that helped us get through this. This community the Villages of Briarcliff Manor and Ossining and Unincorporated Area got through this very trying time with a few scars, but mostly exhausted people. Thanks goes to the Administrations of the Municipalities, the Police Forces of each municipality as well as Fire and Ambulance services. All of the employees who worked long hours with the crews from Con Ed/outside Contractors were outstanding but please remember their job continues because now the debris must be collected and accounted for so the municipalities can get reimbursed by FEMA. Our Con Ed liaisons worked 12-15 hours per day for these communities and we are thankful for them. Upper management of Con Ed that is another story. Our gas lines were not as long as other communities but they were there.

We will be attending many debriefing meetings both locally, county wide and state wide. I would love to have your suggestions to share with these groups. Please feel free to send me an e-mail.

In January we will be having a Town Hall meeting on self reliance as well as neighborhood reliance. We will be working with people for the County and State as well as private companies so that we not only make it an informational evening but also have vendors there to introduce you to different products. Watch for more information and the date in the next week, so that you can mark your calendar.

Tonight we will authorizing some tax certioraris and calling for a public hearing on the budgets on November 27, 2013 Copies of the budgets can be found on the Town web page, at the Clerk's office and at the Library. We will also be voting to establish a sustainable Energy Loan Program. This will allow people who qualify (at the moment commercial buildings with 1-4 residents) to do energy efficient upgrades to their buildings and pay for the loan by having it added to their tax bill. There is NO cost to the municipality even if no one uses it. We hope to have the ability to have single and to family homes added to the group that would qualify. We will keep you updated on that. This would affect all people who live in the Town of Ossining.

III. PUBLIC COMMENT ON AGENDA ITEMS

IV. BOARD RESOLUTIONS

A. Approval of Minutes

Councilmember Harter 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 October 23, 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 November 13, 2012 in the amount of \$ 426,103.01

Motion Carried: Unanimously

C. TAX CERTIORARI

**JLD Property Management, 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 JLD Property Management, LLC against the Town of Ossining to review the tax assessments made on Petitioner's property located at 23 Snowden Avenue in the Town of Ossining, and designated on the tax assessment map of the Town of Ossining as Section 89.15, Block 1, Lots 56 and 57, for assessment years 2010 and 2011, which proceedings are now pending in the Supreme Court of the State of New York, County of Westchester, under Index Nos. 25024/10 and 15039/111; 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:

Section 89.15, Block 1, Lot 56

Assess. Year	Assessed Valuation		Amount of Reduction
	<u>Reduced From</u>	<u>Reduced To</u>	
2010	81,700	73,530	8,170
2011	81,700	73,530	8,170

Section 89.15, Block 1, Lot 57

Assess. Year	Assessed Valuation		Amount of Reduction
	<u>Reduced From</u>	<u>Reduced To</u>	
2010	2,200	1,980	220
2011	2,200	1,980	220

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 \$ 235.90 , which will be ordered pursuant to said Consent Judgment.

Motion Carried: Unanimously

D. TAX CERTIORARI

ERIC & PATRICIA LINDEMANN

vs.

TOWN OF OSSINING

Councilmember Wilcher moved and it was seconded by Councilmember Blaha 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 Eric and Patricia Lindemann against the Town of Ossining to review the tax assessments made on Petitioner’s property located at 61 Hirst Road in the Town of Ossining, and designated on the tax assessment map of the Town of Ossining as Section 105.09, Block 1, Lot 43 for assessment year 2007, which proceeding is now pending in the Supreme Court of the State of New York, County of Westchester, under Index No. 20837/07; 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:

Year	Current AV	Reduced AV	AV Reduction
2007	\$51,300	\$49,700	\$1,600

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 \$12.55, which will be ordered pursuant to said Consent Judgment.

Motion Carried: Unanimously

E. TAX CERTIORARI

Elant At Brandywine Inc. f/k/a 620 Sleepy Hollow Corporation
vs.
Town Of Ossining& Briarcliff Manor UFSD

Councilmember Wilcher moved and it was seconded by Councilmember Tripodi 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 Elant at Brandywine f/k/a 620 Sleepy Hollow Corporation against the Town of Ossining and the Briarcliff Manor Union Free School District to review the tax assessments made on Petitioner's property located at 620 Sleepy Hollow Road in the Village of Briarcliff Manor, Town of Ossining, and designated on the tax assessment map of the Town of Ossining as Section 105.13, Block 2, Lot 55 (formerly known as Section 4.33, Block 28, Lot 2A), for assessment years 2004 through 2006, which proceedings are now pending in the Supreme Court of the State of New York, County of Westchester, under Index Nos.14874/2004; 16246/2005; and 19893-2006; 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	Reduced Assessment	Amount of Reduction
2004	\$903,650	\$775,000	\$128,650
2005	\$903,650	\$692,125	\$211,525
2006	\$903,650	\$903,650	-0-

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 \$ 2,093.54, which will be ordered pursuant to said Consent Judgment.

Motion Carried: Unanimously

F. Calling for a Public Hearing-2013 Preliminary Budget

Councilmember Wilcher moved and it was seconded by Councilmember Blaha 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, November 27, 2012 at 7:30 p.m. at the Village of Ossining Police/Court Facility, 86-88 Spring Street, in the matter of the 2013 Preliminary Budget for the Town of Ossining.

Motion Carried: Unanimously

D. Local Law No. 4: To Establish A Sustainable Energy Loan Program (PACE)

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

WHEREAS, the Town Board of the Town of Ossining having duly called and held a Public Hearing on the 23rd day of October, 2012 upon the question of enactment of Local Law No. 4 of 2012 of the Town of Ossining, Westchester County, New York, by adding a new chapter entitled “Energize New York Benefit Financing Program”

NOW, THEREFORE, be it RESOLVED by the Town Board of the Town of Ossining that Local Law No. 4 of 2012, of the Town of Ossining, Westchester County, New York, is hereby enacted as follows and effective upon its filing with the New York State Department of State:

LOCAL LAW #4 OF THE YEAR 2012

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 # 4 of 2012, for the purpose of adding a Local Law to Establish a Sustainable Energy Loan Program in The Town Of Ossining to the Town Code of The Town of Ossining.

Section 2: Legislative Intent

The Town Board would like to promote the policy of achieving energy efficiency and renewable energy goals, reducing greenhouse gas emissions, mitigating the effect of climate change and advancing a clean energy economy. This Local Law is determined to be an exercise of the legislative powers of the Town to strengthen the Vehicle and Traffic law for the protection of the health, safety and welfare of residents and to provide additional needed public parking areas to aid local businesses.

Section 3: The Following Local Law Language Shall Be added to The Town Code:

1. **Legislative Findings, intent and purpose, authority.**
 - a. It is the policy of both the Town of Ossining and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The Town of Ossining finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. This chapter establishes a program that will allow the Energy Improvement Corporation (“EIC”), a local development corporation, acting on behalf of the Town of Ossining, to make funds available to qualified property owners that will be repaid by such property owners that will be repaid by such property owners through charges on real properties benefited by such funds, thereby fulfilling the purposes of this chapter and fulfilling an important public purpose.
 - b. The Town of Ossining is authorized to implement this Energize NY Benefit Financing Program pursuant to Article 5-L of the New York General Municipal Law.
 - c. This chapter shall be known and may be cited as the “Energize NY Benefit Financing Program Law of the Town of Ossining”.

2. **Definitions**

For purposes of this chapter, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

Authority-The New York State Energy Research and Development Authority, as defined by subdivision two of section eighteen hundred fifty-one of the public authorities law, or its successor.

EIC- the Energy Improvement Corporation, a local development corporation, duly organized under section fourteen hundred eleven of the Not-For-Profit Corporation Law, authorized hereby on behalf of the Town of Ossining to implement the Energize NY Benefit Financing Program by providing funds to qualified property owners (as defined in this chapter) and providing for repayment of such funds from monies collected by the Town of Ossining Receiver of Taxes as a charge to be levied on the real property and collected in the same manner and same form as the Town of Ossining taxes.

Energy Audit- A formal evaluation or “assessment” of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of identifying appropriate energy efficiency improvements that could be made to the property.

Energy Efficient Improvement- Any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weather stripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost-effective pursuant to criteria established by the Authority, not including lighting measures or household appliances that are not permanently fixed to real property.

Qualified Property Owner-An owner of a residential or commercial real property located within the boundaries of the Town of Ossining that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth in this chapter.

Renewable Energy System- An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the Authority not including the combustion or pyrolysis of solid waste.

Renewable Energy System Feasibility Study- A written study, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of determining the feasibility of installing a renewable energy system.

3. Establishment of an Energize NY Benefit Financing Program

- a. An Energize NY Benefit Financing Program is hereby established by the Town of Ossining, whereby EIC acting on its behalf, may provide funds to Qualified Property Owners in accordance with the procedures set forth under this chapter, to finance the acquisition, construction and installation of Renewable Energy Systems and Energy Efficiency Improvements and the verification of the installation of such systems and improvements.
- b. The funds provided shall not exceed the lesser of ten percent of the appraised value of the real property where the Renewable Energy Systems and/or Energy Efficiency Improvements will be located, or the actual cost of installing the Renewable Energy Systems and/or Energy Efficiency Improvements, including the costs of necessary equipment, materials, and labor and the cost of verification of such systems and improvements.

4. Procedures for eligibility

- a. Any property owner in the Town of Ossining may submit application to EIC on such forms as have been prepared by the EIC and made available to property owners on the website of the EIC and at the Town of Ossining offices.
- b. Every application submitted by a property owner shall be reviewed by EIC acting on behalf of the Town of Ossining, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in subsection A of section 5 of this chapter. EIC may also request further information from the property owner where necessary to aid in its determination.
- c. If a positive determination on an application is made by EIC acting on behalf of the Town of Ossining, the property owner shall be deemed a Qualified Property Owner and shall be eligible participate in the Energize NY Benefit Financing Program in accordance with the procedure set forth under section 6 of this chapter; provided that in no case shall a property owner that has received funds from another municipal corporation for the acquisition, construction and installation of Energy Efficiency improvements and/or Renewable Energy System be deemed a Qualified Property Owner.

5. Application criteria

- a. Upon the submission of an application, EIC acting on behalf of the Town of Ossining, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:
 - i. The proposed Energy Efficiency Improvements and/or Renewable Energy Systems are determined to be cost effective by the Authority;

- ii. The proposed Energy Efficiency Improvements and/or Renewable Energy Systems will generate an estimated annual cost savings greater than the annual charge payments;
- iii. Sufficient funds are available to provide to the property owner;
- iv. The property owner is current in payments on any existing mortgage;
- v. The property owner is current in payments on any existing real property taxes and has been current on real property taxes for the previous three years; and
- vi. Such additional criteria, not inconsistent with the criteria set forth above, as the Town of Ossining, or EIC acting on its behalf, may set from time to time.

6. Opt-in, Energize Finance Agreement

- a. A Qualified Property Owner may participate in the Energize NY Benefit Financing Program through the execution of an Energize Finance Agreement made by and between the Qualified Property Owner and EIC acting on its behalf.
- b. Upon execution of the Energize Finance Agreement, the Qualified Property Owner shall be eligible to receive funds from EIC acting on behalf of the Town of Ossining, for the acquisition, construction, and installation of qualifying Renewable Energy Systems and Energy Efficiency Improvements; provided the requirements of section 7 of this chapter have been met.
- c. The Energize Finance Agreement shall include the terms and conditions of repayment set forth under section 8 of this chapter.

7. Energy Audit, renewable energy system feasibility study

- a. No funds shall be made available for Energy Efficiency Improvements unless determined to be appropriate through an Energy Audit as defined in Section 2.
- b. No funds shall be made available for a Renewable Energy System unless determined to be feasible through a Renewable Energy System Feasibility Study as defined in Section 2.
- c. The cost of such Energy Audit and/or Renewable Energy System Feasibility Study shall be borne solely by the property owner but may be included in the financed amount if the work is approved.

8. Terms and conditions of repayment

The Energize Finance Agreement between the Qualified Property Owner and EIC acting on behalf of the Town of Ossining, shall set forth the terms and conditions of repayment in accordance with the following:

- a. The principal amount of the funds paid to the Qualified Property Owner hereunder, together with the interest thereon, shall be paid by the property owner as a charge on their Town of Ossining tax bill and shall be levied and collected at the same time and in the same manner as Town of Ossining property taxes, provided that such charge shall be separately listed on the tax bill. The Town of Ossining shall make payment to EIC or its designee in the amount of all such separately listed charges within 30 days of the Town of Ossining tax due date.
- b. The term of such repayment shall be determined at the time the Energize Finance Agreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by the EIC acting on behalf of the Town of Ossining.

- c. The rate of interest for the charge shall be fixed by EIC acting on behalf of the Town of Ossining at the time the Energize Finance Agreement is executed by the property owner and EIC.
- d. The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

9. Verification and report

- a. EIC shall be responsible for verifying and reporting to the Town of Ossining on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by such program.
- b. The Town of Ossining shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Energize NY Benefit Financing Program in such form and manner as the Authority may establish.

Section 4: 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 5: 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 6: 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 7: 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 9: 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 9: 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 there from.

Section 10: 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.

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

V. CORRESPONDENCE TO BE RECEIVED AND FILED

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

Town Planning Board Meeting Minutes – October 10, 2012

Motion Carried: Unanimously

VI. MONTHLY REPORTS

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 accepts the monthly report for October 2012 from the following Town offices:

- Tax Receiver's Monthly Report
- Town Building Department
- GE Helicopter Report
- Town Building Department Report
- Town Clerk Monthly Report

Motion Carried: Unanimously

VII. VISITOR RECOGNITION

Andre LaMarre, Studio Hill Road, stated that the Town Hall Meeting was a very nice meeting which included representative from FEMA. Mr. LaMarre questioned what the qualifications are for a School Resource Officer (SRO) and requested a job description of this individual.

Supervisor Donnelly responded that they must take specific courses to qualify for this position. The question at this time is "who pays for this individual?"

Bobby Williams, Spring Street congratulated Mr. LaMarre on the success of his grandchildren in their scholastic achievements. He also enjoyed the Intel Celebration that took place at Market Square recently. He also extended his congratulations to the winners in this recent election.

VIII. ADJOURNMENT

At 7:57 P.M. Councilmember Tripodi moved and it was seconded by Councilmember Blaha that the meeting be adjourned.

Motion Carried: Unanimously

Approved:

Mary Ann Roberts, Town Clerk