



AGENDA
TOWN BOARD
TOWN OF OSSINING
APRIL 27, 2021
REGULAR MEETING
7:30 P.M.

THIS MEETING WILL BE HELD VIA VIDEO CONFERENCING ONLY
Pursuant to Governor's Executive Order 202.1 dated March 12, 2020

Members of the public can view the meeting via computer or mobile app:
<https://us02web.zoom.us/j/89010043608?pwd=bHpiYWE3ZG1HRG8veWUvZUtvY0h4Zz09>

Members of the public can listen to the meeting by dialing in via phone: +1 929 205 6099

Meeting ID: 890 1004 3608
Passcode: 993089

****Please note that by dialing in, your phone number will be visible to the host, participants, and attendees of the meeting.****

SUPERVISOR
Dana A. Levenberg

COUNCILMEMBERS
Elizabeth R. Feldman Gregory G. Meyer
Jackie G. Shaw Northern Wilcher, Jr.

- I. CALL TO ORDER-PLEDGE OF ALLEGIANCE-ROLL CALL**
- II. PUBLIC HEARING**
 - **Local Law 4-2021: Regulations for Boat Launch at Louis H. Engel, Jr. Park**
 - **Local Law 5-2021: Adding provisions for a local energy code under Chapter 63 (Building Construction) of the Town Code**
 - **Local Law 6-2021: Adopting a new Chapter 166 (Special Events, Parades and Public Gatherings) of the Town of Ossining Code**
- III. ADJOURN – WORK SESSION**
 - **Discussion – Tax Exemption of Properties Owned and Used by the Village of Ossining for Water Supply and Related Purposes**
- IV. ANNOUNCEMENTS**
- V. LIAISON REPORTS**
- VI. PUBLIC COMMENT ON AGENDA ITEMS**
- VII. BOARD RESOLUTIONS**
 - A. Approval of Minutes—Regular Meeting – April 13, 2021**

Resolved, that the Town Board of the Town of Ossining hereby approves the April 13, 2021 minutes of the Regular Meeting as presented.
 - B. Approval of Voucher Detail Report**

Resolved, that the Town Board of the Town of Ossining hereby approves the Voucher Detail Report dated April 27, 2021 in the amount of \$257,216.43

C. Call for Public Hearing: Community Development Block Grant 2022-2024 Application Cycle

Resolved, that the Town Board of the Town of Ossining hereby calls for a public hearing in the matter of the Town's applications to the Community Development Block Grant 2022-2024 Application Cycle as part of the Westchester County Urban County Consortium to be held at 7:30pm on Tuesday, May 11, 2021; and

Be it further Resolved, that pursuant to the Governor's Executive Orders 202.1 and 202.15, and subsequently extended, this public hearing will be held via videoconferencing only, with the information to participate in the public hearing to be duly noticed and circulated in accordance with the requirements for noticing public hearings.

D. Tax Payment Plan – 136 Cedar Lane

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 property at 136 Cedar Lane, Tax Parcel Designation ID# 80.18-2-20; 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 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.

E. Tax Payment Plan – 20 Maurice Avenue

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 property at 20 Maurice Avenue, Tax Parcel Designation ID# 97.7-7-9; 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 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.

F. Approval of Contract – Maltz Auctions, Inc.

Resolved, that the Town Board of the Town of Ossining authorizes the Supervisor to sign an agreement with Maltz Auctions, Inc., Central Islip, NY 11722 for services relating to auctioning real property following the issuance of foreclosure judgements in accordance with New York State Real Property Tax Law and Westchester County Tax Law authorizing the Town to acquire and/or sell certain real property.

G. Resolution – Adopting Local Law Amending Zoning Map Regarding Battery Energy Storage Systems

WHEREAS, an application was made by Borrego Solar Systems Inc. (the “Applicant”) to construct a standalone battery energy storage system that would be used to supplement power to the local power grid at peak hours by utilizing New York State’s Value of Distributed Energy Resources (VDER) mechanism (the “Proposed Project”), on property owned by the Archdiocese of New York (St. Augustine Church) located at 381 North Highland Avenue, Ossining, New York and shown on the Town of Ossining tax map as Section 81.18, Block 2, Lot 1 (the “Property”); and

WHEREAS, the Proposed Project is a Tier 2 Battery Energy Storage System as defined in Zoning Code § 200-53.A and subject to the regulations of Zoning Code § 200-31.4, which would require the Town Board to adopt a local law to amend the Town’s Zoning Map to include the Property in the Tier 2 battery energy storage system floating zone; and

WHEREAS, should the Town Board grant the above-referenced amendments to the Zoning Map, the Proposed Project will also require site plan approval and a conditional use permit from the Town of Ossining Planning Board (“Planning Board”); and

WHEREAS, the Applicant previously appeared before the Town Board at a work session to discuss the Proposed Project and provide additional information to the Town Board; and

WHEREAS, the Planning Board served as lead agency for a coordinated review pursuant to the State Environmental Quality Review Act, and at its meeting on March 17, 2021, the Planning Board adopted a Negative Declaration finding the Proposed Project does not have the potential for any significant adverse environmental impacts and also recommended approval of the floating zone by the Town Board in accordance with Zoning Code § 200-52; and

WHEREAS, the Town Board held a duly noticed public hearing at its regular meeting on Tuesday, April 13, 2021 via videoconferencing in accordance with the Governor's Executive Orders 202.1 and 202.15, as subsequently extended, and members of the public having the opportunity to attend and be heard, the public hearing was closed on April 13, 2021; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of Ossining for at least seven days, exclusive of Sunday, prior to the adoption of this resolution; and

NOW THEREFORE,

BE IT RESOLVED, the Town Board, after due deliberation, finds that it is in the best interest of the Town to adopt said local law, and the Town Board hereby adopts Local Law # __ of 2021 to amend the Zoning Map to apply the Tier 2 Battery Energy Storage System Floating Zone to the Property located at 381 North Highland Avenue, Ossining, New York for the purposes of the Proposed Project; and

BE IT FURTHER RESOLVED, in accordance with the Town's December 31, 2020 correspondence to the Applicant, the Applicant is hereby directed to contact the Supervisor's Office to discuss entering into a payment in lieu of taxes as authorized by NY Real Property Tax Law § 487 and a Building Permit shall not be issued for the Proposed Project until an agreement has been executed by the Town and the Applicant in furtherance of such; and

BE IT FURTHER RESOLVED, the Town Clerk is directed to enter said local law in the minutes of this meeting into the local law book for the Town of Ossining; to publish said minutes in a newspaper published in the town, if any, or in such newspaper published in the county in which such town may be located having a circulation in such town, and affidavits of said publication shall be filed with the Town Clerk; and to file a copy of said local law with the Secretary of State of New York.

H. Cabaret License – The Briarcliff Manor Restaurant & Catering Corp.

Whereas, The Briarcliff Manor Restaurant & Catering Corp. has filed an application for an annual Cabaret License for its leased property located at 25 Studio Hill Road, Briarcliff Manor, NY 10510; and

Whereas, the Town Board has reviewed the application and attachments thereto, as well as reports from involved departments, including the Police Department and Building Department; and

Whereas, as with its prior application, the Applicant is requesting to extend its hours of operation from 11 p.m. to midnight on Thursdays, where the Code permits indoor music until 11 p.m. on Thursdays, but gives the Town Board the discretion to extend the hours a cabaret may play indoor music beyond the times permitted in the Code when it is deemed appropriate and consistent with the public safety and welfare; and

WHEREAS, the Town Board held a duly noticed public hearing at its regular meeting on Tuesday, April 13, 2021 via videoconferencing in accordance with the Governor's Executive Orders 202.1 and 202.15, as subsequently extended, and members of the public having the opportunity to attend and be heard, the public hearing was closed on April 13, 2021; and

Now therefore,

Be It Resolved, that the Town Board of the Town of Ossining hereby approves the application of The Briarcliff Manor Restaurant & Catering Corp., 25 Studio Hill Road, Briarcliff Manor, in the Unincorporated Area of the Town of Ossining, for a Cabaret License to have a Bands/DJs with no more than 6 performers at one time on Sunday through Wednesday from 12:00 p.m. – 11:00 p.m. and Thursday through Saturday from 12:00 p.m. – 12:00 a.m., and

Be It Further Resolved, that the Town Board recognizes that in the past the Applicant has made various improvements to the property, both inside and outside, in order to reduce noise reaching the neighboring properties and that during the COVID-19 pandemic restaurants and event venues are struggling to stay in business with reduced customers and operational restrictions and are attempting to utilize outdoor spaces to accommodate their customers, ensure social distancing and reduce the risk of spreading the virus, and therefore the Board believes that so long as the Applicant complies with the conditions set forth below it is appropriate and consistent with the public safety and welfare to allow indoor amplified music until midnight on Thursdays, and

Be it Further Resolved, the Applicant's ability to play music until midnight on Thursday is conditioned upon there being no complaints from the public regarding this extended hour and if the Town receives complaints from the public related to the Applicant playing indoor music from 11 p.m. to midnight on Thursdays, the Applicant will have to appear before the Board to reconsider this extension; and

Be It Further Resolved, the Town Board hereby directs the Applicant to ensure strict adherence with all requirements of the Town Code and State Law, and specifically the Town Board determines it is necessary in order to protect the health, safety and welfare of the residents of the Town of Ossining to expressly condition this approval upon the Applicant's adherence with the following:

- The Applicant must ensure the back doors are kept closed at all times except when being used for ingress/egress
- The Applicant shall not play amplified music outdoors at any time
- The Applicant shall not use amplification of any kind outdoors at any time

Be It Further Resolved, if the Applicant fails to adhere to the conditions stated above, the Town Board reserves the right to take whatever action may be necessary and appropriate under the law; and

Be It Further Resolved, the Town Board reserves the right to revisit this application and its decision when the Applicant applies for its next annual cabaret license based upon the facts and circumstances presented to the Town Board in at that time and this decision shall not establish a precedent for this application or any other applicant seeking a cabaret license; and

Be It Further Resolved, the Town Clerk is hereby directed to send the Applicant a certified copy of this Resolution.

I. RESOLUTION – to exempt from Town taxes real property owned and used by the Village of Ossining for water supply

Whereas, pursuant to an inter-municipal agreement, the Village of Ossining provides residents of the unincorporated Town of Ossining with water utilizing the following parcels that contain the Indian Brook Reservoir, the existing water filtration plant and the location of the planned new water filtration plant, pumping facilities, water storage, appurtenant piping and watershed buffering lands, all of which are integral to the Village providing adequate water resources for drinking and fire protection:

- 80.11-1-66 (Old Albany Post Road)
- 80.14-2-11 (25 Fowler Avenue)
- 80.15-1-1 (25 Reservoir Road)
- 80.15-1-2 (Old Albany Post Road)
- 80.15-1-3 (Old Albany Post Road)
- 81.17-1-66 (13 Bracken Road)
- 80.11-1-67 (Waterview Drive)
- 90.10-3-37 (17 Cooper Drive)

(collectively referred to as the “Village Water Parcels”); and

Whereas, the Village Water Parcels are located in the Unincorporated Town of Ossining and are currently subject to real property taxation by the Town, the Ossining Union Free School District and the Ossining Public Library; and

Whereas, it is historically unclear why the Village Water Parcels are subject to real property taxation by the Town as the Village Water Parcels provide water to residents of the Unincorporated Town through one contiguous water system and it is common for municipal infrastructure and resources to be exempt from real property taxation and such exemption is authorized by State law, and in fact, the County of Westchester has already exempted the Village Water Parcels from County real property taxation; and

Whereas, the Village is in the process of constructing a new water filtration plant, which construction is necessary to meet long-term capacity and water

quality needs, including continuing to be able to provide residents of the unincorporated Town with water; and

Whereas, water rate payers, which include residents of the Town of Ossining and Village of Ossining, fund the costs related to the water filtration plant's operation and providing water to the rate payers, which costs include the real property taxes owed for the Village Water Parcels; and

Whereas, as a result of the construction of the new water filtration plant, the assessed value of the Village Water Parcels is expected to increase substantially, resulting in a much higher real property tax burden to be paid by the water rate payers; and

Whereas, based upon thorough research and analysis conducted by the Village of Ossining and presented to the Town Board at a work session in January 2021, with which the Town Board agrees, the costs to individual water rate payers will increase significantly to cover the increased real property taxes that will result from the increased assessed value of the Village Water Parcels once the new water filtration plant is constructed (average increase of approximately \$370/year/ratepayer), while exempting the improved water filtration plant property from real property taxation would result in a substantially lower increase to property owners' real property taxes to accommodate the budgets set by the taxing jurisdictions with no reduction in the budget (increase of approximately \$10-30/year/property owner for school district taxes, which are the majority of the Village Water Parcels taxes); and

Whereas, while the majority of the real property taxes on Village Water Parcels will be paid to the school district and the Town Board understands the school district is also considering exempting the Village Water Parcels from real property taxation, the Town of Ossining recognizes that it is in the best interest of the water rate payers for the Village Water Parcels to be exempt from all applicable real property taxes, including Town real property taxes; and

Whereas, the Town Board is authorized to exempt the Village Water Parcels from real property taxation pursuant to Real Property Tax Law §406(3), which provides in pertinent part, "real property owned by a municipal corporation having a population of less than one hundred thousand...used as a water plant, pumping station, water treatment plant, water shed or reservoir, including necessary connections and appurtenances shall be wholly or partially exempt from special ad valorem levies and special assessments, by any municipal corporation in which located, provided the governing board thereof shall so agree in writing"; and

Now Therefore,

Be It Resolved, that the Town Board of the Town of Ossining hereby adopts this resolution to express its written agreement that the Village Water Parcels enumerated above are hereby exempt from real property taxation by the Town of Ossining; and

Be It Further Resolved, that the Town Clerk shall transmit certified copies of this resolution to the Westchester County Department of Finance, the Town of Ossining Assessor, the Town of Ossining Receiver of Taxes, the Ossining

Union Free School District, the Ossining Public Library and the Village of Ossining Treasurer; and

Be It Further Resolved, that the Town of Ossining Assessor shall make appropriate notations in the respective tax assessment rolls that the Village Water Parcels are tax exempt as relate to the Town real property taxes; and

Be It Further Resolved, that the tax-exempt status of the Village Water Parcels with respect to Town real property taxes shall be effective April 27, 2021.

VIII. CORRESPONDENCE TO BE RECEIVED AND FILED

Resolved, that the Town Board of the Town of Ossining hereby accepts the following correspondence:

- **Town Planning Board Meeting – March 3, 2021**

IX. VISITOR RECOGNITION

Visitors shall be accorded one (1) four (4) minute opportunity to speak

X. ADJOURNMENT