

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

MARCH 25, 2014 7:30 P.M.

SUPERVISOR Susanne Donnelly

COUNCILMEMBERS

Geoffrey Harter Eric P. Blaha Kim L. Jeffrey 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 March 25, 2014 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, Kim L. Jeffrey and Northern Wilcher. Councilmember Eric Blaha arrived at 7:45 p.m. Also present were Town Attorney Wayne Spector, Budget Officer Madeline Zachacz and Town Clerk Mary Ann Roberts

II. Public Hearing in the matter of an Amendment to the 2014 Cabaret License for Maya Riviera.

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

No one came to speak at this Public Hearing.

At 7:32 P.M., Councilmember Wilcher moved and it was seconded by Councilmember Blaha that the Public Hearing be closed.

III. ANNOUNCEMENTS

Supervisor Donnelly read the following statement into the record:

Proposed 17/20 Annexation from the Town of Ossining to the Village of Briarcliff Manor

The Town of Ossining has committed to a policy of transparency regarding all issues, including the proposed annexation of Election Districts 17 and 20 from the Unincorporated Area to the Village of Briarcliff Manor. We have spent a great deal of time doing our due diligence, listening to the taxpayers (75-80 percent who spoke at meetings and/or wrote to the Town were <u>not</u> in favor of annexation) and evaluating the body of facts before us. We have studied the annexation law in great detail, and you can read our findings, as well as all the backup data, through the link below:

http://www.townofossining.com/j25/districts-17-20

Town concluded that it was not in the best interest of the residents of Districts 17/20, the rest of the Unincorporated Area, the Village of Briarcliff Manor or the Village of Ossining, for annexation to go forward.

Conversely, the Village of Briarcliff Manor performed their own analysis on the proposed request (which can be found on their web page), and concluded that annexation would be in the best interest of the community.

Village of Briarcliff Manor now has the option to take the matter to the appellate court. This process will cause the community to incur a variety of unbudgeted legal costs, as special counsel will have to be hired to represent both the Town of Ossining and the Village of Briarcliff in the proceedings. We cannot even begin to estimate these costs, but we have not yet heard from Briarcliff Manor as to whether they will plan to pursue this in the court. In the meanwhile, the Town will proactively begin the process of interviewing law firms to get estimates to see how this will impact our budget.

Revaluation of the Town of Ossining

Over the past two years, we have discussed the plan for a total revaluation of all Town properties – residential as well as commercial. We have spoken about it at many of our Town Hall Meetings and work sessions; we have even hosted speakers from New York State Office of Real Property Tax Services (ORPTS) who encourage all communities to undergo a "reval", so that all property owners are ensured a fair and equable assessment of their property, resulting in each owner only paying their fair share of taxes.

While there may be a shift in how some properties are valued, many people will find that their property taxes will not change drastically. We, as do other municipalities in Westchester, use equalization rates to account for the differences in value on today's tax roll. This is not a tax increase, but rather a revaluation to ensure that the municipalities, schools/library (Ossining) and Westchester County are distributing the tax burden of the fairly.

We have worked with both Villages and school systems on this project, and have actively kept them in the "loop" throughout the whole process. Everyone understands the importance of this process, as it is the only way to both slow and minimize the grieving of taxes, which result in large refunds, lost administrative time, and costs to borrow money to pay settlements.

The Town (not counting the Villages, Schools or Westchester County) has had to bond to pay the refunds. Looking at the chart below, you can plainly see how the Town would be best served by correcting this entire process and moving forward with an updated tax roll.

Year	Tax Certioraris \$	S	CARS\$	Total \$ paid out for Tax Certs and SCARS
2009	\$120,379.53	\$	184.18	\$120,563.71
2010	\$ 96,146.07	\$	29,759.53	\$125,905.60
2011	\$536,222.61	\$	34,941.91	\$571,164.52
2012	\$253,771.87	\$	2,676.15	\$256,448.02
2013	\$202,424.36	\$.00	\$202,424.36
	Total 5 years refunds:	:		\$1,276,506.21

Again, if you are concerned that your house or commercial property is incorrectly assessed, please call the Assessor's Office at (914) 762-8274. Home owners, you may see your mailboxes flooded with postcards and letters in the very near future (if they have not started already) from tax grievance companies. Don't forget, you always have the option of speaking with our Assessor instead, rather than paying these companies to simply have the conversation for you!

On April 15th, 2014, we will have our next Town Hall Meeting, and the company handling the project will be there to present a detailed overview of the project.

Just an example of the questions that will be answered:

- How does the process happen?
- What is the time frame of the project?

- Will my home or business be physically inspected?
- How do I ensure that I have the correct building permits/inspections for any work that I had done in the past?
- What are the costs associated with going to the Building Department(s) after I have done the work that required a permit?

We encourage as many people as possible to come, but we do realize that April 15th is Passover, and there are other community events taking place that day. If you're not available, we will repeat this "Kickoff Meeting" in the near future, as well as arrange meetings in other venues, such as neighborhood/condo meetings. Clubs, religious organizations, social groups, safety net organizations, and condo and Home Owner Associations, do you want to schedule a meeting with the Assessor, Town Board Representative and Tyler Technologies? Please call the Supervisor's Office at (914) 762-6001 or email me at sSDonelly@townofossining.com.

The PILOT at Harbor Square

There will be a Westchester County IDA public hearing on Monday, April 7th at 11:00 A.M. at the Joseph G Caputo Community Center concerning the PILOT for the Harbor Square Project.

It is interesting that last night there was an Ossining Chamber of Commerce Meeting where Jim Coleman spoke about many programs Westchester County offers including the Industrial Development Agency which is the Agency that approves or disapproves PILOTs. Nowhere in there documentation does it say anything about residential buildings being part of a PILOT.

As you may know, the Town of Ossining said NO to the PILOT, but it appears it will move forward for the Village of Ossining, Ossining School District and the Ossining Public Library, as well as Westchester County.

I know I will be there at the public hearing on April 7th and I will speak because the Town feels that PILOTs should be employed for commercial properties bringing jobs into the community and who demonstrate hardship, and not to enhance the profits of a developer.

Our statement from our December 2013 Supervisor's Update was and will always remain:

"The Town has passed a resolution objecting to the proposed PILOT for Harbor Square. After extensive review, we have determined that it is not in the best interest of the community to allow this PILOT to go through. At the December 10th, 2013 meeting of the Town Board when this resolution was on the agenda, I read the following statement on behalf of most of the Town Board:

'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. We 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. This Board feels 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, and 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."

IV. PUBLIC COMMENT ON AGENDA ITEMS

V. BOARD RESOLUTIONS

A. Approval of Minutes

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 approves the March 11, 2014, 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 Jeffrey that the following be approved:

Resolved, that the Town Board of the Town of Ossining hereby approves the March 18, 2014, Minutes of the Special Meeting as presented.

Motion Carried: Unanimously

C. 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 March 25, 2014 in the amount of \$39,117.91 for 2013 and \$382,827.18 for 2014. Grand total of \$421,945.09

Motion Carried: Unanimously

D. Calling for a Public Hearing in the matter of Cablevision Contract

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 calls for a Public Hearing to be held on Tuesday, April 8, 2014 at 7:30 p.m. in the Police/Court facility, 86-88 Spring Street in Ossining, in the matter of the Cablevision Contract.

Motion Carried: Unanimously

E. Tax Payment Plan

Councilmember Wilcher moved and it was seconded by Councilmember Jeffrey 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 a property owner requesting a short-term payment plan for the owner occupied property at Ellis Place; and

Whereas the Town Board occasionally grants such a plan and has the discretion to accept or reject any 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

F. Tax Payment Plan

Councilmember Harter 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 the School District for any uncollected taxes; and

Whereas, the Receiver of Taxes has been approached by an organization requesting a short-term payment plan for the building known as the Ossining Moose Lodge 1460 at 37 Croton Avenue, owned by the Loyal Order of the Moose; and

Whereas the Town Board occasionally grants such a plan and has the discretion to accept or reject any 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. Taxes-In Rem Foreclosure-Re-appointment

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

Resolved, that the Town Board of the Town of Ossining hereby appoints Mark S. Tulis, Esq. of Oxman, Tulis, Kirkpatrick, Whyatt & Geiger LLP, 120 Bloomingdale Road, White Plains, New York as Special Counsel to conduct In Rem foreclosure proceedings upon its tax liens appearing in the 2013 list of delinquent taxes as to which payment has not been made. Compensation to Mr. Tulis shall be in accordance with his letter to the Town of Ossining dated March 17th, 2014.

Motion Carried: Unanimously

H. Taxes-Foreclosure 2013 Title Search

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 authorizes Robin Goldsand of the RG Agency to perform the title and lien searches required in connection with the 2013 list of delinquent taxes in preparation for In Rem foreclosure proceedings at a fee of \$200 per parcel.

Motion Carried: Unanimously

TAX CERTIORARI

Seashell Realty 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 Seashell Realty LLC against the Town of Ossining, to review the tax assessments made on Petitioner's property located at 70 Spring Street, Town of Ossining, and designated on the tax assessment map of the Town of Ossining as Section 97.07-3-72 for Tax Assessment Years 2012 and 2013, which proceedings are now pending in the Supreme Court of the State of New York, County of Westchester, under Index Nos.67065/2012 and 66612/2013; 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	Current Assessment	Proposed Assessment	Reduction
2012	67,800	64,470	3,330
2013-	67,800	64,470	3,330

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 \$ 103.61 , which will be ordered pursuant to said Consent Judgment.

Motion Carried: Unanimously

J. <u>TAX CERTIORARI</u>

Seashell Realty 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 Seashell Realty LLC against the Town of Ossining, to review the tax assessments made on Petitioner's property located at 80 Spring Street, Town of Ossining, and designated on the tax assessment map of the Town of Ossining as Section 97.07-3-73 for Tax Assessment Years 2012 and 2013, which proceedings are now pending in the Supreme Court of the State of New York, County of Westchester, under Index Nos.67067/2012 and 66611/2013; 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	Current Assessment	Proposed Assessment	Reduction
2012	67,800	64,470	3,330
2013	67,800	64,470	3,330

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 \$ 103.61 , which will be ordered pursuant to said Consent Judgment.

Motion Carried: Unanimously

K. Award for Bid for Sail Boat

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 accepts the Bid from William Farrell in the amount of \$200 for the Oday sail boat, registration number DN203026.

Motion Carried: Unanimously

L. Personnel- Parks Department- Temporary Appointment

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 appoints Ramel Dubois, Ossining, to the temporary position of Laborer in the Town Parks Department effective April 1st, 2014 at a rate of \$8.25 per hour.

Motion Carried: Unanimously

M. Personnel- Parks Department- Temporary Appointment

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

Resolved, that the Town Board of the Town of Ossining hereby appoints Shamel Edwards, Ossining, to the temporary position of Laborer in the Town Parks Department effective April 1st, 2014 at a rate of \$8.25 per hour.

Motion Carried: Unanimously

N.

TAX CERTIORARI

Arthur Malsin, Jr. vs. Town Of Ossining

Councilmember Blaha moved and it was seconded by Councilmember Jeffrey 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 Arthur Malsin, Jr. against the Town of Ossining, to review the tax assessments made on Petitioner's property located at 1181 Pleasantville Road, Village of Briarcliff Manor, Town of Ossining, and designated on the tax assessment map of the Town of Ossining as Section 98.10-1-67 for Tax Assessment Years 2010, 2011, 2012, and 2013, which proceedings are now pending in the Supreme Court of the State of New York, County of Westchester, under Index Nos.25039-10; 15892-11; 65165-12, and 64503-13; and

WHEREAS, the above Petitioner has agreed to a compromise and settlement of proceedings, subject to the approval of the Town Board, correcting and reducing the assessed valuation of its real property and improvements, as follows:

Assessment Years 2010 thru 2013

Total Assessment:

\$38,500

be and the said assessments are hereby corrected and reduced to the following amounts:

Assessment Year	Tax Year	Total Current Assessment	-Reduction in Assessment	Proposed New Assessment
2010	2011	38,500	5,400	33,100
2.011	2012	38,500	5,400	33,100
2012	2013	38,500	4,235	34,265
2013	2014	38,500	4,235	34,265

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 \$ 218.75 , which will be ordered pursuant to said Consent Judgment.

Motion Carried: Unanimously

O. Appointment- Board of Assessment Review

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 appoints Paul Mazzilli, Ossining, to the Town of Ossining Board of Assessment Review to serve a five year term, set to expire on September 30th, 2018.

Motion Carried: 4-1-0 Ayes: Blaha, Wilcher, Harter & Donnelly Abstain: Jeffrey

P. Appointment- Board of Assessment Review

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

Resolved, that the Town Board of the Town of Ossining hereby appoints Gregory Kane, Ossining, to the Town of Ossining Board of Assessment Review to serve a five year term, set to expire on September 30th, 2018.

Motion Carried: 4-1-0 Ayes: Blaha, Wilcher, Harter & Donnelly Abstain: Jeffrey

- VI. CORRESPONDENCE TO BE RECEIVED AND FILED
- VII. MONTHLY REPORTS
- VIII. VISITOR RECOGNITION

Bobby Williams, Spring Street, stated that he has been away from meetings for over 2 years due to his participation in the Grand Jury. He has since retired from Hendrick Hudson School District.

IX. ADJOURNMENT

At 8:03 P.M. Councilmember Harter moved and it was seconded by Councilmember Jeffrey that the meeting be adjourned.

	Motion Carried: Unanimously	
Approved:		
••	Mary Ann Roberts, Town Clerk	