

**IN THE MATTER OF THE PETITION OF
OWNERS OF PROPERTY WITHIN
ELECTION DISTRICTS 17 AND 20 IN THE
UNINCORPORATED TOWN OF OSSINING
BY THE VILLAGE OF BRIARCLIFF MANOR**



**FINDINGS, RESOLUTIONS AND ORDER
OF THE VILLAGE OF BRIARCLIFF MANOR PURSUANT TO
ARTICLE 17 OF THE NEW YORK STATE
GENERAL MUNICIPAL LAW**

A Petition (the "Petition") having been filed by owners of real property in Election Districts 17 and 20 of the Town of Ossining (hereinafter referred to as the "17/20 Area") for the annexation of certain property in the Town of Ossining to the Village of Briarcliff Manor, a joint public hearing of the governing Boards of the Town of Ossining and the Village of Briarcliff Manor having been held on December 12, 2013, in accordance with Section 705 of the General Municipal Law of the State of New York, the Board of Trustees of the Village of Briarcliff Manor hereby makes the following findings and thereupon adopts the following resolutions and order based upon such findings, all in accordance with Section 711 of the General Municipal Law of the State of New York:

FINDINGS

1. The Petition for Annexation was filed in the office of the Village Clerk of the Village of Briarcliff Manor and the office of the Town Clerk of the Town of Ossining on October 16, 2013. A copy of narrative portion of the Petition without signatures is attached hereto as Exhibit A and a complete list of the properties proposed for annexation is attached hereto as Exhibit B. Said properties are comprised of all property within the 17/20 Area of the unincorporated portion of the Town of Ossining. The petition contains 285 signatures of the electors of the 17/20 Area, which is in excess of the 20% of the approximately 1,100 registered voters in the 17/20 Area as required for a valid Petition for Annexation under Section 703 of the General Municipal Law.

2. Pursuant to the provisions of Section 704 of the General Municipal Law of the State of New York (hereinafter the "General Municipal Law" or "GML"), the Village of Briarcliff Manor ("Village") and the Town of Ossining ("Town") together jointly caused notice of the required joint public hearing on the Petition to be published in the Journal News, the official newspaper of the Village and Town on November 8, 2013.
3. Notice of the joint public hearing was duly posted by the Village on November 7, 2013.
4. On or about November 7, 2013, the Village and Town jointly caused a copy of the notice of joint public hearing to be mailed to all persons residing within the 17/20 Area, qualified to vote for officers of the Town as their names appear upon the register of voters for the last preceding general election, which includes the Petitioners who have signed the Petition.
5. The joint public hearing of the Village of Briarcliff Manor Board of Trustees and the Town of Ossining Town Board, as the two governing boards of the involved municipalities, was held at the Anne E. Dorner School Auditorium on December 12, 2013, in accordance with the notices as published, posted and mailed.
6. In attendance at the joint hearing were (i) the Deputy Mayor and three Trustees of the Village, the Village Manager, the Village Treasurer and the Attorney for the Village; and (ii) the Town Supervisor and the four members of the Town Board and the Attorney for the Town.
7. The Supervisor of the Town presided as the Chair at the hearing by agreement of the members of the participating Boards.
8. Comments were received from various members of the public in attendance at the joint public hearing, including residents of the Town (including those residing within the territory proposed to be annexed and those residing outside of the proposed are to be annexed), and residents of the Village. Officials of both the Village and Town offered comment as well. All of the persons who spoke raised questions, comments, concerns and issues as set forth in the stenographic record of the proceedings attached hereto as Exhibit C.

9. The Chair confirmed at the outset of the joint public hearing that (i) the required notices of public hearing for the Village had been published in a timely fashion as indicated above, (ii) the hearing was being held within the time period required, and (iii) that the mailing of notices to the Petitioners and all residents of the territory proposed to be annexed had been accomplished as required.

10. At the Joint Public Hearing, one of the Petitioners, Mr. Ken Godfrey of Ridgeway Drive, Ossining, New York, a resident elector of the 17/20 Area, spoke on behalf of the Petitioners. Mr. Godfrey summarized the following as among the reasons the Petitioners are seeking the annexation of the 17/20 Area to the Village:

“Number one, we'll have access to both of the top tier recreational facilities of the town and the village, that should alone increase the value of our properties.

Number 2, we'll have our own local police department again, correcting the egregious error in judgment by the previous town board. In the meantime while the Westchester Police Department have been fine, is not the same as having our own community police department.

Number three, we would like to be better represented in our local municipality than we have been for the last twenty years when we've had a town board consisting overwhelmingly of Village of Ossining residents which as been literal expense of the Town Outside residents.

Number four, though recently, there has been improvement in the town government, some actions, such as the terms of the sale of the police station and the recent effort to oust our long time and effective highway supervisor, still makes us uncomfortable with some of the town's decision making.

Number 5, in fact we prefer the government model in the Village of Briarcliff where there are no political parties and where the mayor and trustees serve without pay or benefits, they are volunteers serving their community.

Number 6, finally the most recent data that we have seen shows that because Briarcliff has a lower operating budget, we can expect a reduction of more than 20 percent in the non-school portion of our local taxes. That is a big one.

It is our position that no one in the Town of Ossining should be adversely affected by the annexation of one part of Ossining to another part of Ossining. Village of Briarcliff Manor will cover most, if not all of our services, leaving the town free to negotiate lower cost contracts, either with the village or with private contractors, for the remaining part of the Town Outside that they would still need to cover. Contracting with neighboring municipalities to provide services through Inter-municipal agreements or (IMAs) is common but rarely as cost effective as having a municipality provide its own services in the case where that is possible. Briarcliff provides most services itself and would continue to do so

after annexation. So, this would simplify the intricate web of IMAs between the town and its two villages and we believe lower costs overall for everyone.”

See, Exhibit C., pp 15 – 20.

11. The Village Manager and the Town Attorney each provided their respective positions relative to the Annexation at the Joint Public Hearing and public comment was received as set forth in Exhibit C.

12. The Joint Public Hearing was closed on December 12, 2013, although the Boards agreed to accept and share written comments on the subject of annexation of the 17/20 Area through and including January 15, 2014.

13. The Attorney for the Village has advised the Village Board of Trustees as to his review of the Petition and his determination that the Petition appears to be compliant with the spirit and substance of Section 703 of the General Municipal Law. Accordingly, the Village hereby determines that the Petition substantially complies in form and content with the provisions of Article 17 of the General Municipal Law, and specifically finds that (i) the Petition appears to have been properly signed by at least twenty (20%) per centum of the persons residing in the 17/20 Area who are qualified to vote for officers of the Town as provided by Section 703 of the General Municipal Law of the State of New York who are thereby fully qualified as the signatories of the Petition; (ii) the Petition has attached thereto the required certificate of the Westchester County Board of Election certifying the foregoing; and (iii) the signatures on the Petition appear to have been properly authenticated as required.

14. The Town Board, as the lead agency for the environmental review of this action, and in accordance with Article 8 of the New York State Environmental Conservation Law - the State Environmental Quality Review Act (“SEQR”), reviewed (i) the potential adverse environmental effects, if any, related to the proposed annexation and (ii) the Town Board’s review of the proposed annexation under SEQR. On March 4, 2014, the Town Board adopted a negative determination of environmental significance (“Negative Declaration”) in accordance with SEQRA for the proposed annexation, and determined that an Environmental Impact Statement was not required. A copy of the Town Board’s Negative Declaration form is attached hereto as Exhibit D. As an involved agency, the Village Board of Trustees hereby accepts and adopts the Town’s Negative Declaration.

15. To the extent applicable to the Village, as the municipal entity in which the 17/20 Area is proposed to be annexed, the Village acknowledges that it will be bound by (i) the provisions of subdivision 1 of Section 707 of the General Municipal Law as to the disposition of real and personal property, if any, owned by the Town, and (ii) the provisions of subdivision 1 of Section 708 of the General Municipal Law as to the assumption by the Village of its apportioned share of indebtedness and/or contract or other liabilities, if any, for which the Town is liable. To the best of the Village's knowledge, no agreements have been entered into by and between the Village and the Town related to the foregoing matters, except that the Village currently provides fire protection services to the area to be annexed pursuant to contract with the Town.

16. During the Joint Public Hearing, the Village Manager made a presentation, based upon a report prepared by the Village Manager, the Village Treasurer and the Village Attorney, dated December 12, 2013. (See, Exhibit C, pp. 21 - 40). Subsequent to the Joint Public Hearing, the Village Manager has updated said report, most recently on March 6, 2014, and delivered same to the Village Board of Trustees, the facts, analyses, assumptions and conclusions of which are hereby adopted by the Village Board of Trustees and incorporated herein, said report being annexed hereto and made a part hereof as Exhibit E (the "Village Manager's Annexation Analysis"). The Village Manager's Annexation Analysis was further supplemented by the 1720 Annexation Summary – Memorandum to the Mayor and Board of Trustees last revised February 27, 2014, prepared by the Village Manager, Village Treasurer and Village Attorney, a copy of which is annexed hereto and made a part hereof as Exhibit F (the "Village's Annexation Summary.").

17. In considering the proposed annexation of the 17/20 Area, the Village and Town must determine whether the proposed annexation is in the over-all public interest of the 17/20 Area, the Village, the Town and certain statutorily referenced districts. GML § 705(1)(c). In light of the foregoing, and all of the information duly provided and considered, the Village Board of Trustees hereby makes the following specific findings and determination in accordance with Section 711 of the General Municipal Law of the State of New York that the proposed annexation of the 17/20 Area is in the overall public interest:

A. The 17/20 Area is situated in an area of the Town which is adjacent to the Village and, in large measure, is fully developed with residential and commercial premises. Future development within this area would be extremely limited.

B. The 17/20 Area currently benefits from its proximity to the downtown central business district of the Village, which provides access to local retail, service and restaurant uses for the residents and business owners, while there is no such area in the unincorporated Town. This has demonstrated a strong cultural identity with the Village and a unity of purpose.

C. Property owners in the 17/20 Area pay for municipal services through a combination of assessments and charges by the Town and are located in seven (7) Town taxing districts through which certain services are provided by the Town through a series of intermunicipal agreements ("IMAs") and/or service contracts.

(i) Town-wide Water District. The Ossining Town-wide Water District provides water service to all properties in the Town of Ossining, outside the Village of Briarcliff Manor. This service is provided specifically to the unincorporated Town of Ossining and the Village of Ossining. Water is provided through an IMA with the Village of Ossining and properties within the 17/20 Area pay for water service through a combination of assessment and water charges. If the proposed annexation is approved, the 17/20 Area would continue to receive water service in this manner. The Village would not undertake to extend its own water system to service the 17/20 Area. While a component of the Village's unified tax covers water service, the 17/20 Area would not be subject to additional water charges.

(ii) Consolidated Sewer District. This is a Town-wide County district which assesses all properties in the Town of Ossining including the Village of Briarcliff Manor. The Town currently contracts with the Village of Ossining to provide such sewer service. This District will continue to serve the 17/20 Area if the annexation is approved. There will be no change in service or charge to the 17/20 Area.

(ii) North State Road Sewer District. The Town currently contracts with the Village of Ossining to provide sewer service to this limited sewer district which serves a finite number of commercial and residential properties located within the North State Road Corridor. While this area is included in the 17/20 Area, it will remain subject to the assessment and charges of the District as administered by the Town.

(iii) Lighting District. The Town currently contracts with the Village of Ossining to provide street lighting services to the 17/20 Area. In accordance with GML Section 707, upon approval of the annexation, the Village will take over the Town's lighting district facilities located within the 17/20 Area and undertake responsibility for maintenance and operation of such facilities. The Village will also take on the proportionate share of any existing debt of the lighting district as the 17/20 Area bears to the remainder of the unincorporated portion of the Town. Of course, the Town and Village may agree to apply the Town's existing fund balance for this district to retire a portion of this debt.

(iv) Fire Protection District. The Town currently contracts with both the Village of Ossining and the Village of Briarcliff Manor to provide fire protection services to the unincorporated portion of the Town, with the majority of the 17/20 Area served by the Village of Briarcliff Manor. Upon renewal, such contract will only serve those other areas, with services to the 17/20 Area falling under the Village's direct fire protection service.

(v) Refuse and Garbage District. The residential properties within the 17/20 Area are currently served by a private carting company pursuant to contract with the Town dated December 24, 2012, with one year renewals through the end of 2017. It is intended that at the end of the year in which the annexation is approved, that the contract would be amended to discontinue service to the 17/20 Area, as refuse and sanitation services will be provided by the Village directly utilizing Village equipment and personnel. This should result in an overall savings to the Town under the contract, or pursuant to an RFP for a new provider for the balance of the unincorporated Town.

(vi) Ambulance District. The 17/20 Area is currently served by the Ossining Volunteer Ambulance Corp. (OVAC) pursuant to contract with the Town which covers the balance of the unincorporated Town as well. It is expected that this service will continue after annexation. However, the Village also pays OVAC for ambulance service. As a result of annexation, the charge to the Village will increase, but as allocated Village-wide, the charges to 17/20 would decrease, and represent an almost imperceptible increase to the current Village residents.

(vii) Highway Department. The Town currently contracts with the Village of Ossining to provide highway maintenance services to the 17/20 Area.

D. In 2011, the Town dissolved its Police Department in a consolidation effort with Westchester County and since that time, the County has provided police protection services to the 17/20 Area of the Town pursuant to an IMA which expires imminently. The Town has recently issued a Request for Proposals for police protection services in the Town and expects that the Village of Ossining

will take over this service. Upon annexation, the Village of Briarcliff Manor will provide police protection service to the 17/20 Area.

E. In addition to the above district services and Police contract, the Town has nine (9) additional IMAs in place with the Village of Ossining, under which the Village of Ossining provides the following services to the Town for the benefit of its unincorporated residents and property owners, including those in the 17/20 Area: (i) Engineering, (ii) Finance, (iii) Town Clerk, (iv) Justice Court, (v) Veteran's Park, (vi) Recreation Functions, (vii) Operations Center, (viii) Cable Television Studio, and (ix) Yard Waste Site.

F. The Village Manager's Annexation Analysis provides a concise summary of the services provided to current property owners in the Village under the Village Tax and how such services are currently provided by the Town to the 17/20 Area. See, Exhibit E, pp. 10 and 11. In addition to the above enumerated services, the Village Manager's Annexation Analysis all provides a summary of the Village's Parks and Recreation facilities and programs, the Village Public Library/Community Center and the Village's Railroad Station Parking Fees/Rates, all of which will become benefits to the 17/20 Area upon approval of the annexation. See, Exhibit E, pp. 11-13.

G. The overarching directive of the Municipal Annexation Law (GML Article 17) is that the competing municipalities enter into agreements that are both mutually beneficial to them, and fair and reasonable for the area to be annexed. The Village has calculated that the provision of all of services, other than public water and sewer as noted above, that are currently available (some at increased costs -- i.e., at costs higher than those charged to Village residents) will in all likelihood continue to be available from the Village if the 17/20 Area was to be annexed as proposed, presumably at a lower cost than now charged to the residents of that area. Additionally, the provision of such services to the 17/20 Area, if annexed, will improve upon the current unity of purpose, facilities and community that exists in the area. Annexation will (i) enhance the provision of services to the 17/20 Area; (ii) better coordinate the delivery of municipal services; (iii) provide a more cost effective way to maintain and extend such services by spreading such cost over a larger number of residents and taxpayers with the Village; and (iv) promote what hopefully will be new intermunicipal cooperative efforts between the Village and the Town (including long-term planning with respect to municipal services). At the Joint Public Hearing, the Town Attorney postulated that annexation of the 17/20 Area by the Village will result in "double taxation" for single services (ie. that the 17/20 Area residents will continue to be assessed in the aforementioned districts for services which are already included the Village's unified tax. The Town

Attorney relies on GML Section 716 which provides that annexation does not change the boundaries of town special or improvement district or fire protection district. While we agree that the law is accurately stated, the potential for "double taxation" lies wholly with the Town. Assuming the instant annexation proceeds apace, then the Town will be renewing contracts or entering into new contracts based upon the physical boundaries of the existing districts. Therefore, as the 17/20 Area will already be part of the Village and no longer in the unincorporated Town, it will be up to the Town to not include the properties of the 17/20 Area within its renewed IMAs and contracts, lest it be subjecting these Village properties to double taxation. The Town Attorney wholly ignores the ability, indeed the statutory directive, for the Town and Village to enter into agreements relative to these district/service issues, he ignores both GML Section Article 17-A which provides a statutory mechanism for the dissolution of special districts and Town Law Section 202-c which provides, not only for dissolution of special districts, but diminishment of same. Both provisions of law may be implemented by the Town Board upon its own petition, or upon the petition of 10% of electors in the specific district sought to be dissolved or diminished. As noted above, this would only be relevant to lighting, fire protection, refuse and garbage, police and highway districts.

H. In adopting the Village Manager's Annexation Analysis, the Village Board of Trustees takes special notice of the section analyzing the tax revenue impact by the involved municipalities. Pages 14 through 23 of Exhibit E, significantly support the following conclusions which are worth reiterating:

(i) Approval of annexation in the instant proceeding will provide significant cost savings to the 17/20 Area for like, if not enhanced municipal-based services that Village residents currently enjoy on an equal basis.

(ii) Services to be undertaken by the Village for the benefit of the 17/20 Area will be provided directly by the Village, by the use of Village employees and will be more efficient both as to service and by direct responsibility of departments and personnel.

(iii) The elimination or reduction of the contracts serving the Town districts currently serving the 17/20 Area for services which the Village will provide upon annexation is a positive on a cost/benefit analysis since the Village functions on a consolidated operation and financial basis.

(iv) The cost benefit to the Town is enhanced by the fact that the Village will be absorbing various charges that are currently attributable to the 17/20 Area with no additional burden to the remaining Town residents. The sizable number of IMAs and contracts are subject to renewal and

unit/service priced and can be adjusted. This together with the fact that all reserves and fund balances remain with the Town provides a significant economic boost to the balance of the unincorporated Town.

(v) There will very likely be long term financial benefits to the Village, including increased revenues and increased assessment valuations for the annexed property and additional properties adjacent thereto. It is recognized that the accomplishment of such long-term benefits will be preceded by what are likely to be short-term reductions in revenues, particularly reductions related to the elimination of the higher rates currently charged for services provided to parties outside of the Village boundaries.

I. Based on the available information and as demonstrated in the Village Manager's Annexation Analysis (Exhibit E) and the Village Annexation Summary (Exhibit F), it appears that

(i) Approval of the Annexation of the 17/20 Area will result in a reduction of taxes to residential property owners in the 17/20 Area; and

(ii) Approval of the Annexation of the 17/20 Area will not result in an increase of taxes to existing residents of the Village, but rather, a modest reduction in taxes for such residents; and

(iii) On the basis of economies of scale, we do not believe that the Town will be able to confirm any significant post-annexation increase in taxes to a typical resident of the unincorporated Town.

J. The annexation provides the opportunity for the residents in the 17/20 Area to have greater representation on the local level by now being able to participate in Village elections.

K. Upon careful review and evaluation, it is hereby determined that the potential benefits of the proposed annexation as provided herein are likely to outweigh any potential detriments to the Town of Ossining or which the Village may not have anticipated. The Village also finds that ~~with~~ the strategic inclusion of the 17/20 Area, can and very likely will achieve the benefits of annexation while at the same time accomplishing the requisite unity of purpose and facilities to constitute a community and maintaining the core nature of the Village.

RESOLUTIONS

NOW, THEREFORE, based upon all of the foregoing findings, upon motion of Trustee Sullivan, as seconded by Trustee Murray, it is hereby:

RESOLVED, that Petitioners' Petition substantially complies in form and content with Article 17 of the General Municipal Law; and it is further

RESOLVED, that the proposed annexation described in said Petition is hereby deemed to be in the overall public interest; and it is further

RESOLVED, that the proposed annexation as described in said Petition is hereby approved by the Village Board of Trustees.






VOTE:	Mayor Vescio	<u>Aye</u>
	Trustee Sullivan	<u>Aye</u>
	Trustee Wilson	<u>Aye</u>
	Trustee Pohar	<u>Aye</u>
	Trustee Murray	<u>Aye</u>

Motion passed 3-11-14
[Signature]
Village Clerk

ORDER

HEREBY ORDERED, that copies of the foregoing findings, resolutions and determinations set forth therein, all of which are hereby incorporated by reference into this Order, together with the Petition, notice of public hearing, written objections, if any, and testimony and minutes of proceedings taken and kept on the hearing, be filed in the offices of the clerks of the Village and Town as the affected local governments.

Dated: March 11, 2014

	Mayor William Vescio
	Trustee Lori Sullivan
	Trustee Mark Wilson
	Trustee Mark Pohar
	Trustee Robert Murray