

EXHIBIT C

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JOINT PUBLIC HEARING
OF
VILLAGE OF BRIARCLIFF MANOR/TOWN OF OSSINING
17/20 ANNEXATION PETITION

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December 12, 2013
100 Van Cortlandt Avenue
Ossining, New York 10562
7:00 p.m.

P U B L I C H E A R I N G

PATCHEN STENO SERVICES, LLC.
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ORIGINAL

A P P E A R A N C E S:

VILLAGE OF BRIARCLIFF MANOR

LORI SULLIVAN- DEPUTY MAYOR

MARK WILSON- TRUSTEE

MARK POHAR-TRUSTEE

ROBERT MURRAY- TRUSTEE

PHILIP ZEGARELLI- VILLAGE ADMINISTRATOR

ROBIN RIZZO- VILLAGE TREASURER

DANIEL POZIN, ESQ., VILLAGE ATTORNEY

TOWN OF OSSINING

SUE DONNELLY- SUPERVISOR

GEOFFREY J. HARTER-DEPUTY SUPERVISOR

ERIC BLAHA-COUNCILMAN

PETER TRIPODI-COUNCILMAN

NATHAN WILCHEN, JR., COUNCILMAN

GEOFFREY J. HARTER, COUNCILMAN

WAYNE SPECTOR, ESQ., VILLAGE ATTORNEY

1 MS. DONNELLY: Good evening. I
2 would like to welcome you all to the Joint
3 Hearing of the Village of Briarcliff Manor
4 and the Town of Ossining 17/20 Annexation
5 Petition, Public Hearing. I would like you
6 all to stand for the Pledge of Allegiance.

7 MR. HARTER: I request that the
8 Board entertain a motion to allow Madame
9 Supervisor Susan Donnelly to act as
10 presiding individual in this hearing. Can
11 I have a second?

12 MR. TRIPODI: Second.

13 MR. HARTER: All voted in favor.

14 (Whereupon the boards unanimously
15 voted in favor.)

16 MS. DONNELLY: I think at this time
17 we will start with the introductions
18 tonight of the two boards that are here.

19 I am Sue Donnelly and I am the Town
20 Supervisor of the Town of Ossining. We
21 have Geff Harter, who is the Deputy
22 Supervisor of the Town of Ossining. We
23 have Eric Blaha, Councilman, Peter Tripodi,
24 Councilman and Nathan Wilcher, Councilman
25 and Wayne Spector is our counsel this

1 evening.

2 I would like to introduce the Lori
3 Sullivan Deputy Mayor of the Village of
4 Briarcliff.

5 MS. SULLIVAN: Good Evening,
6 everybody. I am Lori Sullivan, the Deputy
7 Mayor of the Village of Briarcliff Manor.
8 With me here tonight on behalf of
9 Briarcliff is Trustee Mark Pohar, Trustee
10 Robert Murray, Village Administrator Philip
11 Zegarelli, Village Treasurer Robin Rizzo
12 and Village Counsel Daniel Pozin. I would
13 like everyone to excuse Mark Pohar, he is
14 standing, as he threw his back out last
15 night.

16 MS. DONNELLY: We have a printed
17 agenda you can pick up in the back of the
18 room. We are going to start by opening up
19 the public hearing.

20 This is done a little bit different
21 than other public hearings that is we are
22 following all of the rules and regulations
23 of an annexation public hearing.

24 We are going to start this evening
25 by having the town and village counsels

1 give a general explanation with the process
2 with a step-by-step PowerPoint presentation
3 and to explain what documents have been
4 done so far. Dan Pozin and Wayne Spector,
5 thank you.

6 MR. SPECTOR: Good evening
7 everybody, my name is Wayne Spector, I am
8 the Town Attorney for the Town of Ossining.
9 I am going to just take a few minutes to
10 give you some technical details regarding
11 the annexation process. They are going to
12 be discussed several times tonight.

13 However, we have prepared a
14 PowerPoint display which we will go over
15 the steps that govern the process which is
16 governed by state law.

17 It is the General Municipal Law,
18 Article 17, which governs municipalities
19 annexing other areas of neighboring
20 municipalities.

21 If you start the presentation. The
22 first question is how does the process
23 begin and how does the process proceed.

24 It is entirely driven internally
25 within the particular area that is seeking

1 to be annexed. It starts with a petition
2 drive, for a gathering of names on
3 petitions and an identification of the area
4 which is being sought to be annexed or is
5 proposed to be annexed to a neighboring
6 municipality.

7 So what is being shown here on this
8 screen, is a map of the unincorporated area
9 of the Town of Ossining. In brown and
10 green are two areas designated, for
11 purposes of discussion tonight, they are
12 designated as districts 17 and 20. They
13 happen to coincide with election districts
14 17 and 20. They don't have to be specific
15 to an election district but in this case,
16 they are.

17 The petition to gather signatures in
18 a particular area, once the area is
19 identified, and the law requires that a
20 certain number of signatures be gathered
21 before presentation to both boards.

22 In this particular case, the
23 requirement is 20 percent of individuals
24 who are eligible to vote. These are, I
25 guess you call them, registered voters in

1 those particular districts. In this
2 particular case, I believe it was on
3 October 16th, the petitions were actually
4 delivered, first the original petitions
5 were delivered to the town board and copy
6 to the village board, once again, in
7 accordance with the provisions of law.

8 Here you see a closer type of map of
9 election district 17 just for purposes of
10 understanding what particular area is at
11 issue and then the next one would be
12 election district 20.

13 As many people would realize,
14 election district 20, encompasses North
15 State Road and Gordan Avenue and some other
16 areas. The other district is Gangung and
17 Trevano and I believe we all know where we
18 are talking about.

19 As I said, step one is the petitions
20 received by the two impacted
21 municipalities. You have the municipality
22 which is annexing and then you have the
23 municipality from which the property is
24 being annexed. That step is complete.
25 Both boards have received the petitions.

1 Step two, once again everything here
2 is governed by law with very strict time
3 requirements in terms of how the
4 proceedings go forward.

5 Once the petitions are received,
6 letters have to go out. Notices are
7 required to go out to all property owners
8 and also residents who are eligible to vote
9 within the particular districts or areas
10 that are sought is to be annexed.

11 The petitions that we received have
12 a very extensive list of property addresses
13 which is how we identified the actual area.
14 That is how it was identified. We were
15 able to cross reference the election
16 districts with the attachments to the
17 petitions to make sure that we had the
18 exact correct dimensions of the areas to be
19 annexed.

20 The letters went out within the
21 required time period. The notices went out
22 to all of the individuals who are required
23 by law to receive those notices, which was
24 the notice that you may have received
25 noticing you of this hearing.

1 In addition, also in accordance with
2 the law, we caused a publication in the
3 Journal News of this meeting. That was
4 done and the publication was complete and
5 we have affidavits of those publications as
6 well. The two boards did cooperate and
7 split the cost of the process and of the
8 publication.

9 Here we are in step three. This is
10 the public meeting, which is the subject of
11 the notices that did go out of this
12 particular meeting.

13 This is a joint public hearing which
14 is held between and presided on by the two
15 boards. The purpose of the meeting is to
16 listen to the public and to receive
17 information, testimony, etc., on whether
18 the annexation would be in the overall
19 public interest and not harmful to any
20 segment of the community.

21 This meeting is being held in
22 accordance with the law and within the time
23 frame of the law. This particular meeting
24 must be concluded within ten days, by law.
25 The town, both boards have agreed to

1 receive written commentary beyond that
2 ten-day period, as long as all commentaries
3 are shared between both boards. Any
4 commentary that is submitted should go to
5 both boards by January 16. Within ninety
6 days of the close of the public hearing.
7 Once this meeting is officially closed and
8 not accepting any further comment, the
9 boards have ninety days to each consider
10 all the various factors which govern
11 annexation.

12 By the end of that ninety-day
13 period, both boards must vote individually
14 to either in essence, approve or disapprove
15 annexation. Meaning to say that yes it is
16 in the overall public interest or no, it is
17 not in the overall public interest.

18 The analysis must consider potential
19 effects on the entire Village of Briarcliff
20 Manor and the entire Town of Ossining and
21 to determine whether the remaining areas of
22 the unincorporated Town of Ossining would
23 be able to sustain necessary municipal
24 services, if the annexation would proceed.
25 This will be repeated tonight, these

1 things.

2 If there is an agreement between the
3 two boards by the end of the ninety-day
4 period, that annexation is in the public
5 interest, then, at that point forward, the
6 next step would be referendum.

7 It is only after the point where the
8 two boards both agree basically thumbs up
9 to annexation to sending it to the next
10 step.

11 If the boards both agree that it is
12 not in the overall public interest for
13 various reasons you will hear tonight, at
14 that point, the process stops and it does
15 not go further.

16 It gets interesting if one board
17 says yes and the other board says no. In
18 that case, that triggers a part two of the
19 process, which involves the courts.

20 The board that feels it is in the
21 public interest and wishes the annexation
22 proceeding to go forward, then has the
23 option of commencing a proceeding.

24 In this case, the proceeding is
25 started in the first instance in the

1 appellate division, which is the second
2 department which governs where we are. The
3 court is located in downtown Brooklyn. In
4 that instances, if they start a proceeding
5 there it is like beginning a lawsuit.

6 In that particular court at that
7 point will appoint reviewers to study the
8 issue and take testimony and depositions,
9 etc., to review whatever submissions are
10 submitted from either side.

11 After a period of time when all of
12 those submissions are received, those three
13 reviewers will then make a recommendation
14 to the court that it is or is not in the
15 public interest and then the court will
16 either approve or disapprove of that
17 recommendation.

18 If the court at that point says yes
19 it is in the overall public interest, that
20 leads to the next step, once again, the
21 referendum. So that you all realize what
22 the referendum entails. It is a referendum
23 only by the voters within in election
24 districts 17 and 20; no one else will be
25 voting, if it does get to that stage.

1 If the court then if either the
2 reviewers say it is not in the public
3 interest or the court, in reviewing it,
4 does not accept or agrees it is not in the
5 public interest or did not accept the
6 reviewers recommendation and the court
7 feels it is not in the public interest, the
8 matter would cease and it would stop at
9 that point.

10 We are really at the first most
11 important stage which is the public
12 hearing. That concludes the procedures.
13 Thank you.

14 MS. DONNELLY: Thank you very much.
15 If you all look at your agendas now, we are
16 going to move this along. Now, we are
17 going to have Dan Pozin, the Village of
18 Briarcliff Counsel come up and speak.

19 MR. POZIN: I am Dan Pozin Village
20 Counsel for the Village of Briarcliff
21 Manor. Wayne went through the whole
22 process and correctly so. I just wanted to
23 add two minor things.

24 This process is subject to the State
25 Environmental Quality Review Act which is

1 SEQRA. A long environmental assessment
2 form has been submitted to both boards.
3 The Town of Ossining is the lead agency for
4 the purpose of SEQRA compliance. They
5 will, based upon the information that is in
6 the EAF, make a determination of either a
7 negative declaration, that there are no
8 adverse environmental impacts as a result
9 of this action or otherwise, if they feel
10 that there are, making a positive
11 declaration and preparing an Environmental
12 Impact Statement.

13 However, this particular action
14 involves land that is already built out and
15 homes that already exist. It is not part
16 of a further development. There are not
17 necessarily physical aspects that are being
18 considered at this point.

19 Also, if the board adopts a negative
20 declaration that does not make a final
21 determination on how they are going to act.
22 You have to take that into consideration
23 and not assume one way or the other.
24 Tonight again is for the boards to get
25 information from the public. It is not

1 really a question and answer situation.
2 The board needs to hear what the public
3 feels about annexation so that they can
4 weigh the information and come to their own
5 conclusions. Thank you.

6 MS. DONNELLY: As you can see, the
7 two boards and counsel have been working
8 very closely together on this whole project
9 and we are very happy with that. We are
10 going to go into three separate point short
11 presentations. And then open the floor to
12 comments.

13 We are going to ask the
14 representative from the group that did the
15 petition to come up and give an explanation
16 as to what their thinking was when they put
17 that together so that everyone can learn
18 here and we can understand it better too.

19 Please when you come up to the
20 microphone, introduce yourself, we have a
21 stenographer here tonight we also have this
22 being filmed tonight. Give your name and
23 address; where you live, what town you live
24 in.

25 MR. KEN GODFREY: My name is Ken

1 Godfrey and I live on Ridgeview Drive in
2 Ossining. I am directing my comments to
3 all of you, Supervisor Donnelly, Deputy
4 Mayor Sullivan, Board Members, Trustees and
5 fellow citizens.

6 I am speaking on behalf of the
7 registered voters of election district 17
8 and 20 who signed the petition in support
9 of a referendum on the question of whether
10 the area of the unincorporated in the Town
11 of Ossining included in these two election
12 districts should be annexed into the
13 Village of Briarcliff Manor.

14 As Mr. Spector very ably ran
15 through, we were required to deliver the
16 signatures of 20 percent or about 220 of
17 the approximately 1,100 registered voters
18 in the two election districts for the
19 petition to be valid.

20 As you know, the Board of Elections
21 of the County of Westchester has validated
22 we had 285 signatures. This far surpasses
23 the requirement and as such, we are now
24 moving to the next step in the process,
25 where you, the representatives of the two

1 municipalities, determine whether to move
2 this initiative forward we hope you will
3 agree to do so.

4 First of all, we love Ossining. We
5 are not asking to leave the town, only to
6 join one of the smaller municipalities
7 within it; the one closest to our homes.
8 The one we spend most of our time in and
9 from whom we already receive many services,
10 such as fire and ambulance.

11 We understand the school district
12 will not change nor will the school taxes
13 and that is fine with us, as we're proud to
14 be served by one of the finest school
15 systems in Westchester.

16 There are a number of reasons why we
17 feel annexation is in our best interest.

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

23 Number 2, we'll have our own local
24 police department again, correcting the
25 egregious error in judgment by the previous

1 town board. In the meantime while the
2 Westchester Police Department have been
3 fine, is not the same as having our own
4 community police department.

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

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

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

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

7 It is our position that no one in
8 the Town of Ossining should be adversely
9 affected by the annexation of one part of
10 Ossining to another part of Ossining.
11 Village of Briarcliff Manor will cover
12 most, if not all of our services, leaving
13 the town free to negotiate lower cost
14 contracts, either with the village or with
15 private contractors, for the remaining part
16 of the Town Outside, that they would still
17 need to cover.

18 Contracting with neighboring
19 municipalities to provide services through
20 Inter-municipal agreements or (IMA's) is
21 common but rarely as cost effective as
22 having a municipality provide its own
23 services in the case where that is
24 possible.

25 Briarcliff provides most services

1 itself and would continue to do so after
2 annexation. So, this would simplify the
3 intricate web of IMS's between the town and
4 its two villages and we believe lower costs
5 overall for everyone.

6 I would like to finally say it is
7 our right as citizens of New York State to
8 petition the town and village in this way.

9 It is our fiduciary duty to our
10 families as homeowners to do everything we
11 can to maximize the value of our property.

12 We hope that you will this
13 initiative the respectful and open-minded
14 consideration it deserves and represent the
15 wishes of the voters living in these areas
16 to put this to a vote, Thank you for your
17 time and attention.

18 MS. DONNELLY: Thank you very much.
19 I want to remind everyone, it is not a
20 question and answer session this evening.
21 We are here to listen to the public.

22 The next presentation will be made
23 by the Village of Briarcliff Manager, Phil
24 Zegarelli will be making the presentation
25 for the village.

1 All presentations will be on the two
2 municipalities web pages as of Monday.

3 MR. ZEGARELLI: Thank you Sue and to
4 the boards. My name is Phil Zegarelli, I
5 am the village manager for the Village of
6 Briarcliff Manor. I may have met you in
7 the course of two and a half years that
8 this concept has been going on.

9 Don't be alarmed at the size of
10 presentation. It is broken up into two
11 portions; one of approximately 20 slides
12 that will be my presentation and
13 attachments that substantiate some of the
14 presentation that I have made. In other
15 words, back-up material.

16 As has been said many times this is
17 part of a legal process, this is a public
18 hearing. Annexation, from the position of
19 myself, is somewhat archaic and is not used
20 much today. It is very strict in one
21 regard yet flexible in other areas. You
22 can tell by today's world, you even have to
23 have an EAF which normally you would think
24 why.

25 For purposes of definitions, I think

1 these are fairly common and so on. When we
2 refer to the town at times, town-wide
3 meaning those charges that are to the
4 entire Town of Ossining and those outside,
5 would be just neither of the two Villages
6 of Ossining or Village of Briarcliff Manor.

7 When we refer to Briarcliff Manor
8 for purpose of dollars, size, assessment,
9 it is only the Town of Ossining side of
10 Briarcliff. Approximately nine to ten
11 percent of the Village of Briarcliff Manor
12 is in the Town of Mt. Pleasant. We did not
13 include those in our calculations.

14 In other words, strictly compare
15 everything within the Town of Ossining.
16 For election districts 17 and 20, these
17 were picked because they are very defined
18 metes and bounds. And other component
19 part, I believe was mentioned, any
20 annexation in the case to Briarcliff Manor;
21 there has to be a common boundary. We are
22 asked why aren't there other areas that can
23 be annexed? The limitation it, it has to
24 have a common boundary currently with the
25 village of Briarcliff Manor and these two

1 districts do or a part of them.

2 The analysis we have being using is
3 what you would expect. Governmental
4 documents, agencies, we solicited
5 information and we shared information with
6 the town and the town shared with us.

7 The budgets are based on slight
8 differences. The town has a calendar
9 year-end budget. Briarcliff, as a lot of
10 villages in the state, have a June 1st to
11 May 31st.

12 We used the audited statements
13 whenever we could, because that really
14 tells us what going on, what money was
15 spent where. With all of that, some
16 comparisons are just not comparable.

17 We used census data, and the current
18 assessment rolls data and the assessor and
19 assessment rolls maintained by the Town of
20 Ossining.

21 We did not include any comparison to
22 the Town of Ossining current budget, that
23 was just recently adopted. Nor, have we
24 factored in the costs, the closing or the
25 uncovered portion of the police department

1 building. That is not covered by the sale
2 of the property.

3 The outlines of IMA's, the contracts
4 we reviewed, we don't have the actual one.
5 Our legal interpretation of the IMA's in
6 contracts is that they are annual or
7 renewable maybe over a couple of years.

8 So the key here is, is it going to
9 show up later on is, what is a district.
10 Is it a legal entity with debt and assets
11 or only a contract for services.

12 Our position is that the so-called
13 districts, are really service areas. Such
14 as fire protection, which Briarcliff
15 provides. Such as sanitation, which is a
16 private carter. Such as OVAC, which is
17 renewable and is based upon assessment. As
18 is ambulance with is a renewable provider
19 contract like Village of Briarcliff Manor.

20 Major assumptions. This has been
21 said a few times, really, we want to make
22 sure everyone knows totally out of bounds
23 that is no change in current school
24 districts. This is not at all affected.

25 The village would remain a village.

1 As you know, are we were working together
2 on the assessment roll. Actually, the town
3 is part of a group of other municipalities
4 that have a town-wide assessment.

5 Even to that point, we have asked to
6 have the Town of Mt. Pleasant's portion
7 included that we would pay separately for
8 so that the Village of Briarcliff Manor
9 can have a common assessment roll.

10 We have talked about the boundaries.
11 Ryder Park is a town park and will remain a
12 town park. All we are suggesting or
13 envisioning is that someone such as
14 ourselves would be willing to administer it
15 under an IMA and the Town and the Village
16 of Ossining both participate to have a
17 renewal of the park area.

18 Briarcliff Manor fire department
19 protection, and ambulance services would be
20 continued. They would be included by the
21 way, under village taxes. The remaining
22 part of 17, which is serviced by Ossining
23 Fire Department would be continued and be
24 paid by Briarcliff Manor, unless it could
25 renegotiate something else.

1 We are trying to cover all of the
2 areas and clear up the comments and
3 conjectures that have floated by.

4 We would pick up sanitation and
5 recycling, that is covered by village
6 taxes. Special districts and service
7 contracts become Briarcliff's obligations
8 paid by the common tax. To clarify things
9 there are existing IMA's, we understand
10 there are at least 19 with the Village of
11 Ossining. We would renegotiate them,
12 anything to have fairness and equity.

13 Lastly in this part, we will submit
14 changes to our presentation in keeping with
15 other questions or additional areas that
16 may come up.

17 Common statistics next page, it says
18 what is says. The total assessed value of
19 the Town of Ossining is \$259,709.634
20 \$111,800.000 is in the Village of Ossining
21 and Village of Briarcliff Manor is
22 \$98,000.000 the Town Outside is
23 \$49,6000,000.

24 Basically if you take the portion
25 out of 17/20 and add it to the new

1 Briarcliff Manor the total assessment comes
2 to \$114,930,000. The population again,
3 these are census figures revised giving
4 percentages as to the whole Town of
5 Ossining.

6 In the next slide, we have a
7 statistical recap, basically what it shows
8 is that the Village of Ossining has 67
9 percent of the population but 43 percent of
10 the assessed value. Again, showing here
11 the same thing with Briarcliff as to
12 population and assessment and the Town of
13 Ossining showing the population and then
14 assessment.

15 Briarcliff has a higher overall
16 assessment, if you do ratios and numbers.
17 You can see the different mix as to what
18 the commonality in the ratio of assessment
19 to population.

20 What is in the overall public
21 interest? Who determines it and what
22 determines it. This is a segment out New
23 York State Zoning Law. Basically this
24 summarizes as to what the overall public
25 interest is. Basically, we have to have a

1 review, it is a necessary.

2 Point of fact, what is the ways of
3 benefit or detriment of doing this. It
4 comes down to three basic components. What
5 is the benefit or detriment, defined in
6 terms of municipal services. That is
7 police, fire, water, health.

8 The next is what is the balance?
9 What is the commonality of a community?
10 What is the affiliation or the closeness?

11 And number three, the financial
12 impact, this is the big one and admit it,
13 the financial impact. What happens in the
14 loss or a gain in revenues as a result of
15 annexation.

16 We go to next slide, we focus on in
17 this case, the municipal services. What
18 village services does Briarcliff Manor
19 village tax cover. You can read it all.
20 But we can summarize, we cover police and
21 fire and OVAC.

22 The village taxes covers all the
23 services internally, DPW, parks, lights,
24 highway, sanitation, recycling and
25 recreation services and some seasonal

1 recreation specialities; we do have fee
2 driven services.

3 The Briarcliff Manor tax covers all
4 administrative services in village hall.
5 That is the clerk, the court clerk, our
6 engineer, me, zoning and planning.

7 The village tax also covers the
8 library and I will address that separately.
9 For purposes of existing zoning in the
10 town, 17/20; our boards would administer
11 Town of Ossining rules. It is not going to
12 be the imposition of Briarcliff Manor rules
13 and standards, you will be grandfathered in
14 as to your zoning and special permits.

15 Water, sewer and storm drainage is
16 by our water fund. You will see later, you
17 are supplied water from the Village of
18 Ossining. We have a separate fund that
19 takes care of all these others, including
20 capital improvements.

21 The bottom line is, we believe that,
22 we know that the village lives within the
23 two percent cap and that despite all of the
24 other problems of villages in towns in the
25 current economic climate, our fund balance

1 in the general fund is eleven and a half
2 percent.

3 For 17/20, how are similar
4 village-type services provided by the town.
5 To the best of our knowledge and belief,
6 the county provides the police.

7 We would work with the county to
8 absorb that and make it a full charge to
9 the village, covered by our village tax,
10 with our own village police officers.

11 There are approximately 19 IMA's in
12 contracts for all of the services. The
13 private carter provides sanitation.
14 Briarcliff provides fire protection, the
15 Town provides the Village of Ossining.
16 These items are on a town wide tax driven
17 basis, meaning a town-wide tax provides for
18 the unified court, assessor receiver of
19 taxes, the town clerk, town attorney town
20 board and town supervisor. Some of those
21 are shared with the Village of Ossining.
22 But there would be no change. Town wide
23 tax you pay it anyway, the people in
24 Briarcliff pay the town wide tax in
25 addition to the tune of approximately 38

1 percent because of the assessment value in
2 the Village of Briarcliff Manor.

3 Number two, what is the commonalty
4 or community. What is purpose of
5 facilities. If you look at the next
6 tablet, parks and recreation. Some of this
7 is repetitious. We provide for all of the
8 items. Some are fee based, that is true.

9 We have a our own recreation
10 advisory board. We have an empty slot for
11 an Ossining High School student to be on
12 it.

13 We have discussed Ryder Park and we
14 have no desire to steal or take or
15 otherwise absorb it. It is a town park and
16 will remain a town park. We will be
17 willing to help out as part of the
18 annexation to make it better. Indeed, if I
19 may, I know that our own little league does
20 participate in that.

21 Library, a lot has been said, I
22 don't want to be double taxed. Library is
23 provided in the village tax. When you
24 calculate the dollars amount, the library
25 budget is run at \$579,000 or 5.78 of the

1 village budget and that is equaled to 20
2 cents a day \$72.38 a year to the Village
3 taxpayers annually.

4 The Ossining Library, as I
5 understand it sort of coterminous with the
6 Ossining School District. There are
7 people, approximately 32 percent of
8 Briarcliff Manor residents that do pay the
9 Ossining Library fee. I believe one of my
10 trustees here does, so, that is not alien,
11 we know it happens.

12 We believe that the cost in the
13 overall part of it is relatively deminutus.
14 At the library, plenty of parking. We
15 would like to have more people to do
16 additional projects.

17 Railroad station, as a town
18 resident, you have your own fee, at
19 approximately \$1.48 per day.

20 At Scarborough station, we have a
21 larger number of spaces yes, it is \$1.85
22 per day, the annual rate permit of \$675,00
23 it was \$550.00, since 2008.

24 Our price does include valet
25 parking. It may sound a little strange, we

1 are the only municipal that does it that
2 way. It almost always guarantees a parking
3 space. If you come down at 11:00 in
4 morning, we will park your car for you. It
5 is included in your annual parking fee.
6 Everyone pay the same fee, there is no
7 differential. It may not be much if you
8 have to drive an additional mile to get to
9 it, but we will throw it in hopper so you
10 can see what it is.

11 This is the big one. What is the
12 tax revenue impact, specifically the pluses
13 and minuses. We took a real person's tax
14 bill, the assessment is \$21,740 and we
15 identified as we have done before, services
16 that the village would pick up and be
17 incorporated in the village tax.

18 Again, we pay a unitary village tax.
19 Taxes to the school and to the county, of
20 course. But for purposes of the village,
21 it is a single village tax. The total of
22 the three red areas is \$2,775.04. The net,
23 net adjusted tax bill to 17/20 becomes
24 \$1,964.64.

25 If you go to the attachment, you

1 will see how we came to that number. It
2 will reduce the current tax rate of \$93.37
3 to \$90,37. The typical 17/20 tax payer
4 would have a 29 percent reduction in those
5 taxes or \$810,40.

6 What does it mean to the Briarcliff
7 Manor resident. I am the village manager
8 of Briarcliff I have to analyze that.
9 Because while it is important to analyze
10 the effect to 17/20 and the Town of
11 Ossining outside. Briarcliff is taking
12 this on, what is the effect.

13 Again summarizing all of the data in
14 there, we start with the original \$93.99,
15 generates a number, add in the additional
16 sales, mortgage tax and other revenues that
17 would carry over.

18 Becoming a village, we get sales and
19 mortgage tax. The net cash flow, the cost
20 of the village \$1,322,385. The net benefit
21 is \$609.00 and that will equate to a tax
22 reduction of just shy of 6 percent rate
23 reduction. It flips bak to \$90.37 per
24 thousand village rate. You ask why, well,
25 adding 17/20 to Briarcliff with

1 Briarcliff's current assessment, adding
2 17/20 is basically 1/7th. So, it is adding
3 it on but it has a broader base and the
4 rule of numbers in a economy's scale works
5 that way.

6 If you compare in ratios. If the
7 whole thing settles and this third item as
8 to assessment, the 17/20 comes out to 33.68
9 percent.

10 If you run down that column you have
11 the parcel number, you have the voters,
12 population and areas, roads, within a
13 variable of 100 percent or within a
14 reasonable amount, the number of miles of
15 town road taken over is lower. We would be
16 taken over the jurisdiction of Westchester
17 County/New York State roads is much higher.

18 Our analysis indicates; we believe
19 that our analysis has been objective. It
20 reflects revenues sources and service
21 levels within the Town of Ossining.

22 We believe that our analysis
23 outlines significant cost savings to 17/20
24 residents for the like, if not enhanced
25 municipal services that Briarcliff

1 residents currently enjoy on an equal
2 basis.

3 If you are into the village the
4 services are the same. 17/20 municipal
5 services will be provided directly by
6 Briarcliff Manor; by our employees and by
7 definition, we believe as good as I know,
8 that the Village of Ossining provides on a
9 joint basis or shared basis, services to
10 you. You will be closer to us and be more
11 directly responsible we believe for our
12 departments and personnel.

13 We contend that the elimination of
14 various service contracts and so called
15 districts, is a positive on a cost benefit
16 analysis since Briarcliff Manor functions
17 on a consolidated operational and financial
18 basis. There is no no double counting.
19 There is no double costs, as far as we are
20 concerned. People may disagree that is how
21 we believe it is.

22 The perspective cost savings to
23 17/20 are significant. The economies scale
24 for Briarcliff are like-wise beneficial but
25 I will admit, lesser so.

1 The three objective tests; of
2 overall public interest; no harm, no foul
3 are met. We believe Briarcliff based
4 municipal services are met and we believe
5 on an enhanced cost benefit basis.

6 There is a unity of service and
7 available facilities besides the
8 significant portion of having a Briarcliff
9 address. We have the facilities for that.

10 Lastly, we calculated that tax
11 revenue impact is positive for 17/20 and
12 the Village of Briarcliff Manor. But also
13 for the Town of Ossining. This may sound
14 strange to you.

15 That is, our calculations, depending
16 on your perspective, are either liberal or
17 conservative, because we are including in
18 our village tax, charges that would be
19 normally segregated to the existing 17/20
20 residents with no added burden to the
21 town's remaining residents. On the
22 contrary, it would be lifting the burden,
23 because the village would be paying for it.

24 In addition, we believe that all
25 reserves and this is very important. That

1 is, IMA's and contracts are renewable. We
2 think, if people are honest and looking for
3 equity; state law provides for adjudication
4 or otherwise negotiation.

5 The Village of Briarcliff Manor
6 believe all reserves and funded balances
7 will remain with the town. Now We can
8 contend that if part of the town 17/20
9 comes to Briarcliff, that that same
10 proportion by assessment or otherwise,
11 should come to the village. We have not
12 factored that in.

13 So, therefore if 17/20 leaves, it is
14 our understanding by law and I will leave
15 it for other people at some other time to
16 analyze that. Those reserves stay with the
17 remaining portion of the town. The
18 reserves are nothing carries over to
19 Briarcliff, it stays with the town.

20 That is a enormous amount when you
21 think of the other aspect still hanging out
22 there, such as the cost of debt to the
23 police building that has not been satisfied
24 or won't be.

25 Purely by numbers, I don't know what

1 the answer is. I am just telling you I
2 crunched the numbers. There is an
3 unprotected portion that needs to be
4 addressed.

5 Lastly on this, look, this is our
6 analysis. If there is additional
7 information that needs to be analyzed and
8 new data brought in, we are wide open to
9 look at it.

10 If we are in error in our
11 calculations, we will be the first ones to
12 share it with you. Our point is, we did
13 the analysis in the purported time frame
14 that the annexation law provides for this
15 hearing.

16 On a certain number of days after
17 the presentation of the petitions. That is
18 why there is open an end for additional
19 comments and we will reserve our ability to
20 comment thereafter.

21 The next slide is all of the
22 supporting documents. There are maps,
23 everyone else has seen, sales tax, our
24 calculations. Who gets what, mortgages
25 tax. Police contract was still open there.

1 Next, bond rating, we have AA2.

2 Our public officials do not get
3 paid. We calculated how we factored in the
4 numbers and the services. Thank you for
5 your time. If there is any questions later
6 after the hearing we will be willing to
7 talk with you. We will post everything on
8 the internet, thank you.

9 MS. DONNELLY: Tonight is night of
10 information to all of us. Thank God we are
11 in a world where things can go up on a web
12 page.

13 If you don't have access to the
14 internet, if you contact the Village of
15 Briarcliff or the Town of Ossining, we will
16 gladly mail you information as it becomes
17 available.

18 Everyone looks at something a little
19 bit different. We did fly by a page there
20 that had all the new employees and I was
21 curious about that. This is a day to get
22 input from you. We don't have that much
23 details. We are going to have our counsel
24 come up and give you a short talk about
25 what we think annexation is all about. We

1 are open-minded about this. We will do a
2 short presentation and then open up the
3 floor to you.

4 Good evening, this hearing is being
5 held in accordance with New York State Law
6 You are going to hear that one hundred
7 times tonight. Which governs the municipal
8 annexation process.

9 This joint hearing held by the Town
10 of Ossining and the Village of Briarcliff
11 Manor will allow interested parties to be
12 heard on the issue.

13 The town board will consider the
14 public comments in addition to other
15 publicly available information.

16 Within ninety days after the hearing
17 is closed, the boards must meet separately
18 and vote whether to approve or disapprove
19 annexation.

20 It is our hope that during tonight's
21 hearing, the public will gather some
22 information and more as the time goes by,
23 from both boards and from their neighbors
24 which is very important in this community
25 and feel empowered to give us input on the

1 issue.

2 We want to make it very clear, if
3 you choose not to speak tonight, remember
4 that written comment period is going to be
5 open until January 15th.

6 We wanted everyone to be able to get
7 through the holidays. It was agreed upon
8 by Briarcliff and the Town.

9 January 15th we will close the
10 written comment portion of this proceeding.
11 I would like to again introduce Wayne
12 Spector again to you who will give us a
13 PowerPoint presentation and then a slight
14 PowerPoint presentation and then it is
15 yours.

16 MR. WAYNE SPECTOR: Thank you again
17 I want to apologize in advance if I repeat
18 anything. Some of the things were
19 mentioned in the village manager's
20 presentation. And I will apologize in
21 advance for sounding too much like a lawyer
22 at times, I can't always turn it off.

23 I have been asked by the town
24 supervisor and the town board to make a
25 statement concerning certain legal

1 foundations underlying the annexation
2 process. You may or may not find my
3 comments helpful in framing your comments
4 to the board either tonight or in writing
5 submitting your comments after tonight.
6 Again, I apologize in advance if I repeat
7 anything that already been said.

8 I want to make it clear that much of
9 what I am going to say is my interpretation
10 as a lawyer, certainly other lawyers are
11 free to interpret things as they see fit.
12 This by no means is the final word on
13 anything.

14 Annexation is matter governed by
15 statute and state constitutional
16 provisions. The New York State
17 Constitution states:

18 "No local government or any part of
19 the territory thereof shall be annexed to
20 another until the people, if any, of the
21 territory proposed to be annexed shall have
22 consented thereto by a majority vote on a
23 referendum and until the governing board of
24 each government in the areas which is
25 affected, shall have consented thereto upon

1 the basis of a determination that the
2 annexation is in the overall public
3 interest.

4 Also the General Municipal Law
5 requires at the hearing tonight the boards
6 will hear testimony, receive evidence and
7 information concerning the petition on the
8 question of whether the annexation is in
9 the overall public interest, including but
10 not limited to evidence and information
11 including the following:

12 (E) The proposed annexation is or is
13 not in the overall public interest (1) of
14 the territory proposed and (2) of the local
15 government or governments to which the
16 territory is proposed to be annexed or (3)
17 of the remaining area of the local
18 government or governments in which such the
19 territory is situated, or (4) of any school
20 district, fire district or other district
21 corporation, public benefit corporation,
22 fire protection district, fire alarm
23 district or town or county improvement
24 district situated wholly or partly in the
25 territory proposed to be annexed.

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Again, the purpose of my telling you all this is to tell you how this board is going to be reviewing this process after the conclusion of the hearing and after all of the information is gathered.

Both the New York State Constitution and the state law make it clear that determinations by both boards that annexation would be in the best interest of the entire overall community of required, in fact, it is mandated prior to a referendum.

State law also establishes a process through the Court, in the event the boards disagree whether the annexation would be in the interest of the communities in which the court will make the determination.

In any event, prior to any vote by the people, it must be established annexation will be in the best interest of all parties.

The referendum is the last step in the process and there is no presumption in favor of a voter determination of annexation.

1 It is clear that the state
2 understood in establishing and changing
3 municipal boundaries, causes significant
4 impacts to multiple segments of the overall
5 community.

6 In the case of annexation, those
7 impacts will be felt not just by the
8 individual living in the area being annexed
9 but in the areas of overall community that
10 would never get a chance to vote, if the
11 matter does go to referendum.

12 The duly elected boards are
13 therefore charged with performing a high
14 degree of due diligence in determining the
15 effects on all impacted parties.

16 I have been asked to review the
17 available authorities on the annexation
18 process. This is a limited review of those
19 authorities and the interpretations stated
20 are my own and I welcome comments.

21 Although annexation appears to be
22 somewhat rare, there is guidance that does
23 exist through the court decisions, as to
24 the criteria for determining whether
25 annexation is in the best interest of the

1 overall community.

2 Benefit and detriment to a community
3 in annexation cases is customarily defined
4 in terms of municipal services such as
5 police and fire protection, health
6 regulations, sewer and water services,
7 public utilities and public education.

8 This is my interpretation and I
9 welcome any comments from counsel for the
10 village, if he disagrees with anything of
11 what I am saying tonight.

12 Another consideration is whether the
13 annexing local government and the territory
14 to be annexed have the requisite unity of
15 purpose and the facilities to constitute a
16 community.

17 In my research, I have not found any
18 authority that individual property owners
19 rate of taxation in an annexed area or
20 perceived increases in real estate values
21 are major factors in determining whether or
22 not annexation would be in the best overall
23 public interest.

24 The authorities instead point to a
25 fairly uniform array of criteria. In order

1 to justify annexation, it must be shown
2 that the residents in the area to be
3 annexed will benefit from improved service
4 or receive services that otherwise aren't
5 being provided as a result of annexation.

6 Status quo is not sufficient,
7 improvements without detriments to other
8 parties is what is required. In conducting
9 this review, is it acknowledged, well, I
10 thought it was, but now I am hearing that
11 is a matter that we disagree on.

12 But that special districts by law,
13 as they exist will not be impacted by
14 annexation. I take this by a literal
15 reading of the statute which is Section 716
16 of the General Municipal Law that
17 specifically states that.

18 But I understand tonight, having
19 heard the presentation by the village
20 manager this evening, there may some
21 disagreement on that.

22 Therefore, again my opinion based
23 upon my reading, water, sewer, fire,
24 ambulance solid waste and lighting which
25 are special districts in the town will not

1 be changed and the same services that are
2 provided through those districts will
3 continue to be provided even if annexation
4 does occur. Even if that would result in
5 double payments for those services, just
6 like it would for the library as
7 acknowledged.

8 Services that can be reviewed will
9 include police, highway and recreation.

10 Again, the question will not be
11 whether those services can be provided by
12 Briarcliff Manor more affordably, but
13 whether the services can be or are being
14 provided by the town and whether annexation
15 will improve them.

16 The town in its analysis will
17 therefore mainly consider the quality of
18 the services provided to the unincorporated
19 area of the town. As examples, regarding
20 police services, the town can consider the
21 service provided by the Westchester County
22 Police Department including response times
23 and other service issues in determining
24 whether there is a deficiency in police
25 service provided to the town. Similar

1 consideration can be given to the highway
2 department.

3 In that instance, the town may
4 consider the recent referendum seeking to
5 switch from an elected to an appointed
6 highway superintendent and a resounding
7 vote in favor of retaining an elected
8 highway superintendent, which may be viewed
9 as indicative of community support for that
10 form of service.

11 Regarding recreation services, the
12 town will consider the level of and the
13 broad array of recreation services
14 available to the town residents, including
15 access to the indoor pool facility.

16 Consideration will be given to the
17 recreational opportunities and whether
18 there is a deficiency in available
19 recreation services in the town.

20 The town must also consider possible
21 detriments to areas of the town not
22 included in the annexation effort. The
23 town will consider verifiable estimates
24 regarding tax implications to the areas not
25 being annexed, and if possible, to the

1 balance of Briarcliff Manor.

2 Again, in my opinion, there must be
3 a clear, verifiable, not just perceived
4 benefits to all affected parties to provide
5 a proper basis to approve annexation.

6 As an example, there is case law
7 indicating that an increase in overall tax
8 revenue could be a factor to justify
9 annexation. However, simply shifting tax
10 revenue from one municipality to another is
11 not considered an increase in overall tax
12 revenue.

13 If annexation facilitates the
14 provision of services to an area which
15 would allow greater development opportunity
16 thereby increasing overall tax revenues,
17 that factor might favor annexation.

18 This is not the situation existing
19 herein. Annexation has also found to not
20 be in the overall public interest where one
21 municipality loses tax revenues without any
22 corresponding benefit.

23 The fact in this case that districts
24 17 and 20 have only 25% of the total
25 unincorporated population but a higher

1 percent of the unincorporated assessed
2 value, might be a factor considered in
3 determining whether the remaining area of
4 the unincorporated town will or will not be
5 harmed, let alone benefited by annexation.

6 It may also be significant that
7 districts 17 and 20 are already fully
8 developed nearly to capacity. Many of the
9 annexation cases involve undeveloped areas
10 that can be integrated into neighboring
11 municipalities to facilitate planned
12 developments within those municipalities.

13 Other cases involve areas necessary
14 to the annexing municipality for purposes
15 such as water treatment plants, sewer
16 facilities and in the least in one case,
17 the ability to develop affordable housing.

18 None of the circumstances have been
19 identified or presented here, to our
20 knowledge. Proposed use of annexed land
21 has been identified has been identified as
22 an important factor in many annexation
23 cases. In this cases there are no proposed
24 new uses for districts 17 and 20 which
25 would either benefit those districts or the

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balance of Briarcliff Manor.

In my opinion, the impact to the Village of Ossining will also be considered by the town as a factor in determining whether annexation is in the overall public interest, since the remaining governmental unit could also be said to include the village, as part of the town.

This analysis will focus on the cooperative existing relationship between the town and the Village of Ossining through a myriad of intramunicipal agreements. Those agreements such as finance, clerk, rent, amongst many others may indicate that carefully calibrated budgets of both municipal entities and staffing levels in various departments might be impacted.

The other factor to be considered is whether the annexing local government and the territory to be annexed have the requisite unity of purpose and facility to constitute a community.

One of the questions is whether the residents feel more a part of the Ossining

1 or Briarcliff communities.

2 There is some indication, from some
3 case law, that the level of community
4 support, in the form of signatures on the
5 petition, the number of percent could be
6 considered a factor.

7 Certainly, if well over half of the
8 community signs a petition that can be
9 indicative of where the community leans.

10 Here, after two years of somewhat
11 extensive lobbying by the pro-annexation
12 group. The number of signatures is still
13 well below half of the eligible voters in
14 the districts. That may be of relevance by
15 the board, if they so chose to consider it.

16 On the issue is also needs to be
17 re-emphasized that the school district
18 boundaries won't change as the areas will
19 remain in the Ossining school district. It
20 is our position, they also will continue to
21 get their water and sewer services as well
22 as solid waste and street lighting and
23 garbage removal through the existing
24 special districts. Parts will also
25 continue to be served by the Ossining

1 ambulance district and parts serviced by
2 the Ossining fire department.

3 These are just a few of the
4 circumstances that need to be considered in
5 determining whether a unity of purpose and
6 facilities exist in such a way that
7 districts 17 and 20 are part of the
8 Briarcliff than Ossining Communities. That
9 is the conclusion of my statement on this,
10 thank you.

11 MR. POZIN: Just to respond very
12 briefly, we are here to hear what you have
13 to say. Hopefully both boards will
14 consider that. We are not in an
15 adversarial position. I am not going to
16 respond with a memorandum of law for you
17 tonight. We have not made decisions yet.

18 We want to hear what you have to say
19 and I think that ought to be considered by
20 both boards. Thank you.

21 MS. DONNELLY: I think both the
22 village manager of Briarcliff and counsel
23 have expressed that opinion, in my personal
24 opinion.

25 The Town of Ossining contains three

1 municipalities as we all know, the Village
2 of Ossining, the Village of Briarcliff and
3 the unincorporated area, that is now
4 including election districts 17 and 20.

5 The Village of Ossining
6 geographically is 87 percent of the Town of
7 Ossining and 13 percent in the Town of Mt.
8 Pleasant.

9 Property taxes, distribution to the
10 County of Westchester is about 12 percent
11 and Town of Ossining about 2 percent.
12 School districts, you pay between 61 and 70
13 percent of your taxes. Local
14 municipalities are between 15 and 26
15 percent.

16 These are the maps. School
17 districts, post office address boundaries
18 will not change. Special districts, now
19 this is where we may differ, so this is
20 what the whole process of the next ninety
21 days is to go through and for us to do the
22 analysis.

23 But we have always gone under the
24 assumption that the special districts will
25 be preserved and that the residents of

1 election districts 17 and 20 will continue
2 to pay for them.

3 Remaining portions of unincorporated
4 area will not automatically became part of
5 the Village of Ossining. We don't have a
6 ton of numbers but are trying to address
7 the questions that have come up to us so
8 far.

9 Residents of elections districts 17
10 and 20 will still be taxed for both the
11 public Ossining Public Library and the
12 Briarcliff Public Library, we have heard
13 that before.

14 They will still be responsible for
15 their portion of Town of Ossining debt.
16 That is little bit more than the sale of
17 the police station. We are very proud of
18 the sale of that police station that will
19 be closing soon.

20 They are still responsible for their
21 proportioned share of all of the existing
22 Town of Ossining contracts, while they are
23 contracts. This is not a speedy process by
24 any stretch of the imagination. Unless
25 after the 90 days, both boards agree to not

1 do it or both boards agree to do it.

2 If it goes to the next step, it is
3 not a short period of time process. We
4 will still be taxed based upon property
5 assessments values and for purposes of
6 calculating all Town of Ossining special
7 district tax levy amounts. The assessors
8 office comes out the Town of Ossining for
9 everyone in the town general.

10 Residents in districts 17 and 20 in
11 our opinion, will still pay twice for
12 refuge collection because we have the
13 private contractor in the Village of
14 Briarcliff in the Village tax. Municipal
15 water and sewer, and municipal street
16 lighting and police, while we are in the
17 contract. Police and fire protection
18 ambulance protection and library, while we
19 are in contract.

20 Remaining unincorporated area will
21 increase significantly by 20 percent. If
22 we were to keep it status quo. If we keep
23 the services that we have in the Town of
24 Ossining and 17 and 20 will be annexed off,
25 that the town, the rest of unincorporated

1 area will go up approximately \$414.00 for a
2 household increase.

3 The Village of Briarcliff will have
4 to absorb, these are the different
5 proportions of debt that we have so the
6 debt incurred in election district 17 and
7 20 will be the \$1,108,000, which we will
8 give to Briarcliff and they will distribute
9 that to the two districts or put it out to
10 entire Briarcliff Manor, I am not sure how
11 they are going to do that.

12 Town and Village boards have to
13 consider whether residents and tax payers
14 of 17 and 20 are already receiving vital,
15 valued and appropriate and complete
16 municipal services.

17 This is what annexation is all
18 about, in our eyes, are you getting the
19 services that you should get.

20 Parks and recreation department,
21 park facilities, including water spray
22 parks, youth recreation and services
23 including summer camp, adult recreation
24 programs and a year round swimming pool.

25 Senior nutrition programs. We do

1 that for the entire town and we have
2 Briarcliff people getting the senior
3 nutrition programs and senior activities,
4 Are You Okay and Call a Cab and town
5 chauffeurs programs.

6 The highway services; maintenance of
7 town streets and roads. Maintenance of the
8 drainage systems in the sewers, maintenance
9 of the town sanitation, snow removal on
10 town roads, leaf pick up, tree removal and
11 trimming trees on town right-of-way and
12 bulk trash collection.

13 Police protection and emergency
14 services, fire protection, ambulance
15 services and emergency medical services
16 including EMT and paramedics. That is why
17 we have the Mid-Hudson Ambulance District
18 so that we can be assured that we have EMT
19 on staff all of the time.

20 We use engineering service for town
21 functions and projects, clean filtered
22 drinking water and sanitation sewer
23 collection and pumping statin and street
24 sanitation, garbage and recycle pick up.

25 Access to a metro north train