

ULSTER TOWN BOARD MEETING  
DECEMBER 16, 2010 AT 7:00 PM

**CALLED TO ORDER BY SUPERVISOR QUIGLEY, CHAIRMAN at 7:02 PM**

**SALUTE TO THE FLAG**

**ROLL CALL BY CLERK**

TOWN COUNCILMAN JOEL B. BRINK  
TOWN COUNCILMAN ERIC KITCHEN  
TOWN COUNCILWOMAN CRIS HENDRICK  
TOWN COUNCILMAN JOHN MORROW  
SUPERVISOR JAMES QUIGLEY 3<sup>rd</sup>

**Public Comments**

Mr. Robert Barton inquired if any of the local laws had been changed or modified since the public hearing.

Supervisor Quigley reported that local laws proposed to be passed had not been modified. Any of the laws with modifications will require another public hearing.

**APPROVAL OF MINUTES FROM PREVIOUS MEETING**

Councilwoman Hendrick motioned to accept the minutes of November 4, 2010 and November 18, 2010

2<sup>nd</sup> by Councilman Morrow

All Ayes

**ABSTRACT OF CLAIMS**

Councilman Kitchen motioned to approve the following:

FUND	CLAIM #	AMOUNT
UTILITIES		
GENERAL	1201-1222	10,723.01
ULSTER WATER	1201-1205a	3,088.19
HALCYON PK. WATER	1201-1202	369.22
SPRING LAKE WATER	1201-1202	119.96
BRIGHT ACRES WATER	1201	176.08
GLENERIE WATER	1201	32.00
WHITTIER SEWER	1201-1202	680.73
ULSTER SEWER	1201-1204	10,157.37
WASHINGTON AVE. SEWER	1201-1202	74.18
SPECIAL LIGHT	1201-1206	3,895.21
ALL OTHERS		
GENERAL	1201-12115	81,418.33
HIGHWAY	1201-1237	52,341.81
ULSTER WATER	1201-1218	4,535.04
HALCYON PK. WATER	1201-1204	555.00
SPRING LAKE WATER	1201-1203	110.00

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BRIGHT ACRES WATER	1201-1203	72.68
CHERRY HILL WATER	1201-1202	50.00
GLENERIE WATER	1201-1202	50.00
EAST KINGSTON WATER	1201-1202	50.00
WHITTIER SEWER	1201-1206	3,465.87
ULSTER SEWER	1201-1218	14,342.47
INSURANCE (ALL FUNDS)		139,587.46
CAPITAL PROJECTS		
SENIOR CENTER CAP. PROJ.	1201-1202	2,038.36
<b>TOTAL</b>		<b>\$ 327,932.97</b>

2<sup>nd</sup> by Councilman Brink  
All Ayes

**Budget Mods**

Councilman Brink moved to approve the following 2010 budget modifications:

**Highway Fund:**

D5130.200 Equipment	D5130.422 Equip. Maint.	\$9,000.00
D5110.400 Street Program	D5130.422 Equip. Maint.	\$4,000.00
D5110.420 Gas & Oil	D5130.428 Solvents	\$200.00
D5130.427 Tires & Repairs	D5130.429 Oil & Lubricants	\$1,000.00

**Glenerie Water Tank Capital Project:**

Revise Original Budget

Revenues:	<b>NEW BUDGET FIGURES</b>		
St. Aid-Small Cities Grant	HGT-3991	\$600,000.00	\$600,000.00 No Change
Interfund Transfer-Town Funding	HGT-5031	From \$39,750 to \$40,950.00	\$1,200.00 Increase
			\$640,950.00

**REVENUES- REVISED**

Appropriations:	<b>NEW BUDGET FIGURES</b>		
Construction	HGT-8310.200	\$512,750.00 to \$497,750.00	\$15,000.00 Decrease
Construction - Town Funding	HGT-8310.201	\$15,750.00 to \$15,000.00	\$750.00 Decrease
Property Acquisition	HGT-8310.202	\$0.00 to \$15,000.00	\$15,000.00 Increase
Engineering	HGT-8310.400	\$87,250.00 to \$104,200.00	\$16,950.00 Increase
Administration	HGT-8310.401	\$24,000.00 to \$9,000.00	\$15,000.00 Decrease

APPROPRIATIONS-  
REVISED

\$640,950.00

2<sup>nd</sup> by Councilwoman Hendrick  
All Ayes

**Discussion and Vote on Local Law Providing for the Adoption of a New Chapter 195 of the Town Code [Planning Board Bylaws]**

Councilman Morrow motioned to approve the following local law #8:

**CHAPTER 195: TOWN OF ULSTER PLANNING BOARD BY-LAWS**

**Article I - Meetings**

Section 195-1 Annual Meetings

The annual meeting of the Town Planning Board shall be the first regular meeting in the month of January of each year hereafter. Such meeting shall be devoted to the election of officers for the ensuing year, and such other business as shall be scheduled by the Town Planning Board.

Section 195-2 Regular Meeting

Regular meetings of the Planning Board shall be held at the Town Hall at 7:00 p.m. on the third Tuesday of each month hereafter. At such meetings, any and every matter properly brought to the attention of the Planning Board shall be considered.

Section 195-3 Special Meetings

Special meetings of the Town Planning Board shall be held at a time and place designated by the Chairman. Verbal or written notice thereof shall be given to all members not less than twenty-four hours in advance thereof.

Section 195-4 Quorum

At any meeting of the Town Planning Board, a quorum shall consist of three (3) members of the Board. No action shall be taken in the absence of a quorum, except that those members present shall be entitled to call a Special Meeting at a subsequent date.

Section 195-5 Proceedings

a. At any regular meeting of the Planning Board, the following shall be the regular order of business:

1. Roll Call
2. Reading and approval of minutes of the preceding meeting
3. Communications
4. Public Hearings

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5. Reports and action on old business
6. New business
7. Adjournment

b. Each action of the Planning Board required by law, rules or regulations shall be embodied in a formal resolution duly entered in full upon the Minute Book after an affirmative vote. Each resolution so adopted shall specifically authorize, if necessary, the use and imprint of the official signature of this Planning Board as hereinafter defined.

Section 195-6 Rules and Procedure

All meetings of the Planning Board shall be conducted in accordance with Robert's Rules of Order.

**ARTICLE II: OFFICERS**

Section 195-7 Officers

The officers of the Town Planning Board shall consist of a Chairman, a Vice Chairman and a Secretary, each of whom shall serve for a term of one year.

Section 195-8 Election of Officers

- a. The Chairman shall be designated by the Town Board at their annual organizational meeting. Or, in the event that the Town Board shall not designate a Chairman, the members of the Planning Board shall elect, by simple majority, a Chairman from its own members. The Chairman must be a duly appointed member of the Planning Board.
- b. The Vice Chairman must be a duly appointed member of the Planning Board, and shall be elected by the members of the Planning Board.
- c. The Secretary may be a non-member of the Planning Board, and shall be elected by the members of the Planning Board.

Section 195-9 Duties of Officers

The duties and powers of the officers of the Town Planning Board shall be as follows:

- a. Chairman:
  1. To preside at all meetings;
  2. To call special meetings in accordance with these By-Laws;
  3. To sign all official documents of the Town Planning Board in accordance with the requirements of these By-Laws;
  4. To see that all reports, documents, and actions of the Planning Board are properly made, executed, filed or taken, as the case may be, in accordance with law and the actions and regulations of the Planning Board;
- b. Vice Chairman:

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1. During the absence, disability or disqualification of the Chairman, the Vice Chairman shall exercise or perform all the duties and be subject to all the responsibilities of the Chairman.

c. Secretary:

1. The Secretary, subject to direction of the Board and the Chairman, shall keep minutes of all Planning Board proceedings showing the vote of each member, upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of all Planning Board examinations and other official actions.

**ARTICLE III: VOTING AND CONFLICTS OF INTEREST**

Section 195-10 Voting

At all meetings of the Planning Board, each member properly appointed and attending shall be entitled to cast one vote. Voting shall be by roll call vote. A majority vote of the board shall be necessary for the adoption of any proposed action, resolution or other voting matter.

Section 195-11 Conflicts of Interest

Any application, petition, or request brought before the Town Planning Board for action pursuant to any rule, ordinance, or regulations, shall state the name and nature of interest of any municipal officer or employee herein, as defined in General Municipal Law § 809. Any member of the Town Planning Board having any such interest in any matter brought before the Board, shall either absent or disqualify himself from any consideration, discussion or vote upon such matters. Such absence or disqualification shall be noted in the minutes of the Planning Board by the secretary, who shall also note that no vote was cast by such member on said matter.

**ARTICLE IV: VACANCIES**

Section 195-12 Vacancies

Should any vacancy occur among the members of this Planning Board by reason of death, resignation, disability or otherwise, immediate notice thereof shall be given to the Town Clerk, Town Supervisor, and Planning Board Chairman by the Secretary.

Section 195-13 Vacancy of Officers

Should such vacancy occur among the officers of the Planning Board, the vacancy shall be filled by election at the next regular meeting of this Planning Board, the officer so elected to serve the unexpired term of the office in which such vacancy shall occur. However, should the office of Chairman of the Planning Board become vacant, the Vice Chairman shall serve as Acting Chairman until such time as the Town Board shall appoint a new Chairman.

**ARTICLE V: APPLICATION PROCEDURES**

Section 195-14 Receipt of Applications

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The Town of Ulster Building Department is hereby authorized to receive applications, petitions, and communications on behalf of the Town Planning Board. The Town of Ulster Building Department shall immediately notify the secretary of the Planning Board, and transmit to said secretary, any forms, letters or other materials. The secretary shall request the chairman of the Planning Board to call a special meeting of the Planning Board if any official action on such forms, letters or materials is required before the next regularly scheduled meeting.

Section 195-15 Date of submission.

The Planning Board shall not entertain any application or other action which has not been submitted to the Town of Ulster less than fourteen (14) days prior to the Planning Board meeting. Notwithstanding, the board may, by motion or general resolution, take up any matter at such meeting not inconsistent with law, provided the topic shall have been included in the agenda posted prior to such meeting on the town signboard and/or town web site.

Section 195-16 Date of official submission.

An application for subdivision or site plan or an application under the State Environmental Quality Review Act shall not be considered received by the Planning Board, until the date of the meeting, at which said topic application is placed on the Board's agenda. In the event subsequent changes are made to applications before the Board, on either plans or application data, the date of official receipt shall be the date of the first meeting, at which such revised and complete application is presented to the Planning Board.

Section 195-17 Filing of Appeals

Appeal must be made within thirty (30) days of the action appealed from. The applicant must file a notice of appeal with the Secretary of the Planning Board and with the Town Clerk. Such notice shall be made on a form provided for this purpose.

**ARTICLE VI: OFFICIAL SIGNATURE**

Section 195-18 Official Signature

The official signature of the Town Planning Board shall be endorsed upon all papers and documents requiring the same by reason of the requirements of law or the rules and regulations of the Town Planning Board. Such signature shall be endorsed upon such papers only pursuant to the direction of the Town Planning Board embodied in a resolution so directing, and shall be personally signed by the Chairman.

**ARTICLE VII: ATTENDANCE AND TRAINING**

Section 195-19 Attendance

Planning Board members are expected to attend all regular and any other scheduled Planning Board meetings and work sessions, and must notify the Chairman and Secretary if they are unable to attend. Any member of the Planning Board who fails to attend three (3) or more meetings of the board in any calendar year shall be subject to removal from the Planning Board

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by resolution of the Town Board as provided by Town Law § 271(9).

Section 195-20 Training

Board Members are expected to participate in training exercises that prepare them to perform their Planning Board duties and satisfy the New York State requirement of four (4) hours per year of continuing education, pursuant to Town Law § 271(7-a). Failure to complete the required training exercises constitutes grounds for dismissal from the Planning Board by the Town Board.

**ARTICLE VIII: HEARINGS**

Section 195-21 Time of Hearing

The Board shall schedule a public hearing on all applications as required by law within forty-five (45) days of the date of receipt of said application.

Section 195-22 Notice of Hearing

The Board shall give notice of hearing at least five (5) days prior to the date thereof, by publication in the official paper.

Section 195-23 Form of Notice

Such notice shall state the location of the building or lot, the general nature of the question involved, the date, the time and place of hearing and the telephone number and the name of the Secretary of the Planning Board where additional information may be obtained.

Section 195-24 General Rules

Any party may appear in person or by agent or by an Attorney. The Chairman may permit the review and the action upon applications where no representative is present in the event that such application may be reasonably completed or reviewed or to avoid the lapse of the statutory time period.

**ARTICLE IX: REFERRALS TO OTHER AGENCIES**

Section 195-25 County Referrals

Prior to taking action on any matter that would cause any change in the regulations or use or land or building on real property, as specified in § 239-m of the General Municipal Law, the Board shall make referrals to the Ulster County Planning Department as provided by law. If within thirty (30) days after receipt of such referred matter, the Planning Agency to which the referral is made, or authorized agency of said body disapproves the proposal or recommends modifications thereof, the Board shall not act contrary to such disapproval or recommendation, except by a vote of majority plus one (1) of all members thereof, and after the adoption of a resolution fully setting forth the reasons for such contrary action. The Chairperson shall read or summarize the report of the County Planning Department, at the public hearing on the matter under review. If the Planning Department fails to report within such period of thirty (30) days, the Planning

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Board may act without such report.

Section 195-26 Engineering Referrals

Applications may be referred to the following agencies for written report:

1. Building Inspector: site inspection.
2. Town Highway Superintendent: recommendations on town road widening or driveway access and drainage information.
3. Town Engineer: for engineering matters pertaining to storm water runoff, public utility design or connections to public utilities.
4. Sewer Superintendent: for connections for facilities connecting to the town sanitary sewer system.
5. Town Planning consultant: for general review and conformance to local codes and regulations.
6. County Highway Department: for applications requiring access or which are adjacent to county roads or drainageways.
7. New York State Department of Transportation: for projects bordering on or having access to state highways.
8. County Health Department: for projects requiring individual wells or septic systems or under the jurisdiction of New York State Public Health law.
9. Department of Environmental Conservation: for state environmental quality review, freshwater wetlands, or water body projects or actions under Part 617, the Environmental Conservation Law.
10. Town water department: for projects having connections to or utilizing town water.
11. Town Fire Inspector and/or Volunteer Fire Companies.

**ARTICLE X: FINDINGS**

Section 195-27 Findings Contents

Findings of the Board and supporting facts shall be spelled out within the resolution or by reference to other matters retained in the files of the planning office that will evidence the following:

1. The Board has made an intelligent review of the question.
2. It has considered all the information or evidence.
3. It has heard all parties in question.
4. Any intimate knowledge it has of the subject under question has been taken into account.
5. That it has made, where feasible, personal inspection of the parcel in question and from the foregoing examinations its findings were ascertained.

Section 195-28 Conflicts with other laws and regulations

In reviewing an application on any matter the standards in any applicable local law or ordinance or state statute shall take precedence over the standards of these rules whenever a conflict occurs.



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In all other instances the more restrictive rules shall apply.

**ARTICLE XI: ALTERNATE PLANNING BOARD MEMBERS**

Section 195-29 Alternate Members

The Town Board may appoint up to two (2) alternate members, with each such position having a term of one (1) year, for purposes of substituting for a member(s) in the event such member(s) is absent or unable to participate because of a conflict of interest. All provisions relating to members of the Planning Board, including training, continuing education, attendance and compensation, apply to alternate members.

Section 195-30 Substitution

The Chairman shall determine when an alternate member shall substitute for a member on any particular application or matter before the Board. Once designated, the alternate member shall possess all the powers and responsibilities of the member being substituted for to make determinations. The minutes of the Planning Board shall reflect the meeting at which the substitution is made.

Section 195-31 Supersession

Pursuant to Section 22 of the New York Municipal Home Rule Law, the provisions of this article are intended to supercede any inconsistent provisions of state or local law, including those of the following sections of New York State Town Law governing Planning Boards: Town Law Section 271(15).

**ARTICLE XII: AMENDING BY-LAWS**

Section 195-32 Amending By-Laws

These by-laws may be amended by a duly adopted Local Law of the Town of Ulster Town Board.

**ARTICLE XIII: FORMER BY-LAWS**

Section 195-33 Former By-Laws

These by-laws shall supersede any and all by-laws previously adopted by the Town of Ulster Planning Board.

2<sup>nd</sup> by Councilwoman Hendrick  
All Ayes

**Discussion and Vote on Local Law Providing for the Adoption of a New Chapter 75 of the Town Code [Dog Licensing Law]**

Councilman Brink motioned to approve the following Local Law #9:

## **CHAPTER 75 - DOGS AND OTHER ANIMALS**

### **ARTICLE I Dog Licensing**

#### **§ 75-1. Purpose.**

The Town Board of the Town of Ulster finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs have caused physical harm to person and damage to property and have created nuisances within the Town. The purpose of this article is to protect the health, safety and well-being of persons and property by establishing for the licensing and identification of dogs and imposing restrictions on the keeping and running at large of dogs within the Town.

The Town also recognizes effective January 1, 2011, the State of New York has relinquished the responsibility of dog licensing function to local municipalities and eliminated the Animal Population Control Fund. Local municipalities will now be required to adopt legislation relating to this issue.

#### **§ 75-2. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**ADOPT** – means the delivery to any natural person eighteen years of age or older, for the purpose of harboring a dog, seized or surrendered, or any cat from the Town's animal shelter.

**AGRICULTURE AND MARKETS LAW** – the Agriculture and Markets Law of the State of New York in effect as of the effective date of this article, as amended by this article and as amended thereafter.

**ANIMAL/DOG CONTROL OFFICER** – means any individual appointed by the Town Board to assist in the enforcement of this Chapter.

**CLERK** – means the Town Clerk of the Town of Ulster, where licenses are to be validated or issued.

**CONFINED** – that such animal is securely confined or restrained or kept on the owner's premises, either within a building, kennel or other suitable enclosure or securely fastened on a chain, wire or other effective tether of such length and so arranged that the animal cannot reach or endanger any person on any adjacent premises or on any public street, way or place, or, if the animal is being transported by the owner, that it is securely confined in a crate or other container, or so restrained in a vehicle that it cannot be expected to escape therefrom.

**DETECTION DOG** – means any dog that is trained and is actually used for such purposes or is undergoing training to be used for the purpose of detecting controlled substances, explosives, ignitable liquids, firearms, cadavers, or school or correctional facility contraband.

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DOG – means any member of the species canis familiaris.

DOG CONTROL OFFICER – means any person authorized from time to time to enforce the provisions of the Agriculture and Markets Law of the State of New York and provisions set forth in this article.

GEESE DOG – means any dog that is trained to aid the Animal/Dog Control Officer in the control of geese within the boundaries of the Town.

GUIDE DOG – means any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog owned by a recognized guide dog training center located within the State of New York during the period such dog is being trained or bred.

HARBOR – means to provide food or shelter to any dog or cat.

HEARING DOG – means any dog that is trained to aid a person with a hearing impairment and is actually used for such purpose, or any dog owned by a recognized training center located within the State of New York during the period such dog is being trained or bred for such training.

IDENTIFICATION TAG – means a tag which sets forth an identification number, as required by the provisions set forth in this article.

OWNER – means any person who harbors or keeps any dog, cat or other animal.

PERSON WITH DISABILITY – means any person with a disability as that term is defined in Subdivision 22 of Section 292 of the New York State Executive Law.

POLICE WORK DOG – means any dog owned or harbored by any municipal police department or any State or Federal law enforcement agency, which has been trained to aid law enforcement officers and is actually being used for police work purposes.

RECREATIONAL AREAS – means any real property owned by the Town of Ulster which is used for recreational purposes by the public, including but not limited to parks or playgrounds.

RUN AT LARGE – means to be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands

SENIOR RESIDENT – means any resident of the Town age 65 or older.

SERVICE DOG – means any dog that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability, provided that the dog is or will be owned by such person or that person's parent, guardian or other legal representative. SERVICE DOG shall also refer to dogs defined herein as a DETECTION DOG, GEESE DOG, GUIDE DOG, HEARING DOG, POLICE WORK DOG, THERAPY DOG, and WORKING SEARCH DOG.

THERAPY DOG – means any dog that is trained to aid the emotional and physical health of

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patients in hospitals, nursing home, retirement homes and other settings and is actually used for such purpose, or any dog owned by a recognized training center located within the State of New York during the period such dog is being trained or bred for such purpose.

TOWN – means the area within the corporate limits of the Town of Ulster.

WAR DOG – means any dog which has been honorably discharged from the United States armed services.

WORKING SEARCH DOG – means any dog that is trained to aid in the search for missing persons and is actually used for such purposes; provided, however, that such services provided by said dog shall be performed without charge or fee.

**§ 75-3. Dog Licensing Requirements/Procedures.**

A. Licensing of Dogs.

(1) The owner of any dog reaching the age of four months shall immediately make application for a dog license. No license shall be required for any dog under the age of four months that is not at large. A license shall be renewed after a period of one year beginning with the first date of the month following the date of issuance. Renewal shall be for a minimum of one year and shall not exceed three years, based on the validation term of the rabies vaccination.

(2) Application for a dog license shall be made to the Clerk.

(3) The application shall state the sex, actual or approximate year of birth, breed color(s), and official identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county and town of residence of owner.

(4) The application shall be accompanied by a license fee as listed below and a valid certificate of rabies vaccination or statement in lieu thereof. In the case of a spayed or neutered dog, every application shall also be accompanied by a certificate signed by a licensed veterinarian showing that the dog has been spayed or neutered, provided such certificate shall not be required if the same is already on file with the clerk.

(5) Upon validation by the Clerk, the application shall become a license for the dog described therein. Once an application has been validated, no refund shall be made.

(6) The Clerk shall provide a copy of the license to the owner and retain a record of the license in either paper or electronic format.

(7) No license shall be transferable. Upon the transfer or ownership of any dog, the new owner shall immediately make application for a license for such dog.

B. Purebred Licenses. There will not be distinct purebred licenses as previously provided for by the State. Any and all existing purebred licenses will now be required to comply with Section 3 of this Chapter.

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C. Rabies Vaccination. The Clerk, at the time of issuing any license pursuant to this Article, shall require the applicant to present a statement certified by a licensed veterinarian showing that the dog or dogs have been vaccinated to prevent rabies, or, in lieu thereof, a statement certified by a licensed veterinarian stating that because of age or other reason, the life of the dog or dogs would be endangered by the administration of vaccine. The Clerk shall make or cause to be made from such statement a record of such information and file such record with a copy of the license.

D. Enumeration. In addition to other applicable fees, any person applying for a dog license for a dog identified as unlicensed during an enumeration shall pay a fee of \$5.00. Such additional fee shall be used to pay the expenses incurred by the Town in conducting the enumeration. In the event the additional fees collected exceed the expenses incurred by the Town in conducting an enumeration in any year, such excess fees may be used by the Town for any other lawful purpose.

**§ 75-4. License fees.**

A. For each spayed or neutered dog: \$6.

B. For each unspayed or unneutered dog: \$16, per dog

C. There shall be no fee for any license issued for any guide dog, hearing dog, service dog, war dog, working search dog or police work dog. Each copy of any license for such dog shall be conspicuously marked guide dog, hearing dog, service dog, war dog, working search dog or police work dog, as may be appropriate, by the Town Clerk.

D. Fees may be changed from time to time pursuant to the Town Code and existing local law. License fees may also change based upon state surcharge payments.

**§ 75-5. Identification of Dogs.**

A. Each dog licensed shall be assigned, at the time the dog is licensed for the first time, a permanent official identification number. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dogs at all time.

B. The official identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.

C. At the time a dog is first licensed, one identification tag shall be furnished to the owner at no charge. Any replacement tag shall be obtained by the owner.

D. No tag carrying an official identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.

E. The identification tag shall be imprinted with "Town of Ulster", a unique identification number and the telephone number of the Town Clerk's office.

**§ 75-6. Change of Ownership, Lost or Stolen Dogs.**

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A. In the event of a change in ownership of any dog which has been assigned an official identification number or in the address of the owner of record of any such dog, the owner of record shall, within ten days of such change, notify the Clerk.

B. If any dog which has been assigned an official identification number is lost or stolen, the owner of record shall, within ten days of the discovery of such loss or theft, notify the Clerk.

C. In the case of a dog's death, the owner of record shall so notify the Clerk either prior to renewal of license or upon the time of such renewal.

**§ 75-7. Violations.**

A. It shall be a violation, punishable as provided in subdivision two of this section, for:

(1) any owner to fail to license a dog.

(2) any owner to have any dog identified as required by this Article.

(3) any person to knowingly affix to any dog any false or improper identification tag, special identification tag for identifying guide, service or hearing dogs.

B. It shall be the duty of the Dog Control Officer of the Town to bring an action against any person who has committed within the Town any violation set forth in § 75-7, Subsection A, of this article. A violation of this section shall be punishable as follows:

(1) A fine of not more than \$100, except that:

a. Where the person was found to have previously violated this section once within the preceding five years, the fine shall be not be more than \$200; and

b. Where the person was found to have committed two or more such violations within the preceding five years, it shall be punishable by a fine of not more than \$300.

**§ 75-8. Separability of Provisions.**

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**§ 75-9. Effective Date.**

This article shall take effect on January 1, 2011.

**ARTICLE II Dog Control**

**§ 75-10. Title.**

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This article shall be entitled "Dog Control Law of the Town of Ulster, Ulster County, New York."

**§ 75-11. Legislative intent.**

The Town of Ulster Town Board finds that the running at large and other uncontrolled behavior of dogs has caused physical harm and mental disturbance to persons, damage to property and created nuisances within the Town. The purpose of this article is to protect the health, safety and well-being of persons and property by imposing restrictions on the keeping and running at large by dogs within the Town.

**§ 75-12. Authority.**

This article is enacted pursuant to the provisions of § 124 of Article 7 of the Agriculture and Markets Law of the State of New York.

**§ 75-13. Definitions and word use.**

A. As used in this article, the following words shall have the following respective meanings:

- (1) ADOPTION -- The delivery to any natural person 18 years of age or older, for the limited purpose of harboring a pet, of any dog, seized or surrendered.
- (2) AGRICULTURE AND MARKETS LAW -- The Agriculture and Markets Law of the State of New York, in effect as of the effective date of this article and as amended thereafter.
- (3) CLERK -- The Town Clerk of the Town of Ulster where licenses are issued or validated.
- (4) COMMISSIONER -- The State Commissioner of Agriculture and Markets.
- (5) DOG -- Any member of the species canis familiaris.
- (6) DOG CONTROL OFFICER -- Any person authorized by the Town Board to enforce the provisions of this article or the provisions of the Agriculture and Markets Law, including but not limited to Dog Control Officer, Police Officer and Building Inspector.
- (7) EUTHANIZE -- To bring about death by a humane method.
- (8) GUIDE DOG -- Any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog owned by a recognized guide dog training center located within the state during the period such dog is being trained or bred for such purpose.
- (9) HARBOR -- To provide food or shelter to any dog.
- (10) HEARING DOG -- Any dog that is trained to aid a person with a hearing impairment and is actually used for such purpose or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purposes.

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(11) IDENTIFICATION TAG -- Any tag which sets forth an official identification number as required by the Agriculture and Markets Law.

(12) IDENTIFIED DOG -- Any dog carrying an identification tag as provided in the Agriculture and Markets Law.

(13) OFFICIAL IDENTIFICATION NUMBER -- A series or combination of letters, numbers or symbols approved and furnished by the Commissioner.

(14) OWNER -- Any person who harbors or keeps any dog.

(15) OWNER OF RECORD -- The person in whose name any dog was last licensed pursuant to the Agriculture and Markets Law, except that if any license is issued on application of a person under 18 years of age, the owner of record shall be deemed to be the parent or guardian of such person. If it cannot be determined in whose name any dog was last licensed or if the owner of record has filed a statement pursuant to the provisions of § 113 of the Agriculture and Markets Law, the owner shall be deemed to be the owner of record of such dog, except that if the owner is under 18 years of age, the owner shall be deemed to be the parent or guardian of such person.

(16) PERSON -- Any individual, corporation, partnership, association or other organized group of persons, municipality or other legal entity.

(17) PERSON WITH A DISABILITY -- Any person with a physical impairment which is permanent and severely limits such person's mobility or a person who is unable to ambulate without the aid of a wheelchair or other prosthetic device.

(18) POLICE WORK DOG -- Any dog owned or harbored by any state or municipal Police Department or any state or federal law enforcement agency which has been trained to aid law enforcement officers and is actually being used for police work purposes.

(19) SERVICE DOG -- Any dog that is trained to aid a person with a disability and is actually used for such purpose, or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purpose.

(20) TOWN -- Town of Ulster, a municipal subdivision of the State of New York, Ulster County

(21) WAR DOG -- Any dog which has been honorably discharged from the United States Armed Services.

(22) WORKING SEARCH DOG -- Any dog that is trained to aid in the search for missing persons and is actually used for such purpose.

B. "Shall" is mandatory; "may" is permissive.

**§ 75-14. Limitations on dog barking.**

It shall be unlawful for any person to own or harbor a dog which habitually barks between the



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hours of 7:00 a.m. and 9:00 p.m. for more than one hour or for a period of less than one hour, but more than 1/2 hour, when said period occurs on two consecutive days. Between 9:00 p.m. and 7:00 a.m. barking for more than 1/2 hour or for a period of less than 1/2 hour but more than 1/4 hour when said period occurs on two consecutive days is unlawful. Such behavior shall be deemed to cause the annoyance and discomfort of persons in the Town of Ulster. (See warning and complaint procedure below.)

**§ 75-15. Warning procedures.**

A. Any resident of the Town may request, in writing, that the Dog Control Officer warn any person who shall own or harbor any dog which habitually barks in violation of § 75-14 of this article.

B. Any such request shall identify the owner of the premises, the owner or harbinger of the dog and the name and address of the person making the request. Upon receipt of such request the Dog Control Officer shall investigate the complaint and upon a determination that there is probable cause that such complaint is valid, shall give the owner or harbinger of the dog a warning.

C. The warning shall consist of personal delivery of a copy of these provisions to such owner or harbinger or to someone in their household, or by mailing a copy of these written provisions if the violator resides outside the Town of Ulster, together with a written notice that no further warning shall be given and that any future violations shall be prosecuted according to law.

**§ 75-16. Penalties for dog barking offenses.**

Any person found to be in violation of § 99-14 of this article shall be deemed guilty of a violation and shall be liable for a fine of not less than \$100 nor more than \$200 or imprisonment for not more than 15 days, or both such fine and imprisonment.

**§ 75-17. Restrictions.**

It shall be unlawful within the Town of Ulster for any owner of any dog to permit or allow said dog:

A. To run at large off the owner's property unless the dog is accompanied by its owner or a responsible person, either of whom must be able to control such dog by command and with knowledge, consent and approval of the owner of such private premises.

(1) A dog present in a public place or on private lands without the knowledge, consent and approval of the owner of such private lands shall be considered running at large, unless restrained by an adequate leash.

(2) Dogs used for hunting, trailing, training, tracking, police work dog, service dog, or working search dog when actually used for these purposes and not restrained by a leash shall not be considered running at large.

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- B. To habitually chase, run alongside, or bark at moving motor vehicles.
  - C. To uproot, dig, or otherwise damage vegetables, lawns, flowers, gardens or other property not belonging to the owner of such dog.
  - D. To chase, jump upon or at, or otherwise harass any person (other than the owner) in such a manner as to reasonably cause intimidation or fear, or put such person in a position of reasonable apprehension of bodily harm or injury, while off the owner's premises.
  - E. To create a nuisance by defecation, urination, or digging on property not belonging to the owner of such dog.
- (1) Removal of feces required. Any person owning or in charge of any dog which soils, defiles on or commits any nuisance on any property, without the permission of the owner of the property, shall immediately remove all feces by such dog in a sanitary manner.
  - (2) Disposal of feces. The feces removed from the aforementioned areas shall be disposed of by the person owning or in charge of any such dog, in a sealed, nonabsorbent, leakproof container.
  - (3) Exception for guide dogs. The provisions of this subsection shall not apply to blind persons who may use dogs as guides.
- F. To allow excess feces to accumulate on the owner's property.
  - G. To allow a female dog to be off the owner's premises when in heat.

**§ 75-18. Penalties for at large offenses.**

Any person found to be in violation of § 75-17 of this article shall, upon conviction, be deemed guilty of a violation and shall be liable for a fine of not less than \$100 nor more than \$200 or imprisonment for not more than 15 days, or both such fine and imprisonment, except violations of § 75-17(E)(1) shall be subject to a fine of not less than \$50 nor more than \$100.

**§ 75-19. Enforcement.**

This article shall be enforced by the Animal Control Officer of the Town of Ulster, as defined in § 75-2 of this article, or any Town of Ulster Police Officer.

**§ 75-20. Seizure, impoundment and redemption.**

- A. Any dog found in violation of the provisions of § 75-7 of this article may be seized pursuant to the provisions of § 118 of the Agriculture and Markets Law.
- B. Every dog seized shall be properly cared for, sheltered, fed and watered for the redemption period set forth in § 118 of the Agriculture and Markets Law.
- C. Seized dogs may be redeemed by producing proof of licensing and identification pursuant to Article 7 of the Agriculture and Markets Law and by paying the impoundment fee set forth in

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§ 118 of the Agriculture and Markets Law.

D. If the dog is to be redeemed, the owner, upon redemption, shall pay the Town Clerk a fee as follows:

(1) Impoundment: \$100 flat fee plus \$10 per day.

(2) When an owner is identifiable, if a dog is captured while running at large and returned to the dog owner: \$50 civil penalty.

(3) Dogs turned over to the Ulster County SPCA for euthanasia and adoption or unclaimed must be neutered or spayed when adopted from the Ulster County SPCA , at the expense of those adopting the animal.

E. Any dog unredeemed at the expiration of the redemption period shall be made available for adoption or euthanized pursuant to the provisions of § 118 of the Agriculture and Markets Law.

F. No action shall be maintained against the Town, Dog Control Officer, peace officer, when acting pursuant to his special duties, or any other agent of the Town, or any persons under contract to the Town, to recover the possession of, or value of any dog seized or destroyed pursuant to the provisions of this article or the Agriculture and Markets Law.

G. Any Dog Control Officer or peace officer, when acting pursuant to his special duties, observing a violation of this article in his presence may issue and serve an appearance ticket for such violation.

H. In the event that the dog seized bears a license tag, the person seizing the dog shall, within three days thereafter, ascertain the name of the owner and give the owner immediate notice by serving upon the owner a written notice stating that the dog was seized and stating that the dog will be destroyed or otherwise provided for, unless redeemed or a trial is demanded within 12 days of the impoundment of the dog.

I. In the event that the dog seized does not bear a license tag and the owner is unknown, the Ulster County SPCA, or another suitable organization or individual appointed by the Dog Control Officer, shall be authorized to destroy the dog seven days after the impounding or to dispose of the dog by sale or other means, unless the owner redeems the dog, if permitted, or unless a trial is demanded by the owner, within seven days of seizure.

**§ 75-21. Forfeiture of ownership.**

If any impounded dog is not redeemed or a trial demanded within the time herein as set forth, the owner shall forfeit ownership of the dog, and it may thereafter be destroyed or otherwise provided for by the appropriate official as hereinafter provided.

A. In the event that it becomes necessary to destroy a dog, the Dog Control Officer or any law enforcement officer shall arrange, through the Ulster County SPCA, or another suitable organization or individual appointed by the Dog Control Officer, to humanely destroy

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and dispose of the carcass. Any Dog Control Officer who destroys a dog must make a report in writing to the Town Clerk and such report shall be filed for one year.

B. The owner, possessor or harbinger of any dog destroyed under the provisions of this article shall not be entitled to any compensation and no action shall be maintainable thereafter to recover the value of the animal or any other type of damage whatsoever.

2<sup>nd</sup> by Councilwoman Hendrick  
All Ayes

**Resolution on Setting Public Hearing date on Tech – City DGEIS**

Councilman Morrow motioned to approve the following resolution:

It is hereby resolved by the Town Board of the Town of Ulster that:

1. The public comment period for the Draft Generic Environmental Impact Statement presently on file in the Town Clerk's Office that pertains to the contemplated redevelopment of the east campus of Tech City shall end on February 15, 2011;
2. The Town Board of the Town of Ulster shall conduct a public hearing on the Draft Generic Environmental Impact Statement on February 1, 2011 according to the contents of the Notice of Public Hearing which is attached to this resolution.

TOWN BOARD  
TOWN OF ULSTER  
ULSTER COUNTY - NEW YORK

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Ulster, Ulster County, New York will meet and conduct a public hearing at the Town of Ulster Town Hall, 1 Town Hall, Lake Katrine, NY in the said Town of Ulster, County of Ulster, New York on the 3rd day of February, 2011 at 7:15 p.m. for the purpose of hearing all persons with respect to a Draft Generic Environmental Impact Statement presently on file in the Town Clerk's Office for the contemplated redevelopment of the east campus of Tech City. Additional copies can be viewed on the Town of Ulster website, [www.townofulster.org](http://www.townofulster.org), or at the Town of Ulster Library, 860 Ulster Avenue, Kingston, New York, or at the Town of Ulster Planning Board Office, 584 East Chester Street Bypass, Kingston, New York. Written comments will also be accepted at the public hearing.

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2<sup>nd</sup> by Councilwoman Hendrick  
All Ayes

**Resolution setting date and time for 2011 Town Organizational Meeting**

Councilman Kitchen motioned to set the 2011 Organizational meeting for December 30, 2010 at 7 PM at the Ulster Town Hall.

2<sup>nd</sup> by Councilman Brink  
All Ayes

**Motion to Authorize the Supervisor to sign 2011 Agreement for Utilization of the Ulster Police Firearms Range with the County of Ulster.**

Councilman Morrow moved to authorize the Town Supervisor to sign the 2011 Agreement for Utilization of the Ulster Police Firearms Range with the County of Ulster.

2<sup>nd</sup> by Councilwoman Hendrick  
All Ayes

**Discussion of Part Time Snow Removal Staff & Compensation**

Councilman Kitchen moved to hire the following as a part time snow removal staff effective immediately:

Part Time List	Rate of Pay:
James Corrigan	\$18.00 per hr
Robert Dachenhausen	\$18.00 per hr
Steven Benson	\$18.00 per hr
Edward Molinaro	\$15.00 per hr
Mathew Molinaro	\$15.00 per hr

2<sup>nd</sup> by Councilman Brink  
All Ayes

**Discussion on Sale of Town-owned property on Morton Blvd**

Councilman Kitchen moved to sell the town's property located on Morton Blvd. near the old town library for \$40,000 to S4 incorporated and to have the Town Attorney send a contract to them.

2<sup>nd</sup> by Councilwoman Hendrick  
All Ayes

**Refinance Water District**

Councilwoman Hendrick moved to approve the following:

RESOLUTION AUTHORIZING THE SUPERVISOR OF THE TOWN OF ULSTER TO SIGN A CLOSING CERTIFICATE AND SUPPLEMENTAL AGREEMENT WITH THE NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION

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WHEREAS, the New York State Environmental Facilities Corporation (NYSEFC) is undertaking a refinancing initiative on behalf of municipalities that have funded projects through the State Clean Water and Drinking Water Revolving Funds; and

WHEREAS, the Town of Ulster has an outstanding bond with the State Clean Water and Drinking Water Revolving Funds, Series 2001A, with a principal balance as of March 16, 2011 of \$695,000.00; and

WHEREAS, by cooperating with the New York State Environmental Facilities Corporation, the Town of Ulster has a chance to lower its interest rate on the outstanding bond; therefore

BE IT RESOLVED by the Town Board of the Town of Ulster, Ulster County, as follows:

1. The Town of Ulster Town Board hereby authorizes Supervisor James E. Quigley 3rd to execute the Closing Certificate and Supplemental Agreement between the Town of Ulster and the New York State Environmental Facilities Corporation (NYSEFC) for State Clean Water Revolving Fund Project No.: C3-5353-01-00.

2<sup>nd</sup> by Councilman Morrow  
All Ayes

**Discussion of Request on Scott Gibson Issue**

Mr. Scott Gibson requested that a portion of the Town road/ cul-de-sac near his property at the end of Old Neighborhood Road be given to him so he can construct a solar panel test site for a job training / apprentice center. A discussion followed among the Town Board. Mr. Gibson agreed to a reverter's clause on the property if the purpose was not accomplished. The Town Attorney will need more time to review the request. Mr. Gibson will provide title insurance on his property if it is available.

**7:15 PM Public Hearing for a Special use Permit for Ralph Kennel, property of Sherry Ralph**

Supervisor Quigley opened the public hearing at 7:19 PM.

Mr. Gary Feddes is not in favor of the special permit because it is not compatible with the area and it is a prohibited use in this zone according to Town Law. The kennel is already there and the noise of the dogs barking is disruptive to the residents and this disruption to the quality of life is prohibited according to the Town Law. He expressed concern about the animal waste getting into the water.

Mr. William Fiore states that his property is across from the proposed site. The barking is disruptive to his quality of life. His daughter is unable to sleep well at night due to the noise. He feels his property value has dropped because of this problem. He feels if the board grants a permit, then there will be no effort to regulate the noise problem. He does not feel that this is compatible with the area. He has tried to handle this issue in a neighborly fashion but noise reduction has not been resolved.

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Mr. Kirk Felton knows that the Ralphs have a lot of money invested in this project, but he and his family have money invested in their properties in the area. The noise of the dogs barking is heard all the time and this affects the property value.

Mr. Denis O'Regan stated that in the beginning there was noise but they moved half the dogs off the property to help eliminate it. There are other neighborhood dogs barking at night and the sound is not from the dogs locked up in the kennel.

Mr. Daniel Halwick, who lives across the street, complained about the dogs barking non-stop.

Mr. Michael Zimet stated that he lives the closest to the property and the dogs are locked up and trees surround the kennel. There are multiple layers of fencing. The dogs are not a nuisance to him.

Mr. Shawn Murphy, an attorney representing the Ralphs, stated that there are about 6 acres of property, multiple layers of fencing, and kennels noise is reduced with foam. The dogs are in the kennel at night. There is no traffic to the property, the kennel is for breeding only. If the board allows the uses, the Ralphs are willing to add more screening, more noise buffers and so forth to address any issues. He was just recently retained, so he would need to review the file to answer some of the questions raised by the planning board.

Mr. Diane Godfrey is not in favor of the permit. She suggested that the Town Board visit the area to hear the problem.

Mr. Gary Feddes wanted to disclose that Mr. Michael Zimet is Mrs. Ralphs' son.

Mr. Tim Raplths stated that a friend, who is a German Shepherd Dog breeder, lost their home due to a fire and they held their dogs in temporary kennels until they could be returned. This resulted in the noise problems. When they left, they took over half the dogs. These are very expensive dogs so they are not allowed to run at large. He will do anything that is requested to address the noise issue. He didn't know a special use permit was required. He has had breeding dogs in his garage for the last 15 years.

Councilman Morrow inquired if there are any other items, other than noise that needed to be addressed. A discussion followed. Mr. Ralph stated that they are considering enclosing the outside of the kennel to reduce the noise and add more screening. None of the dogs run free. They are highly trained. There is a person who walks the dogs daily.

Mr. Shawn Murphy, an attorney representing the Ralphs, admits that the application should have been submitted before the actual use. He requested the application be judged on its own merits and that the various zoning issues be addressed, and not be affected by any previous alleged violations.

Mr. Michael Zimet stated that he does hear the dogs bark but it is not annoying as they are trained dogs.

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Mr. Kirk Felton stated that people talking tonight are not all related and there is no family conspiracy to stop a kennel. This complaint is about the barking. He expressed concern about the kennel taking a large amount of dogs in. He is not aware of a lessening of noise.

Mr. Daniel Halwick stated that he is aware that the dogs are less visible, but the noise is still there. He also had situations where dogs and other animals have been in his yard (The dogs were personal dogs of the owner and not the kennel dogs).

Mr. Denis O'Regan reported that there are other businesses that are operating in the area and he is not sure that they have business permits.

Mr. Shawn Murphy, an attorney representing the Ralphs, stated that his client's animals are secured and they don't run free.

A discussion followed with the Town Board.

Mr. Tim Ralph reported that a septic system has been installed that is designed to handle animal waste. It is a self-contained system. His plan is to use the kennel as a breeding area consisting of the breeding females and their puppies. The other dogs will be moved to Cossack, NY with a business partner. The Town Board is welcome to visit the area.

Mrs. Diane Godfrey stated that this is a residential area and that the town shouldn't be contemplating approval of the permit.

Mr. William Fiore wanted to agree that there was a larger quantity of dogs due to circumstances and they did get rid of those dogs. His only problem with the kennel is the noise. He had a discussion about the noise with the Ralphs earlier on and it was not adequately addressed, so he doesn't feel comfortable that it will be addressed now.

Councilwoman Hendrick motioned to close the public hearing at 8:05 PM  
2<sup>nd</sup> by Councilman Brink  
All Ayes

**Public Comment**

Mrs. Rosalind Stark stated that STEM, Stop the Eddyville Mine, organization had been incorporated and is committed against the mining activity, maintaining the quality of the air & water in the Eddyville area, and maintaining property values. They support the Town in its defense of its anti-mining law.

Mr. George Lucente inquired about all the signs being posted in the business district in the township.

Councilwoman Hendrick reported that she is working with Councilman Morrow reviewing the local law to see what can be done.



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Mr. Robert Barton feels that the Town needs to enforce the zoning laws that it has.

***Executive Session:***

Councilman Morrow motioned to enter into executive session at 8:16 PM to discuss current legal litigation in regard to Eddyville Corp. v Town of Ulster and for a legal update in regards to the Ruby Kennel with Special Council Rebecca Millouras-Lettre  
2<sup>nd</sup> by Councilwoman Hendrick  
All Ayes

Town Assessor James Maloney, Special Council Rebecca Millouras-Lettre, and Town Attorney Jason J. Kovacs were invited into the session.

Special Council Millouras-Lettre left the session at 8:20 PM  
Town Assessor Maloney left the session at 8:30 PM

Executive session ended at 9:13 PM

Supervisor Quigley reported that there were no actions taken.

The regular meeting resumed at 9:15 PM

Councilwoman Hendrick motioned to adjourn the meeting at 9:16 PM  
2<sup>nd</sup> by Councilman Morrow  
All Ayes

Respectfully submitted by  
Jason Cosenza, RMC FHCO  
Ulster Town Clerk