

TOWN OF ULSTER TOWN BOARD MEETING (7)

April 4, 2019

~ Public Hearings Scheduled:

7:10pm – Issuance of a Special Use Permit for Ulster Hospitality LLC, Ulster Avenue, Lake Katrine, NY , SBL: 39.82-2-7.117

CALLED TO ORDER BY SUPERVISOR QUIGLEY, CHAIRMAN at 7:00 PM

SALUTE TO THE FLAG

ROLL CALL by Town Clerk, Suzanne Reavy:

TOWN COUNCILMAN JOEL B. BRINK
TOWN COUNCILMAN ERIC KITCHEN
DEPUTY SUPERVISOR JOHN MORROW
TOWN COUNCILMAN ROCCO SECRETO
SUPERVISOR JAMES E. QUIGLEY 3rd

ALSO IN ATTENDANCE:

1. Jason Kovacs, Town Attorney
2. Kyle Berardi, Police Chief
3. Frank Petramale, Highway Superintendent
4. Kathy Moniz, Building Inspector
5. Vincent Maggiore, Wastewater Superintendent
6. Nine town residents

ADDITIONS OR CHANGES TO THE AGENDA— None

PUBLIC DISCUSSION ON AGENDA ITEMS – None

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COMMUNICATIONS –

1. Thank you to Regis Obijiski for building and installing the new podium dolly for the meeting room
2. VFW Pancake Breakfast: Saturday, 4/7 from 8-11am.
3. Easter Egg Hunt: Saturday, 4/13, 11am at Miller Middle School.
4. Tax Collection Update: As of 4/4/19, total unpaid taxes remain 18% of total tax warrant (approximately 3.5M). Compared to last year, unpaid taxes were 12% of the tax warrant.

COMMITTEE REPORTS:

1. Buildings and Grounds: Councilman Morrow – Nothing to report.
2. Recreation: Councilman Kitchen
Bidly Ball & adult volleyball ended. Nick Williams won the Joseph Riccio Jr award. Summer camp registration underway. Playground equipment ordered for Elmendorf Park. Other parks such as John Brown Park in Halcyon Park will be looked at. Easter Egg hunt is on Saturday, 4/13.
3. Highway: Councilman Secreto
Sweeping started and docks are in at Rider Park. Frank Petramale built some tables for the parks. Repairing water breaks; working on repair of salt shed; getting ready to do in-house work for Katrine Lane sewer. Drainage projects this year. Blacktop list will be posted. Received new roller last week. All employees good and expresses sincere gratitude to residents and employees.
4. Finance: Councilman Secreto
Thank you to the employees in the office who prepare the abstracts.
5. Wastewater: Councilman Kitchen
Clearing trees in Whittier. Cleaning up property on Washington Ave. Met with Vincent Maggiore for discussion on purchase of a vac truck.
6. Water: Councilman Secreto
Between 1/15 and 3/20 there were 14 water breaks. Installed 20 new meters in Brigham Lane area. Thanks customers. Received new utility truck. Will change lines in the next few months near Kiersted/Harwich St. area. Thanks highway and sewer departments. Repaired two holes in the south tower.
7. Personnel: Councilman Brink – Nothing to report
8. Planning, Building, Assessor: Councilman Kitchen – Nothing to report
9. Constituent Services: Councilman Morrow – Nothing to report

Town Clerk: Town looking to upgrade and install new PA system in the meeting room/courtroom. Met with HVAV last week to install new speaker and provide six wireless microphones for better sound quality during meetings. Awaiting quote.

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Councilman Brink: Building Department Report

- Health Quest started interior work
- NCG Cinema & Aldi on track and almost complete
- Uncle B's – foundation work on car wash and lube center
- Kingston Commons – site work for stormwater
- Frank Tiano's wedding barn – erected and working on interior
- Stewart's on Washington Ave – halfway through renovations
- Smoothie King – open for business

Councilman Brink: Assessor Report

- Reviewing all property tax exemptions
- Inspecting all parcels that received building permits
- Getting 2019 roll completed by 5/1

~Public Hearing: 7:10pm – Issuance of a Special Use Permit for Ulster Hospitality LLC, Ulster Avenue, Lake Katrine, NY , SBL: 39.82-2-7.117

Supervisor: Invites David Young (*Project Engineer, Chazen Companies*) to speak

Young: Current property is 14.66 acres including current developments. Hotel project 1.8 acres. Looking at 64,810 square feet of hotel; 100 rooms; 1581 Ulster Avenue. This project presented on 3/12 where Town Board reaffirmed Lead Agency status. SEQRA process began. Now before Town Board for a special use permit. Looking for questions from the Town Board and community. Applicant, Chet Patel, Ulster Hospitality, could not be here tonight. Will be a variance requested for the porte-cochere, Re: setback from the road. This road is an interior road – not Route 9W.

Councilman Kitchen: How many feet set back from main road/Route 9W? and how many stories?

Young: 250' setback. Four stories.

Councilman Secreto: 110 parking spaces? Will they interfere with medical center?

Young: 111 parking spaces. No interference.

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Supervisor Quigley: Take public comment from residents on the town board's issuance of special use permit, which is required under the Town Code in this zoning district.

MOTION to open the Public Hearing (7:24 pm)

MOTION: Councilman Brink
SECOND: Councilman Secreto

Town Councilman Brink	-Aye
Town Councilman Kitchen	-Aye
Deputy Supervisor Morrow	-Aye
Town Councilman Secreto	-Aye
Supervisor Quigley	-Aye

CARRIED

~~ No Public Comment ~~

MOTION to close the Public Hearing (7:25 pm)

MOTION: Councilman Secreto
SECOND: Councilman Kitchen

Town Councilman Brink	-Aye
Town Councilman Kitchen	-Aye
Deputy Supervisor Morrow	-Aye
Town Councilman Secreto	-Aye
Supervisor Quigley	-Aye

CARRIED

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New business:

Motion to authorize the hiring of five seasonal employees for the Recreation Department
(Presented by Councilman Brink)

- | | |
|--|--------------|
| 1. Frank Rittie, Park Supervisor: | \$13.50/hour |
| 2. Kahlil Worthington, Park Attendant: | \$12.50/hour |
| 3. Devin Boice, Park Attendant: | \$12.50/hour |
| 4. Randy Sauers, Park Attendant: | \$12.50/hour |
| 5. Richard Metzger, Harbor Master, Rider Park: | \$11.50/hour |

MOTION: Councilman Morrow

SECOND: Councilman Secreto

Town Councilman Brink	-Aye
Town Councilman Kitchen	-Aye
Deputy Supervisor Morrow	-Aye
Town Councilman Secreto	-Aye
Supervisor Quigley	-Aye

CARRIED

Motion to authorize the hiring of a Part Time Court Clerk for the Town Justice Court

Robin Elliott: \$12.00/hour; non-union; non-competitive

MOTION: Councilman Morrow

SECOND: Councilman Kitchen

Town Councilman Brink	-Aye
Town Councilman Kitchen	-Aye
Deputy Supervisor Morrow	-Aye
Town Councilman Secreto	-Aye
Supervisor Quigley	-Aye

CARRIED

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Motion to authorize the hiring of a one seasonal employee for the Water Department

Michael VonAhnen: \$12.00/hour; seasonal; non-union; non-competitive; ends approx.
9/1/19

MOTION: Councilman Morrow

SECOND: Councilman Secreto

Town Councilman Brink	-Aye
Town Councilman Kitchen	-Aye
Deputy Supervisor Morrow	-Aye
Town Councilman Secreto	-Aye
Supervisor Quigley	-Aye

CARRIED

**Motion to accept the resignation of a part time dispatcher for the Police Department
(Brandon North)**

MOTION: Councilman Morrow

SECOND: Councilman Secreto

Town Councilman Brink	-Aye
Town Councilman Kitchen	-Aye
Deputy Supervisor Morrow	-Aye
Town Councilman Secreto	-Aye
Supervisor Quigley	-Aye

CARRIED

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Presentation of the Annual Update Document filed with the NYS Controller's Office for the Town's Financial Results for the year ending December 31, 2018 to be adopted at the next meeting

Vote on at next Town Board Meeting for acceptance – 4/18/19
In accordance with Town fund balance policy.

Presentation of 2018 Fund Balance Review in accordance with Fund Balance Policy adopted by the Town Board

Disseminated on Town Website.
To vote on at next Town Board Meeting – 4/18/19.

Motion to authorize the Police Department to provide Town support to the Town of Kingston Fun Run on May 5, 2019

Acceptable to Chief Berardi

MOTION: Councilman Morrow
SECOND: Councilman Brink

Town Councilman Brink	-Aye
Town Councilman Kitchen	-Aye
Deputy Supervisor Morrow	-Aye
Town Councilman Secreto	-Aye
Supervisor Quigley	-Aye

CARRIED

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Motion to authorize the Police Chief to auction off a 2009 Chevrolet Tahoe police vehicle

MOTION: Councilman Secreto
SECOND: Councilman Morrow

Town Councilman Brink	-Aye
Town Councilman Kitchen	-Aye
Deputy Supervisor Morrow	-Aye
Town Councilman Secreto	-Aye
Supervisor Quigley	-Aye

CARRIED

Motion to authorize the Town Clerk to participate in training for Managing Born Digital Records, April 23rd, Fishkill, NY

Provided by New York State Archives

MOTION: Councilman Kitchen
SECOND: Councilman Secreto

Town Councilman Brink	-Aye
Town Councilman Kitchen	-Aye
Deputy Supervisor Morrow	-Aye
Town Councilman Secreto	-Aye
Supervisor Quigley	-Aye

CARRIED

Presentation of the form of Out of District Water Service Agreement for Mustafa Khan, 134 Forest Hill Dr., Kingston, SBL: 48.13-3-2

Supervisor: No action tonight. Defer until the Town receives a report from Brinnier & Larios (engineers).

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Presentation of the form of Lease between the Town of Ulster and Verizon Wireless for a 10' x 10' area of land adjacent to the Halcyon Park Water Storage Tank to be used for a small cell cellular installation

Supervisor: Verizon came to the Town Board to put in a small pole (52' high) with two-4G LTE broadcast boxes. Low wattage. Antenna on top to be used by fire department and/or SCADA system. Prior service to Ulster Service area is the main tower on Hallihan Hill in the Town of Kingston. Will be on the agenda at next week's Town Planning Board.

Presentation of the Resolution Approving Lease Agreement between the Town of Ulster and Verizon Wireless

Supervisor: No action until Planning Board review.

Resolution of the Town Board
TOWN OF ULSTER
Resolution of Town Board of the Town of Ulster Approving a Lease Agreement

WHEREAS, the Town of Ulster (the "Town") is the owner of the property located at 51 Dachenhausen Lane and designated on the tax map as SBL: 39.7-2-12.200 ("Property"); and

WHEREAS, the Town desires to use a portion of the Property for the installation of a wireless communications support structure; and

WHEREAS, Orange County-Poughkeepsie Limited Partnership d/b/a Verizon Wireless ("Verizon") desires to use a portion of the Property to install the support structure and compound area necessary to accommodate the wireless coverage needs of various Town Departments, including the Police Department and EMS, the Highway Department, and the Water and Sewer Departments, in addition to the providing capacity for the collocation of private public utility wireless communication facilities in order to close significant gaps in reliable wireless service that exist in the vicinity of the Property within the Town; and

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WHEREAS, the Town and Wireless desire to enter into a lease agreement (“Agreement”), a copy of which is attached hereto as Exhibit “A”, for the purpose of constructing a ____ foot tower (the “Facility”) with municipal antennas located thereon and which shall provide for the collocation of commercial wireless communication facilities including antennas and related equipment on the Facility all of which shall be situated on or within a 100 square foot lease parcel; and

WHEREAS, the Facility will provide wireless telecommunications services essential for responding to accidents, natural disasters and for reporting medical emergencies and other dangers such as potential criminal activity; and

WHEREAS, the Agreement between the Town and Verizon is for Town property not presently being utilized by the Town and not anticipated to be needed by the Town over the term of the Agreement and the Agreement is for fair market value and in the best interests of the Town and its residents; and

WHEREAS, the Town has: (a) classified the action of approving the Agreement and performing the “balancing of the interests” test as described below as an Unlisted Action pursuant to the State Environmental Quality Review Act (“SEQRA”); (b) declared itself lead agency as there are no other involved agencies; and (c) adopted a Negative Declaration finding that there are no potential significant adverse environmental impacts; and

WHEREAS, it is recognized under New York State Law that towns are accorded certain “immunity” from local zoning regulations; and

WHEREAS, the leading New York Court of Appeals decision, Matter of County of Monroe v City of Rochester, 72 N.Y.2d 338, 533 N.Y.S.2d 702 (“Monroe”), establishes the “balancing of the interests” approach for determining whether a project should be accorded immunity from local zoning regulations; and

WHEREAS, Monroe permits the Town to determine whether or not it is in the public interest to subject a particular project serving governmental interests to local zoning; and

WHEREAS, Monroe discusses the following nine (9) factors for consideration when balancing the interests of the public and the governmental entity:

- 1) The nature and scope of the instrumentality seeking immunity;
- 2) The encroaching governmental entity’s legislative grant of authority;
- 3) The kind of function or land use involved;
- 4) The effect local land use regulation would have upon the enterprise concerned;
- 5) Alternative locations for the facility in less restrictive zoning areas;
- 6) The impact upon legitimate local interests;

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- 7) Alternative methods of providing the proposed improvement;
- 8) The extent of the public interest to be served by the improvements; and
- 9) The intergovernmental participation in the project development process and an opportunity to be heard; and

WHEREAS, the Town has analyzed each of the foregoing considerations to determine whether the Facility should be exempt from the Town of Ulster zoning regulations and has determined that the Facility as proposed to be located, should be exempt from such zoning regulations.

NOW, THEREFORE, it is hereby found and determined that based upon a review of the foregoing considerations, this board has adopted the following findings of fact:

FIRST: The Town is a municipal corporation of the State of New York and provides emergency and public safety protection to its residents. Therefore, the Town is purely public in nature and is a governmental entity that provides an essential public service.

SECOND: The Facility will be located within the municipal borders of the Town, and therefore there is no encroaching entity. Pursuant to Section 64(2) of New York State Town Law,
the Town has authority to lease Town lands.

THIRD: The function or land use that is contemplated by the Town under the Agreement, is a wireless communications facility. The Facility will consist of a ____ foot tower and compound to support the communication needs of various Town departments, and to provide for the collocation of antennas operated by wireless public utility telecommunications service providers.

FOURTH: Imposing local land use regulations on the proposed Facility would have the effect of unreasonably delaying an essential public need for immediate and effective emergency response and reliable wireless communications.

FIFTH: There are no alternative locations for the Facility in less restrictive zoning areas as such facilities are permitted in all Town zoning districts by special use permit. Moreover, the proposed location for the Facility at the subject Property is ideal in order to minimize aesthetic impacts to the greatest extent feasible based on the large size of the property and distance from neighboring uses. The Property already supports large scale municipal operations and, therefore, the location of the Facility on the Property will not have a detriment on the community. By controlling the location of the Facility on municipal property, the Town can ensure that there is adequate infrastructure in place for the location of emergency communication antennas, while controlling the proliferation of new towers.

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SIXTH: The Facility will not have an adverse environmental or other impact on the public because the Facility will be sited on a large parcel and will be distant from neighboring residential uses. The Facility will benefit the public interest by providing essential services and by producing revenue for the Town, by providing critical infrastructure for municipal emergency wireless communications and public utility commercial wireless services and will be sited to minimize any potential adverse environmental impacts. The Facility will comply with all structural standards and will not adversely affect the public health, safety or the general welfare. The Facility will not cause any harmful interference with the frequencies of any radio, television, telephone or other uses. The Facility will have no impact on pedestrian or vehicular traffic, since the proposed use is unmanned requiring infrequent maintenance visits of approximately once per month. The Facility will not produce any smoke, gas, odor, heat, dust, noise above ambient levels, fumes, vibrations or flashing lights; the Facility will not generate solid waste, waste water or sewage, will not require water supply or waste disposal, and will not attract insects, vermin or other vectors. Any human exposure to electromagnetic energy from the Facility even under “worst case” conditions, will be several orders of magnitude below the exposure limits established by the FCC, the American National Standards Institute, the Institute of Electronic and Electrical Engineers, the National Council on Radiation Protection and Measurements, and the New York State Department of Health. The Facility will not impact any wetlands and will not be located within any wetland buffers.

SEVENTH: Due to the topography of the Town, the proposed height of the Facility is necessary to provide reliable wireless communications services in the local area and support collocation thereby discouraging the proliferation of towers.

EIGHTH: The Facility will protect and promote the public interest, in that it will serve and benefit the entire community by providing the infrastructure necessary to offer the public a wireless telecommunications services essential for protecting public health, safety, and welfare, including the provision of enhance 911 services.

NINTH: The zoning exemption contemplated by this resolution shall apply and extend to the commercial public utility antennas and related equipment located on or associated with the Facility consistent with the decision of the New York State Court of Appeals in the Matter of Crown Communication New York, Inc., 4 N.Y.3d 159.

TENTH: The Agreement is for Town land that will not be required by the Town over the term of the Lease and the compensation provided to the Town under the Agreement is for fair market value.

ELEVENTH: The Town Board has reviewed the Agreement and provided all notices required under the New York State Town Law.

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NOW THEREFORE BE IT:

RESOLVED, that the Negative Declaration prepared in connection with the Agreement is hereby adopted; and

RESOLVED, that based upon the foregoing balancing of interests, it is not in the public interest to subject the Facility to local zoning and land use regulations; and

RESOLVED, that this Resolution is adopted subject to a permissive referendum and that the Town Clerk is directed to publish and post the notice of adoption of this Resolution in accordance with Article 7 of the Town Law within ten (10) days; and it is further

RESOLVED, that upon the expiration of the permissive referendum period, the Town Supervisor is authorized to execute all documents required to complete the Agreement subject to the review and approval of the Town Attorney for the Town as to form and content.

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Resolution Scheduling Public Hearing Regarding Alleged Public Nuisance / Illegal Junk Yard at 127 DeWitt Mills Road, Tax Map No. 56.9-1-2.210 for Thursday, April 18, 2019 at 7:15PM

Resolution Scheduling Public Hearing Regarding Alleged Public Nuisance / Illegal Junk Yard at 127 DeWitt Mills Road, Tax Map No. 56.9-1-2.210

WHEREAS, that the code enforcement officer of the Town of Ulster, Ulster County, has filed a written report with the Town Board of the Town of Ulster pursuant to the provisions Chapter 101 of the Town of Ulster Town Code regarding an alleged public nuisance / illegal junk yard at premises reputedly owned by DAVID LETERSKY at 127 Dewitt Mill Road in the Town of Ulster, designated by Tax Map No. 56.9-1-2.210, deeming the property to be a public nuisance with an illegal business and/or junk yard being operated at the property.

NOW THEREFORE, the Town Board of the Town of Ulster, in regular session, duly convened resolves as follows:

1. After considering said report, and pursuant to the provisions of said Local Law, does hereby schedule a public hearing on April 18, 2019 at 7:15 p.m. at Town Hall, 1 Town Hall Drive, Lake Katrine, NY 12449, to determine whether the current use of the property is a public nuisance and/or the property is being used as a junk yard or for other business purposes which are not allowed by the property's zoning classification.
2. This resolution shall take effect immediately.

MOTION: Councilman Morrow
SECOND: Councilman Brink

Town Councilman Brink	-Aye
Town Councilman Kitchen	-Aye
Deputy Supervisor Morrow	-Aye
Town Councilman Secreto	-Aye
Supervisor Quigley	-Aye

CARRIED

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Old Business:

Motion to set a Public Hearing for April 18, 2019 at 7:10 PM for Local Law ____ of 2019: A Local Law Providing for Regulation and Licensing of Medical Transportation Services

Supervisor: License registration currently for commercial cabs. Wish to broaden that registration.

MOTION: Councilman Morrow

SECOND: Councilman Secreto

Town Councilman Brink	-Aye
Town Councilman Kitchen	-Aye
Deputy Supervisor Morrow	-Aye
Town Councilman Secreto	-Aye
Supervisor Quigley	-Aye

CARRIED

Motion to set a Public Hearing for April 18, 2019 at 7:20 PM for Local Law ____ of 2019: A Local Law Providing for a Vacant Building Registry

Supervisor: Town has suffered because of foreclosures and move outs. Difficult for building department to keep tabs. Concern for residents in neighborhoods and difficulty getting in touch with property owners.

MOTION: Councilman Brink

SECOND: Councilman Secreto

Town Councilman Brink	-Aye
Town Councilman Kitchen	-Aye
Deputy Supervisor Morrow	-Aye
Town Councilman Secreto	-Aye
Supervisor Quigley	-Aye

CARRIED

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PUBLIC COMMENT –

1. Regis Obijiski, 170 Ledge Road Re: GlidePath -- ATTACHMENT 1
On behalf of TownofUlsterCitizens.org
Remarks on Lincoln Park Grid and Town Zoning & Comprehensive Plan

2. Laura Hartmann, 45 Birch St -- ATTACHMENT 2
Supports Regis's statements.
Townofulstercitizens.org hosting Earth Day Celebration on April 28; tree planting ceremony in remembrance of Renno Budziak; several activities planned throughout the day.

Supervisor Quigley & Councilman Secreto: Will make sure port-o-potties will be in place by then at Orlando St fields.

~ **End of Public Comment** ~

Executive Session: the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation

MOTION to enter into Executive Session (7:50 pm):

MOTION: Councilman Brink
SECOND: Councilman Morrow

Town Councilman Brink	-Aye
Town Councilman Kitchen	-Aye
Deputy Supervisor Morrow	-Aye
Town Councilman Secreto	-Aye
Supervisor Quigley	-Aye

CARRIED

~ **End of Executive Session – No Action Taken** ~

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MOTION to adjourn (8:01 pm):

MOTION: Councilman Morrow

SECOND: Councilman Brink

Town Councilman Brink	-Aye
Town Councilman Kitchen	-Aye
Deputy Supervisor Morrow	-Aye
Town Councilman Secreta	-Aye
Supervisor Quigley	-Aye

CARRIED

Respectfully Submitted by Suzanne Reavy
Ulster Town Clerk