

**TOWN OF ULSTER TOWN BOARD MEETING (18)**

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OCTOBER 15, 2020

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

**SALUTE TO THE FLAG**

**ROLL CALL by Town Clerk, Suzanne Reavy:**

TOWN COUNCILMAN ERIC KITCHEN (via Zoom)

TOWN COUNCILMAN JOHN MORROW

TOWN COUNCILMAN ROCCO SECRETO

TOWN COUNCILMAN CLAYTON VAN KLEECK (via Zoom)

SUPERVISOR JAMES E. QUIGLEY 3<sup>rd</sup>

**ALSO IN ATTENDANCE:**

1. Jason Kovacs, Town Attorney
2. Warren Tutt, Building Inspector
3. Kyle Berardi, Police Chief
4. Bill Kemble, Daily Freeman (via Zoom)
5. One town resident

**ADDITIONS OR CHANGES TO AGENDA –**

*Supervisor:* Amendment to the DWI Contract ('19-'20) – increase in revenues and added to the agenda after the 2020-2021 contract.

**PUBLIC DISCUSSION ON AGENDA ITEMS – None**

**APPROVAL OF MINUTES – September 3<sup>rd</sup> and 17<sup>th</sup> (2020-M-258)**

MOTION: Councilman Morrow

SECOND: Councilman Secreto

Town Councilman Kitchen

Town Councilman Morrow

Town Councilman Secreto

Town Councilman Van Kleeck

Supervisor Quigley

**CARRIED**

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**COMMUNICATIONS –**

1. Letter read from Ryan Goode, Halcyon Park resident, wanting to improve the mini-park in the neighborhood and hoping the town can match funds raised by residents.

*Supervisor:* Councilman Secreto (Chair of Recreation) will follow up with Goode

**ABSTRACT OF CLAIMS** (2020-M-259)

*Presented by Councilman Van Kleeck*

*October, 2020*

Prepaid Bills:	\$ 319,489.07
Abstract Bills:	\$ 588,979.55
Escrow Bills:	\$ 2,925.00
Reserve:	\$ 1,440.33
<b>TOTAL:</b>	<b>\$ 912,833.95</b>

MOTION: Councilman Secreto  
SECOND: Councilman Morrow

Town Councilman Kitchen  
Town Councilman Morrow  
Town Councilman Secreto  
Town Councilman Van Kleeck  
Supervisor Quigley

*CARRIED*

**BUDGET MODIFICATIONS** None at this time

OCTOBER 15, 2020

**New Business:**

**Presentation of Resolution Creating a Road Repair Reserve under GML6-f for Highway Fund**

*Supervisor:* To be voted on at the next meeting

**Resolution of the Town Board**  
**TOWN OF ULSTER**

**Resolution Establishing Snow and Ice Removal and Road Repair Reserve Fund Under General Municipal Law Section 6-f**

The Town Board of the Town of Ulster, duly convened in regular session, does hereby resolve as follows:

SECTION 1. That there be and hereby is established a reserve fund to pay for the cost of removal of snow and ice from public thoroughfares and public places of a municipal corporation, and/or the cost of repairing and maintaining roadways.

SECTION 2. Such fund is to be known as the “Snow and Ice Removal and Road Repair Reserve Fund of the Town of Ulster.”

SECTION 3. That the estimated maximum cost of the said capital improvement(s) is unknown at the present time.

SECTION 4. Such sums as may hereafter be appropriated shall become part of the fund.

SECTION 5. The moneys in the fund shall be deposited in a separate bank account.

SECTION 6. The Supervisor, in his discretion, may invest the moneys in the fund in the manner provided in section 6-f of the General Municipal Law of the State of New York. Any interest earned or capital gains realized on the moneys so deposited or invested shall accrue to and become a part of the fund.

SECTION 7. No expenditure shall be made from the fund except by authorization of the Town Board of the Town of Ulster pursuant to the provisions of section 6-c of the General Municipal Law of the State of New York.

SECTION 8. This resolution shall take effect immediately.

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**Motion to Authorize the Supervisor to sign the Municipal Advisor Services Agreement with Munistat Services Inc. (2020-M-263)**

*Supervisor:* Required due to changes in federal law; municipalities' advisors are to provide municipalities certain levels of disclosure. Requirement of the Town to acknowledge that it received such disclosures.

MOTION: Councilman Morrow

SECOND: Councilman Secreto

Town Councilman Kitchen

Town Councilman Morrow

Town Councilman Secreto

Town Councilman Van Kleeck

Supervisor Quigley

*CARRIED*

**Resolution Calling on Governor Cuomo and the State Legislature to Enact and Support Legislation to Eliminate “The Dark Store Theory” in New York State Real Property Tax Law as a way to Reduce Property Assessments in Tax Certiorari Proceedings in New York State (2020-R-264)**

*Supervisor:* Late assessor, James Maloney, undertook fight at state level about dark store theory and how it adversely affected tax certiorari cases and how the town could fight lawsuits faced against town. This resolution is a request to put this matter, for the third year in a row, to NYS legislation and advocate for adoption.

OCTOBER 15, 2020

**RESOLUTION OF THE TOWN BOARD**  
**TOWN OF ULSTER**

**Resolution Calling on Governor Cuomo and the State Legislature to Enact and Support Legislation to Eliminate “The Dark Store Theory” in New York State Real Property Tax Law as a way to Reduce Property Assessments in Tax Certiorari Proceedings in New York State**

**WHEREAS**, New York State Real Property Tax Law Section 305 requires all Assessors in New York State to assess real property at a uniform percentage of value in each assessing units; and

**WHEREAS**, the owners of real property in New York State are to be assessed on the basis of the building as it existed on taxable status date; and

**WHEREAS**, Assessors in New York State are required to assess property as it is being used “*Value in Use*” on March 1<sup>st</sup> of each year; and

**WHEREAS**, Assessors when valuing property utilize all three approaches to value, The Cost approach, The Income Approach and the Sales; and

**WHEREAS**, the best indicator of value is the sale of a similar use comparable property; and

**WHEREAS**, The Dark Store Theory relies on the use of shuttered, deed restricted and abandoned properties that are in no way similar to lighted stores as comparables; and

**WHEREAS**, several recent court decisions in varying judicial districts have adopted the Dark Store Theory in their decisions; and

**WHEREAS**, the potential loss of real estate tax revenue may run into the hundreds of millions of dollars statewide; and

**WHEREAS**, the lost real estate tax revenue will be shifted and redistributed to all other taxpayers in each taxing jurisdiction throughout New York State; and

**WHEREAS**, The States of Michigan, Indiana and Texas have all experienced a similar destruction to their tax base by way of “The Dark Store Theory” being used; and

**WHEREAS**, the short fall in tax revenue has caused cuts in libraries, road repair and other essential municipal services, and

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**WHEREAS**, The States of Michigan, Indiana and Texas are advancing similar legislation in the respective States, and

**WHEREAS**, The Dark Store Theory represents a serious threat to the Town of Ulster tax base;

**NOW THEREFORE BE IT RESOLVED**, the Town of Ulster Town Board requests that the New York State Association of Towns add this issue to their 2021 AOT Legislative Agenda; and be it further

**RESOLVED**, that the Town Board of the Town of Ulster calls upon Governor Andrew M. Cuomo, Senator George Amedore and Assemblyman Kevin Cahill to enact legislation that mandates sound appraisal theory in the valuation of real property for taxation purposes in the New York State Real Property Tax Law and eliminate the “Dark Store Theory” as an argument to lower property value in New York.

**RESOLVED**, that the Town Clerk of the Town of Ulster shall forward copies of this resolution to Governor Andrew M. Cuomo, Senator George Amedore, Assemblyman Kevin Cahill, and the New York State Association of Towns.

MOTION: Councilman Morrow

SECOND: Councilman Secreto

Town Councilman Kitchen

Town Councilman Morrow

Town Councilman Secreto

Town Councilman Van Kleeck

Supervisor Quigley

*CARRIED*

OCTOBER 15, 2020

## **Discussion on NYS Public Employer Emergency Planning Requirement**

*Supervisor:* Law signed by Governor Cuomo on Labor Day requiring public employees and municipalities to prepare an emergency planning document. Van Kleeck has had discussions on this and read the required materials.

*Councilman Van Kleeck:* Read the mandate, spoke with EPS (Emergency Preparedness Solutions, LLC) and Association of Towns. Governor's requirement to develop the plan is to protect employees in case of another emergency. Governor changed NYS labor law that states 150 days past Labor Day (2/4/2021) we must submit a draft plan to all unions and management committees. By 4/1/2021, we must have a final draft that is published at the town and reviewable by labor department. Complicated. Offered what EPS is able to do and is hoping that by the next meeting we will be able to contract with EPS. This is a major project.

*Supervisor:* Similar to what was presented to department heads early this year at onset of Covid-19, with added requirement that it be documented. Everyone encouraged to look at this package and take up at next meeting.

*Van Kleeck:* On 2/4/2021 we must have a draft document for contractors and labor organizations. We need assistance in preparing this. Major push by state to transfer this responsibility to the municipalities.

OCTOBER 15, 2020

**Old Business:**

**Discussion on 2021 Tentative Budget**

*Supervisor:* Published on Town website. Taken comments and revised budget accordingly. Presents draft preliminary budget with the following changes:

1. General fund/general department income increase in revenue \$80,000 (based upon recent discussion with Chief Berardi and Kingston School District regarding SRO program). Replaced revenue after it was taken out of the tentative budget initially.
2. Based upon August and September Town Court revenues, increased A2610 by \$50,000. Revised budget is an approximate 89% of 2020 budgeted revenue. A5991 appropriated fund balance is reduced from \$550,000 to \$500,000;
3. Police wages and benefits defunded; payroll by \$125,000 ( a detective's position)
4. Decrease in tax levy \$270,000 to an increase of \$60,000 proposed for 2021
5. Highway Fund: D5110.440 blacktop decrease \$15,000. Tax levy in highway department smaller in 2021 vs. 2020
6. Water and Lighting District: Zero or negative increase in tax levy

**Resolution Approving Tentative Budget to Preliminary Budget with modifications (2020-R-265)**

**RESOLUTION OF THE TOWN BOARD**  
**TOWN OF ULSTER**  
**Resolution Approving Preliminary Budget**

The Town Board of the Town of Ulster, duly convened in regular session, does hereby resolve as follows:

SECTION 1. Pursuant to and in accordance with the provisions of section 106 of the Town Law, and other applicable provisions of law, the annexed detailed statement of estimated expenditures and revenues be and the same hereby is approved and adopted as the preliminary budget of the Town of Ulster for the fiscal year beginning January 1, 2021. Such preliminary budget shall be filed forthwith in the office of the Town Clerk of the Town of Ulster, where it shall be available for public inspection.

SECTION 2. This resolution shall take effect as of October 15, 2020.



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MOTION: Councilman Morrow

SECOND: Councilman Secreto

Town Councilman Kitchen

Town Councilman Morrow

Town Councilman Secreto

Town Councilman Van Kleeck

Supervisor Quigley

*CARRIED*

**Motion to set a Public Hearing on the Preliminary Budget for Thursday,  
November 5, 2020 @ 7:10pm (2020-M-266)**

MOTION: Councilman Secreto

SECOND: Councilman Morrow

Town Councilman Kitchen

Town Councilman Morrow

Town Councilman Secreto

Town Councilman Van Kleeck

Supervisor Quigley

*CARRIED*

OCTOBER 15, 2020

**Resolution Granting Special Permit for Mobile Home -14 Wildwood Lane  
SBL: 39.27-3-18, Owner of Record: Johnny Amaro (2020-R-267)**  
*[Public Hearing held on 10/1/2020]*

**RESOLUTION OF THE TOWN BOARD  
TOWN OF ULSTER  
Resolution Granting Special Permit for Mobile Home  
14 Wildwood Lane, SBL: 39.27-3-18, Owner of Record: Johnny Amaro**

**WHEREAS**, the Town of Ulster Town Board, the Town of Ulster Building Inspector, and the Town Attorney, have reviewed an application by Akram Aldhari seeking Special Permit approval to allow a mobile home on a 0.367 acre parcel located at 14 Wildwood Lane within the Town of Ulster; and

**WHEREAS**, the subject site is situated within the R-30 Residential District in the Town of Ulster, where mobile homes are allowed subject to Special Permit approval by the Town Board pursuant to § 114-7(A) of the Town of Ulster Town Code; and

**WHEREAS**, the Town Board held a public hearing on this matter on October 1, 2020 during which no public controversy was raised concerning the proposed action, and

**WHEREAS**, the Town Board has determined it has complied fully with the procedural requirements of Part 617 of the State Environmental Quality Review (SEQR) Law; and

**NOW THEREFORE BE IT RESOLVED**, the Town of Ulster Town Board hereby issues a SEQR Negative Declaration and grants Special Permit approval to Akram Aldhari subject to the conditions, limitations and restrictions set forth below.

1. Foundation Slab, anchoring, pier blocking, and skirting shall be installed to the satisfaction of the Town of Ulster Building Department.
2. All fees, including consultant fees, shall be paid.
3. Compliance with all applicable zoning and building laws, rules, and regulations.

In case of a violation of any of the aforesaid conditions, this permit may be revoked by the Town Board, provided, however, that after activities under this permit shall have been properly commenced, there shall be no such revocation until substantial evidence of such violation shall have been presented to the Town Board at a meeting of said Board called for the purpose of hearing such evidence on notice to the owner

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MOTION: Councilman Morrow

SECOND: Councilman Secreto

Town Councilman Kitchen

Town Councilman Morrow

Town Councilman Secreto

Town Councilman Van Kleeck

Supervisor Quigley

*CARRIED*

### **Discussion on Letter on September 10, 2020 from NY Power Authority for Street Light Replacements**

*Supervisor:* In 2018, proposal from NYS Power Authority to conduct a study to convert to lights LED. Currently not in a position to undertake this project. Proposed cost in 2018 was \$9,476, but upon completion, bill received for \$19,958. How would the board like to proceed?

*Secreto:* Were we locked in at \$9000?

*Supervisor:* Locked in at that price, but then signed agreement related to capital proposed project where NYPA would receive a project management fee. NYPA added \$10,000 for that fee. Pay it, move on and be done?

*Van Kleeck:* Pay the original agreed amount and see what they say.

*Supervisor:* Poor practice. Never a discussion where there would be an additional fee.

*Kovacs:* Agrees with Van Kleeck. Pay the \$9000 and see what happens.

### **MOTION to pay original price of \$9,476 (2020-M-268)**

MOTION: Councilman Morrow

SECOND: Councilman Secreto

Town Councilman Kitchen

Town Councilman Morrow

Town Councilman Secreto

Town Councilman Van Kleeck

Supervisor Quigley

*CARRIED*

OCTOBER 15, 2020

**Motion to authorize the Supervisor to sign the DWI Crackdown Enforcement Agreement for October 1, 2020 to September 30, 2021 (2020-M-269)**

MOTION: Councilman Morrow

SECOND: Councilman Secreto

Town Councilman Kitchen  
Town Councilman Morrow  
Town Councilman Secreto  
Town Councilman Van Kleeck  
Supervisor Quigley

*CARRIED*

**ADDITION:** Amendment #1 Contract 2019-2020; increase in revenue to the town for \$13,000

**MOTION to sign Agreement for Amendment #1 (2020-M-270)**

MOTION: Councilman Secreto

SECOND: Councilman Morrow

Town Councilman Kitchen  
Town Councilman Morrow  
Town Councilman Secreto  
Town Councilman Van Kleeck  
Supervisor Quigley

*CARRIED*

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**PUBLIC COMMENT -**

1. Regis Objiski, Ledge Road  
Intends to offer comments at the 11/5 public hearing . Hats off to the Supervisor after hearing tonight that \$200,000 has been shaved off of the budget.
  
2. Eileen Murphy, Quail Drive  
Re: Question/further explanation of Dark Store Theory  
*Supervisor:* NYS Assessors and Assn of Towns were able to get bill introduced in State Assembly and Senate, but it never made it beyond that. Dark store means empty store, maintain an operating store as if it was empty. Affects tax roll. Any reduction in commercial tax base is transferred to remaining tax base.  
*EM:* Is there any member on the town board to follow up on the state agenda?  
*Supervisor:* I take it upon myself.  
  
Re: NYS Power Authority  
*EM:* When agreement first made, was there anyone on the town board to double check the assessments?  
*Supervisor:* Yes, I signed the agreement and monitored it as it went on.
  
3. Kyle Berardi: Update on Police Reform Committee  
We (he and Van Kleeck) broke group into four subcommittees and assess progress. Working weekly, if not more; Will have requirements to the town board in March. Officers working as liaisons.

**MOTION to adjourn: 7:33 pm (2020-M-271)**

MOTION: Councilman Morrow

SECOND: Councilman Secreto

Town Councilman Kitchen  
Town Councilman Morrow  
Town Councilman Secreto  
Town Councilman Van Kleeck  
Supervisor Quigley

*CARRIED*

Respectfully Submitted by Suzanne Reavy  
Ulster Town Clerk