

TOWN BOARD MEETING

Town of Ulysses

March 24, 2020

Audio of the minutes are available on the website at ulysses.ny.us.

The meeting was held via Zoom videoconference, in keeping with state rules for due to the current COVID-19 emergency.

Notice of Town Board meetings are posted on the Town’s website and Clerk’s board.

ATTENDANCE:

TOWN OFFICIALS PRESENT:

- Supervisor- Nancy Zahler
- Board members- Richard Goldman, Michael Boggs, Katelin Olson
- Town Clerk- Carissa Parlato
- Second Deputy Supervisor- Michelle Wright
- Recreation Director- Will Glennon
- Highway Superintendent- Scott Stewart

OTHERS PRESENT:

Marc Devokaitis, Roxanne Marino, Bob Howarth, Linda Liddle, Anne Koreman

CALL TO ORDER:

Ms. Zahler called meeting to order at 7pm.

APPROVAL OF MEETING AGENDA

RESOLUTION 2020-79: APPROVAL OF MEETING AGENDA

BE IT RESOLVED that the Ulysses Town Board approve the agenda for March 10, 2020 with the addition of an executive session for the advice of counsel and the appointment of a particular person; and moving up the zoning amendment resolution.

Moved: Mr. Goldman Seconded: Ms. Olson

- Ms. Zahler aye
- Ms. Olson aye
- Mr. Boggs aye
- Mr. Goldman aye

Vote: 4-0

Date Adopted: 3/24/2020

PRIVILEGE OF THE FLOOR:

Mr. Howarth read the following statement:

“Yesterday on the Town's web site, I read a special Town Board meeting was scheduled for 4:30 pm as an executive session to discuss appointing a new member to fill the vacancy on the

Town Board. I firmly believe it is not appropriate to consider such an appointment in an executive session. Executive sessions are antithetical to transparency and openness. I recognize the need for such sessions when considering confidential personnel issues, including hiring for regular Town jobs. However, filling a vacancy for an elected position is an entirely different matter: the citizens of the Town have a right to hear and understand the details of your reasoning and discussions leading to such an appointment.

While not an expert on open-meeting law, I have paid attention to the underlying ethics behind open-meeting regulations, in my role for several years as Chair of the Ulysses BZA and as Chair of the University Assembly at Cornell. Precedent in New York, at least in the opinion of Robert Freeman (director of the State's Committee on Open Government), seems clear that it is not appropriate to use executive sessions to fill vacant elected positions, and that elected positions are fundamentally different from other town positions. See for example

<https://docs.dos.ny.gov/coog/otext/o4177.htm> (2006)

<https://docs.dos.ny.gov/coog/otext/o3354.htm> (2001)

<https://docs.dos.ny.gov/coog/otext/o2773.htm> (1997)

I therefore ask that all of your future discussions and deliberations for filling this Town Board vacancy (and other vacancies for elected positions) be held in open, public meetings, and that you each clearly articulate the reasons for the positions you take. I further ask that tonight you publicly state the names and qualifications of the candidates you considered yesterday in executive session, and that you publicly restate whatever other discussions you held in that executive session.

The Town will be facing huge challenges over the coming months and years. The person you choose to fill the vacancy should be well qualified for helping the Town address these challenges. And the citizens of the Town should be reassured that you on the Town Board are making the best possible decisions you can, with as much transparency as you can.

Thank you for considering my request, and for your service to the Town.”

Mr. Goldman read Ms. Sokoni’s (Attorney for the Town) response to Ms. Zahler’s inquiry on the matter:

Dear Nancy,

I do not believe that reviewing resumes of potential appointees to town board, and/or interviewing such potential candidates in an executive session violates Open Meetings Law. In fact I believe that is specifically authorized by Open Meetings Law which states in Section 105:

“1. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:

(e) 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 ...”

You will note that the law specifically includes both “appointment” and “employment” of a specific person (or corporation).

I agree that Open Meetings Law protects the public’s right to observe its government in actions and deliberations. However, the Legislature recognizes that there are other interests that are also in the public interest such as being able to have a candidate review or interview of a person’s employment history or suitability for appointment.

To the contrary I would argue that the Board in fact complied with Open Meetings Law by:

Publishing notice of the meeting.

Convening in an open meeting and then voting to go into executive session for a permissible ground (section 105(e)).

[Hopefully] making available minutes of the meeting. Note: You would not need to provide notes of what discussion happened in the executive session but minutes can reflect the convening of the open meeting and then the vote to move into a closed session.

The formal appointment will happen today in an open session.

Please also note that some of the opinions/cases Mr. Howarth cites involved a situation where a handful of board members informally just got together to select an appointee to a vacancy on the town board. In fact in one opinion the aggrieved person was a fellow board member who did not know that his colleagues had met to harsh out who to appoint. That was not the case here. You published notice of the meeting and convened a legal executive session.

Ms. Marino shared her concern that the meeting was not public.

Mr. Goldman and Ms. Olson responded.

PRESENTATION:

Mr. Glennon gave an update on the town’s new recreation department.

He introduced himself and shared his background and experience in recreation. He noted that he has been working on the following:

- Connecting with community leaders and coaches regarding programming
- The recreation budget
- On-line software registration programs
- Alternatives for swimming locations if HABs are present in the lake
- Tompkins County Personnel re: hiring camp staff

- Meeting with a potential camp director this week
- The postponement of spring programming due to COVID-19

Board member asked questions regarding funding and back-up plans for abbreviated program schedules.

Mr. Glennon was excused at 7:33pm.

ANNOUNCEMENTS & UPDATES:

RESPONDING TO CORONAVIRUS PANDEMIC

Ms. Zahler gave a brief overview of the town response and activities over the past week.

MS. KOREMAN REPORTED that Ithaca airport travel has seen a decrease since the epidemic.
Ms. Koreman lost connection with the meeting at this time.

HVAC ENERGY SAVING PROJECT

Ms. Wright announced that the project timeline is unclear due to current conditions.

OTHER:

Mr. Stewart noted that highway staff are on-call at home but went out for snow storm yesterday.

Mr. Boggs suggested that staff use this time to do on-line trainings and that the Water District Operator exercise hydrants and change out water heads.

OLD BUSINESS:

DISCUSSION OF 2020 WORK PLAN PRIORITIES

Staff shared their priorities:

Ms. Olson:

- Completing zoning updates- Jacksonville and conservation overlays
- How to support businesses: mom and pops + farms during and post- coronavirus
- Make sure the Rec program has a good start
- Reconnect/reconvene the ag committee

Mr. Goldman:

- Modelling of sales tax revenue given the emergency state
- Re-examine discretionary income for projected shortfall

Mr. Boggs:

- Finances
- Zoning

Ms. Zahler:

- Jacksonville planning
- Comprehensive plan
- Rec program infrastructure
- Renegotiate union contract
- Define supervisor role
- Falls Road water district
- Capital projects
- Budgeting
- Keeping staff safe
- Aerator in water tank project

APPOINTMENT TO FILL VACANCY ON ULYSSES TOWN BOARD

RESOLUTION 2020-80: APPOINTMENT TO FILL VACANCY IN ULYSSES TOWN BOARD

WHEREAS, a vacancy exists on the Ulysses Town Board in the Town of Ulysses, New York, because of the resignation of Town Board member Nancy Zahler which written resignation was dated March 10, 2000 effective 6:00PM March 10, 2020 and submitted to the Town Clerk on March 10, 2020.

NOW THEREFORE, in pursuance of the power vested in us pursuant to Town Law section 64(5), Marc Devokaitis, a duly qualified resident of the Town, is hereby appointed to the Ulysses Town Board of the Town of Ulysses to fill the vacancy existing on the Town Board. Such appointment is effective immediately, upon administration of the oath of office by the Town Clerk, and said Marc Devokaitis shall hold such office until December 31, 2020, or such later time that the results of the General Election to fill the unexpired term in the office of Ulysses Town Board Member are certified by the Election Commissioners of Tompkins County, and BE IT

FURTHER RESOLVED, that as a Town Board member, Marc Devokaitis shall be compensated the balance of the sum designated by the Town Board, on January 6, 2020 at its duly convened organizational meeting in Resolution Number 2020-15, as salary for the Town Board Member.

Moved: Ms. Olson

Seconded: Mr. Boggs

Discussion:

Ms. Olson said that she was impressed by the caliber of the applicants. She felt that diversity of age, geography, and professional skills to represent as many different constituents as

possible was her criteria. She felt that Mr. Devokaitis' environmental and communications skill set and experience that would complement the board.

Mr. Boggs apologized for any perceived lack of transparency on Mr. Howarth's part and echoed Ms. Olson's sentiments of the applicants.

Mr. Goldman shared that he felt Mr. Devokaitis to be open, thoughtful and well-prepared. s.

Ms. Zahler expressed her interest in nurturing the next generation of leaders and appreciated Mr. Devokaitis' enthusiasm for our community.

Ms. Zahler	aye
Ms. Olson	aye
Mr. Boggs	aye
Mr. Goldman	aye

Vote: 4-0

Date Adopted: 3/24/2020

Mr. Howarth noted that he had requested the names of the others who were interviewed and that he believes that open government policies were violated due to this positions being to an elected office.

Board members responded.

Mr. Howarth excused himself from the meeting.

Ms. Zahler shared that Pete Angie and Mary Bouchard were the other applicants who were interviewed.

NEW BUSINESS:

RATIFICATION OF TOWN EMERGENCY OPERATIONS PLAN

RESOLUTION 2020-81: RATIFICATION OF TOWN OF ULYSSES TEMPORARY OPERATIONS UNDER CORONA VIRUS STATE OF EMERGENCY

WHEREAS, the Governor of New York State has declared a State of Emergency to respond to the Corona Virus pandemic which includes directives designed to reduce the spread of the disease throughout the State including: reducing the density of employees gathering in work places and social distancing and a partial suspension of the NYS Open Meetings law making in-person meetings ill-advised, and

WHEREAS, the immediate implementation of the directives began on Friday, March 13, 2020 allowing little time for consultation with the Town Board as a whole, the Town Supervisor, the Deputy Supervisors and the Town Clerk's office, in consultation with staff, implemented the

following operating procedures for the Town of Ulysses to protect the health and safety of our employees and residents:

- The Town Hall was closed to walk-ins on Monday, March 16th and residents seeking town services were directed by posted signs and instructions on the website to call or email staff to conduct business with minimal in-person contact
- Town Hall staff were directed to work from home, using remote access to the Town's computers to check emails, and telephones to check messages to respond to residents' requests
- Advisory Board meetings for the week of March 16th were cancelled, pending alternate plans for meeting remotely consistent with New York State and CDC guidance
- The NYS Office of Court Administration ordered the closing of Justice Courts
- The Highway Department was initially open with 2-person staggered crews but effective March 19, 2020, was closed for Highway work except in the case of a weather or road emergency or a water main break. The Highway Superintendent retains the authority to assign tasks that protect the health and safety of employees.
- The Water Department will conduct daily water quality checks by weekly rotation of staff and with the Highway Superintendent performing testing on the weekends
- The Town Board will continue to meet and engage the public through video and teleconferencing technology to enable them to comply with the Open Meeting Laws, as revised through Executive Order of the Governor
- The duties of the 2nd Deputy, Town Clerk and Deputy Clerk, along with the Supervisor will be expanded to include emergency planning for continuity of essential Town services as well as coordination with the Tompkins County Health and Safety Officials, the Village of Trumansburg, and local agencies to protect the health and safety of town residents
- To prevent further economic disruption, employees working from home and those suspended from active duty will be fully paid and
- Code enforcement as an essential service will continue to be provided as necessary and possible.

WHEREAS, the emergency measures seem both prudent and humane, now therefore be it RESOLVED, that the Ulysses Town Board ratify the above listed current operating procedures and further

RESOLVED, that Michelle E. Wright be designated at the Town's Emergency Preparedness Manager and further

RESOLVED, that the Town's Emergency Response Team comprised of the Supervisor, Deputy Supervisors, Town Clerk and Deputy Clerk and Highway Superintendent are hereby authorized

to take temporary action in response to new State and/or or Federal directives to be reviewed and ratified by the Ulysses Town Board as soon as possible and further

RESOLVED, that the Ulysses Town Board authorizes the payroll payment to part time Deputy Code Officer, whose Town activities have temporarily ceased due to the state of emergency, to be paid per pay period using the 2019 payroll data for that position, and further

RESOLVED that the Ulysses Town Board authorizes the payroll payment to part time Planning Board Clerk and BZA Clerk, whose Town activities have temporarily ceased due to the state of emergency, to be paid two hours per pay period, which is the budgeted amount, and further

RESOLVED, that nothing contained herein is to be considered a local Declaration of a State of Emergency for the Town of Ulysses, consistent with Governor Cuomo’s Declaration of a State of Emergency for New York State.

Moved: Mr. Goldman Seconded: Ms. Olson

DISCUSSION:

The group discussed the resolution.

Mr. Boggs moved to remove the language relating to dog licensing. This was seconded by Mr. Goldman and passed by Goldman, Boggs, and Zahler. Ms. Olson was not in favor.

Mr. Zepko expressed concern for reviewing Planning Board and BZA applications via videoconference, and whether the meetings would be legal. He also questioned whether reviewing applications would meet the state’s current criteria of an “essential service”. Ms. Olson believes it is an essential service.

The board agreed to remove the “Resolved” paragraph pertaining to Planning Board and BZA meetings.

Ms. Zahler	aye
Ms. Olson	aye
Mr. Boggs	aye
Mr. Goldman	aye

Vote: 4-0

Date Adopted: 3/24/2020

URGING COUNTY AND STATE OFFICIALS TO WAIVE PENALTIES FOR LATE PAYMENT OR PROPERTY TAXES

RESOLUTION 2020-82: URGING COUNTY AND STATE OFFICIALS TO WAIVE PENALTIES FOR LATE PAYMENT OR PROPERTY TAXES

RESOLVED, that the Ulysses Town Board urge Tompkins County and New York State to reduce economic hardship on our residents by waiving penalties for the late payment of property taxes.

Moved: Ms. Zahler Seconded: Mr. Goldman

Ms. Zahler aye
Ms. Olson aye
Mr. Boggs aye
Mr. Goldman aye

Vote: 4-0
Date Adopted: 3/24/2020

AUTHORIZATION TO HIRE MULTIPLE CAMP COUNSELORS

RESOLUTION 2020-83: AUTHORIZING THE RECREATION DEPARTMENT TO HIRE MULTIPLE CAMP COUNSELORS

WHEREAS, The Town of Ulysses is responsible for organizing and staffing the Summer Recreation Program with Tompkins-County approved camp staff and

WHEREAS, Towns and Villages wishing to hire more than one camp counselor must adopt a local resolution to advise the Tompkins County Human Resources of our plans, now therefore be it

RESOLVED, that the Ulysses Town Board authorizes the Recreation Director to hire up to 20 camp counselors, contingent on budget, registrations and staff:camper ratios and further

RESOLVED, that the Ulysses Town Clerk is hereby directed to send a certified copy of this resolution to the Tompkins County Human Resources Department ATTN: Laura Granger.

Moved: Mr. Goldman Seconded: Ms. Olson

Ms. Zahler aye
Ms. Olson aye
Mr. Boggs aye
Mr. Goldman aye

Vote: 4-0
Date Adopted: 3/24/2020

AUTHORIZATION TO APPLY FOR TOMPKINS COUNTY PARK & TRAILS GRANT

RESOLUTION 2020-84: AUTHORIZATION TO APPLY FOR TOMPKINS COUNTY PARKS & TRAIL GRANT

WHEREAS, Tompkins County has offered municipalities the opportunity to request 100% reimbursable grants to create or improve local parks and

WHEREAS, the Town of Ulysses applied for and received a \$5,000 grant in 2019 to enable the Jacksonville Community Association, with whom the Town has a Memorandum of Understanding that allows shared services, to use the grant to begin a Restroom Project for the Jacksonville Community Park and

WHEREAS, the Jacksonville Community Association is seeking County funds to complete the restroom by installing a flush toilet with a water spigot at the Park, now therefore be it

RESOLVED that the Ulysses Town Board authorizing the Supervisor to submit the application requesting \$5,000 in 100% reimbursable fund to complete the Jacksonville Restroom project and further

RESOLVED that the Town Supervisor is authorized to enter into a contract with Tompkins County if the project is approved by Tompkins County.

Moved: Ms. Zahler Seconded: Mr. Goldman

Ms. Zahler	aye
Ms. Olson	aye
Mr. Boggs	aye
Mr. Goldman	aye

Vote: 4-0

Date Adopted: 3/24/2020

RECOGNITION OF ELIZABETH THOMAS FOR DEDICATED SERVICE TO THE TOWN OF ULYSSES

RESOLUTION 2020-85: HONORING ELIZABETH GRAEPER THOMAS for HER SERVICE to the TOWN of ULYSSES

WHEREAS, Elizabeth Graeper Thomas resigned from the office of Town Supervisor February 21, 2020 after sixteen years of service to the Town of Ulysses and

WHEREAS, during her sixteen years with the Town of Ulysses she served on the Comprehensive Planning Committee, the Town Board, and as Supervisor and

WHEREAS, in her volunteer, appointed, and elected roles Liz used her vision, deep knowledge of agriculture and passion for the environment, leadership skills, perseverance, and attention to detail to contribute to or lead countless projects that will guide and shape the Town for years to come including:

- Adoption of a comprehensive plan that protects agriculture and open space and our treasured environmental resources while promoting growth in Trumansburg and Jacksonville and services for the whole Town;
- Adoption of a fracking ban in the Town and a statewide mobilization of municipal and lay leaders that led to a Statewide moratorium on natural gas fracking;
- Adoption of the Town’s first Agriculture and Farmland Protection Plan;

- Adoption of laws to protect the fragile ecology in the Lakeshore and Conservation zones;
- Recognition as the first small municipality in NYS designated as a Climate Smart and Clean Energy Community for efforts in energy efficiency including installation of solar panels, buying a hybrid vehicle for the Town, and the subsequent installation of Electric Vehicle charging stations at Town Hall.
- Securing a \$100,000 grant to convert the heating and cooling systems in the Town Hall to fossil-free, solar-powered electric heat pumps;
- Securing an \$800,000 joint grant with the Village of Trumansburg for sidewalks in the Village and along Rt. 96 from Smith Woods to the ShurSave and in front of Town Hall;
- Guiding the re-design of the entry to Town Hall;
- Securing a State grant to improve water quality for those in Jacksonville;
- Securing a State grant to purchase the Habitat Nature Preserve, a 32-acre parcel of land on Salo Drive to protect Taughannock Creek while creating a trail and natural area for the public to enjoy;
- Preservation of a Town-owned unique natural area along the Black Diamond Trail;
- Advocating for the Black Diamond Trail and creation of a web-based map of trails in Tompkins County to promote hiking and tourism;
- Adoption of an updated zoning law after a five-year long process; and

WHEREAS, Liz acted on her commitment to inter-municipal cooperation by working with other municipal leaders throughout Tompkins County to reduce fossil-fuel use, expand internet service, and protect our watershed and

WHEREAS, Liz continues to be both a personal HABs Harrier monitoring Cayuga Lake for Harmful Algal Blooms and a leader in organizing others to protect our watershed and

WHEREAS, as Supervisor Liz led the Town Hall team of employees who appreciated her warmth, good humor and inclusiveness now therefore be it

RESOLVED, that the Ulysses Town Board extends our appreciation to Elizabeth Graeper Thomas for her many long-lasting contributions to the Town of Ulysses along with our sincere best wishes for a rewarding retirement.

Moved: Ms. Zahler Seconded: Mr. Boggs

Ms. Zahler	aye
Ms. Olson	aye
Mr. Boggs	aye
Mr. Goldman	aye

Vote: 4-0

Date Adopted: 3/24/2020

PRIVILEGE OF THE FLOOR:

Ms. Liddle inquired as to whether any of the applicants for the town board would be interested in joining the Planning Board.

Ms. Marino shared that the town has received an Arbor Day grant for planting trees. Other events will be planned as well.

Ms. Koreman suggested block captains as a way to check in on neighbors during the COVID-19 stay at home order.

EXECUTIVE SESSION:

Mr. Goldman moved to go into Executive Session at 9:58pm to discuss personnel matter. This was seconded by Ms. Olson and passed unanimously.

Ms. Olson moved to end Executive Session at 10:15pm. This was seconded by Mr. Goldman and passed unanimously.

ADJOURN:

Mr. Goldman moved to adjourn the meeting at 10:15pm. This was seconded by Ms. Olson and passed unanimously.

*Respectfully Submitted by Carissa Parlato,
4/7/2020*