

Town of Ulysses
Regular Town Board Meeting
February 9, 2010

Present: Supervisor Roxanne Marino; Council persons David Kerness, Kevin Romer, Elizabeth Thomas and Lucia Tyler; Town Clerk Marsha L. Georgia; Highway Superintendent James Meeker; Deputy Supervisor Sue Poelvoorde; Attorney Mariette Geldenhuys.

Others Present: Code Enforcement Officer Alex Rachun; Planning Board Chairman Ken Zeserson; Chairman Ag Farmland Protection Committee John Wertis; Tompkins County Assessment Assistant Director Irene Kehoe; Don Ellis, Heather Whitaker, Water Commission Chairman Diane Hillman.

Supervisor Marino called the meeting to order at

APPROVAL OF MINUTES

Ms. Thomas moved seconded by Mr. Kerness the following:

BE IT RESOLVED that the Town Board of the Town of Ulysses approve the minutes of the Regular Town Board meeting of December 8, 2009, with the changes and corrections made tonight.

| | |
|-------------|-----------|
| Ms. Marino | abstained |
| Ms. Thomas | aye |
| Ms. Tyler | aye |
| Mr. Kerness | aye |
| Mr. Romer | aye |

Adopted

Ms. Thomas moved seconded by Mr. Romer the following:

BE IT RESOLVED that the Town Board of the Town of Ulysses approve the minutes of the Organizational Town Board meeting of January 4, 2010, with the changes and corrections made tonight.

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| Ms. Marino | aye |
| Ms. Thomas | aye |
| Ms. Tyler | aye |
| Mr. Kerness | aye |
| Mr. Romer | aye |

Adopted

BE IT RESOLVED that the Town Board of the Town of Ulysses approve the minutes of the Regular Town Board meeting of January 12, 2010 with the changes and corrections made tonight.

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| Ms. Marino | aye |
| Ms. Thomas | aye |
| Ms. Tyler | aye |
| Mr. Kerness | aye |
| Mr. Romer | aye |

Adopted

The minutes for the Special Town Board meeting of January 28, 2010 were tabled.

APPROVAL OF CLAIMS

Supervisor Marino said that the 2010 Budget needs modification.

Supervisor Marino moved seconded by Ms. Tyler the following:

BE IT RESOLVED that the Town Board of the Town of Ulysses approves to increase A5132.2 Highway by \$61,000 for a total of \$64, 000 and increase A5031 Reserve Usage by \$61,000 transferring this out of Capital Reserve Savings Account (#19202000508)

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|-------------|-----|
| Ms. Marino | aye |
| Ms. Thomas | aye |
| Ms. Tyler | aye |
| Mr. Kerness | aye |
| Mr. Romer | aye |

Adopted

Supervisor Marino moved seconded by Ms. Tyler the following:

BE IT RESOLVED that the Town Board of the Town of Ulysses approve the previous examined vouchers #23 through 84, and the addition of voucher #20 that was removed last month for the Ithaca Journal (voucher #20) in the amount of \$395.01 for a total of \$64,683.17.

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|-------------|-----|
| Ms. Marino | aye |
| Ms. Thomas | aye |
| Ms. Tyler | aye |
| Mr. Kerness | aye |
| Mr. Romer | aye |

Adopted

PRIVILEGE OF THE FLOOR

Mr. Kenneth Zeserson presented the Board with a proposal to form a citizens advisory board on gas extraction as follows:

PROPOSAL FOR CITIZENS ADVISORY BOARD ON GAS EXTRACTION

NEED

The Town Board has too much on its weekly platter to deal effectively with the incoming menace of gas extraction. Yet this imminent possibility would have a devastating effect on the fabric of our daily lives and our local economy.

RATIONALE

The Ulysses Comprehensive Plan recommends as an action item the establishment of a Conservation Advisory Council (1.1) and also cites protection of existing water resources and water quality as a prime Town-wide concern (1.2). Protection of air quality is another stated objective (1.3). And in 1.3d the Plan specifically calls for enactment of “regulations that address and reduce air quality impacts of industry operations” in our town. Finally, the overwhelming majority of local residents are in favor of protecting the Town’s rural characteristics and agricultural lands (2.6).

PROPOSAL

A Citizens Advisory Board on Gas Extraction (in effect a manifestation of the Conservation Advisory Council stipulated in the Comp. Plan) should be sanctioned by the Town. This putative group would tackle the following initiatives:

*Identify and suggest language for resolutions designed to protect the town from damage by gas drilling operations, e.g., road protection ordinance, driveway permitting, gas-

industry specific noise and light regulations; maximum structure (e.g., rigs) heights, etc. The proposed entity would research information on similar resolutions being proposed in other New York Municipalities as part of this process.

*Explore the notion of Ulysses joining other towns in the county to exercise rights currently denied by NY State Conservation Law #23 which specifically prohibits towns from regulating gas drilling in any way, even if the practice clearly impacts our air and water. There is a gathering storm of legal opposition heading in this direction. Ulysses needs to be an informed participant in this ongoing discussion. Our Citizens Board would represent Ulysses as this initiative strengthens.

*Inventory existing abandoned vertical gas wells in our Town. Gather information for the purpose of adopting local legislation prohibiting deep well injection of hazardous waste water produced by the hydrofracking process.

*Work on development of a watershed management plan to manage gas drilling in concert with other towns in Tompkins County. This approach has been utilized in Colorado to force gas drilling companies to adopt mitigation measures exceeding those required by permit.

*Look into mechanisms by which local towns might possibly exert some control over pipeline placement. DEC eschews this critical element. The Public Service Commission apparently focuses on main pipelines but not feeder lines. This may give the town an opportunity to specify set backs, etc., in an effort to control evisceration of our farm lands and residential areas.

*Seek funding from philanthropic sources for a financial backstop to help us defray legal costs that may incur if some or all of the initiatives above are challenged.

*Implement local informational seminars and/or other educational programs on gas drilling.

I propose that I be designated the Chairman of the proposed Board. I would suggest that I initially be joined by at most four other local activists with demonstrated commitment and knowledge of the problems at hand:

Michelle Bamberger, DVM
Robert Oswald, PhD
Judy Abrams
Allen Carstenson

Mr. Zeserson said that in order for this Board to function immediately and efficiently it would be critical that the initial members be well-versed in the subject matter and amenable to working together in a collegial fashion. The group above would fulfill those criteria.

Mr. Zeserson thanked the Board for considering this request.

Ms. Thomas said that this came up at the Village Board's meeting last night and they are interested in participating.

This will be discussed further at the second board meeting this month and anyone interested may throw their names in for consideration.

Mr. Ellis of Bradley Street wanted to remind the Board to be meticulous in assessing and distributing the cost of operating and maintaining the Water District. Mr. Ellis said that he supports entirely and endorses the Town Board involvement in the water districts that are here and certainly they are way too small to have an administration that large districts have so it is fine that you do this, but in assessing those costs that relate to it to be careful of the proper distribution of costs related to water districts.

Ms. Marino said that water is on the agenda later in the meeting to schedule a meeting with the Board to talk about water issues.

Ms. Hillman asked if the special meeting on water is just for the Board.

Ms. Marino said that she certainly would like Ms. Hillman to attend or anyone else from the committee and the water administrator will need to attend.

REPORTS OF REPRESENTATIVES

Planning Board Chairman Ken Zeserson reported that the Planning Board is finishing up the draft wording for the Conservation Zone and defining the areas. The next step after this is finished would be to have a public information meeting and use the information that comes from that meeting to possibly add to the Conservation Zone and finalize the document before passing it on to the Town Board for review and adoption.

Ag Farmland Protection Committee John Wertis reported that the committee will be meeting February 16, 2010. They are looking at strategies to protect farmlands and particularly looking to review current zoning to see how that works for that goal.

County Board Jim Dennis – absent.

Trumansburg Fire Department – absent.

Tompkins County Sheriff Peter Meskill – absent.

Trumansburg Village Representative John Hrubos – absent.

Ms. Marino was hoping to have a Village representative here tonight because she received a call from a Ulysses resident who is interested in exploring the possibilities of extending Village Police protection to Jacksonville.

Ms. Marino said she asked the resident how many households he was thinking and he responded that maybe 50.

Ms. Marino said as the first step she asked the Village if this is even possible and they are looking into it and have not gotten back to her.

Ms. Thomas said that they (Village Board) did address this at their meeting last night and apologized saying they are working on it.

Ms. Marino said after hearing from the Village, the Town can have our attorney look it over as there will probably be financial issues and possible special district formation including how it would be paid for by those residents.

Ms. Marino was just passing the information on to the Board that she has been asked about an extension and is in the very preliminary stages of investigation.

Mr. Kerness asked if this was from a single voice and we are going to do a lot of work on a single voice request.

Ms. Marino said the Village does not seem to mind looking into it and when she gets more information she will look into who else may be interested.

Tompkins County Assessment Irene Kehoe, Assistant Director

Ms. Marino introduced Ms. Kehoe and opened the floor to her.

Ms. Kehoe said she is the newly appointed Assistant Director and she wanted to briefly describe what the Tompkins County Assessment (TCA) office does. Ms. Kehoe said she has been with TCA for 10 years and before that she worked in appraising real estate in this county for the last 23 years.

Ms. Kehoe said that she knows both Mr. Rachun and Ms. Georgia and has worked with them the last ten years and she says as a town member and also a County worker that she is glad to have the two of them on board here at Ulysses and the Board should be proud of them.

Ms. Kehoe said that Jay Franklin is the newly appointed Director and prior to that he was the Assistant Director for seven years. One of the things that Mr. Franklin and Ms. Kehoe would like to do is have a bigger presence at the Town level and be more involved when the Town needs the County Assessment Office or when they seem to think that there may be something going on to the Town's advantage to know about. Such as on the County Planning web site they have information on property appraisals for properties that have gas wells and gas leases. They are tracking all the gas rights and mineral rights and any rights that are conveyed.

Ms. Kehoe said that they are trying to establish a data base of this type of information for the future.

Ms. Kehoe said that the office is made up of twelve employees and they are all there to help.

Ms. Kehoe said that Tompkins County is only one of two town wide assessing units in New York State. Ms. Kehoe pointed out that there are no standards for assessment; no standards for re-appraisal cycles, there are some places out there that have not done re-appraisals since the Civil War. Ms. Kehoe said that all the employees are civil service. The County Assessment Office's mission is follow the Real Property Tax Law #305 and electively value property so the tax burden can distribute among the taxable properties in the Town. Other areas for the office to cover are the tax exemptions and one of the most important things is to educate the public about what the assessment department does. The Local Assessment Review is held here at the Town Hall in the spring.

Ms. Kehoe said that the Assessment Office wants to be available if the Board needs any information when you have a project and are wondering how the project will affect the overall taxable value that you may have to deal with in your budgeting project pro or con. The office is just an email away. If the office does not have the information they are more than happy to get it.

Ms. Kehoe said that the office is assessing at 100% and they do not foresee many changes in values for the 2010 assessment year and every six years they are required to look at every parcel in the County, one by one. They have completed several towns and expect to be in Ulysses later this year.

Ms. Kehoe thanked the Board for their time.

Ms. Kehoe was asked about values of properties with gas leases. The Board discussed this briefly with her.

TOWN REPORTS

Highway Superintendent James Meeker reported as follows:

- Worked on equipment, changed oil, greased, washed and wax, etc.
- Started using new shop
- Stained shelves in office, lunchroom, bathroom
- Moved tools, welders, jacks, etc. to new shop
- Moved office and lunchroom into new building, cleaned out trailer from A-Verdi
- A-Verdi picked up trailer
- Fire alarm system has not yet to be completed
- Phone lines have been run to new building
- Plowed and salted as needed. A lot of little storms but not much snow but called us out anyway.

Code Enforcement Officer Alex Rachun reported that he had issued three (3) permits for the month for house renovations. Also, he reported that there are three ZBA hearings scheduled for the same evening for area variances one of which is for the Shur Save.

Mr. Rachun pointed out that it is important for the Board to appoint someone to the ZBA Board because of the hearings coming up and the Board is short a person. This particular hearing coming up has two missing members because one can not attend.

Town Clerk Marsha L. Georgia reported that a total of \$685 was collected for January and of that \$511.59 was turned over to the Supervisor with her monthly report. Ms. Georgia reported that the installment payments will be turned over to the County on Friday along with a check for \$9,949.38, which is the total for the service charges to the County. She will also be making a payment to the County on the 2010 Tax Warrant of \$2,355,000. Ms. Georgia previously paid the Supervisor the Ulysses warrant of \$1,058,403.43. Taxes are still coming in.

Board Members and Committees

Mr. Kerness reported that he met with the Board of Health and discussed septic testing. Mr. Kerness said that he will be reviewing documentation and getting opinions on testing. He feels this project is a long way off but is working on getting things together and work on a plan.

Ms. Thomas reported that the Village will be having two public input/informational meetings on their zoning plan. One is scheduled for February 17th at 7:00 p.m. and the other is planned for Saturday morning on the 20th at 10:00 a.m. Also, at the Village meeting a report was given from EMS that our Board may be interested in having.

Ms. Marino thought that it was part of the Fire Contract to get these reports.

Ms. Thomas said the Village is requesting that the Town sign and return the Fire Contract by February 28th and the Village said that the Town of Hector and Covert have signed and returned theirs. (Ms. Marino said that was interesting because our lawyer has advised that the three towns are supposed to hold a public hearing before signing.)

Ms. Thomas reported attending a Community Science Institute informational meeting. They discussed the results of their volunteer's water quality testing gathered below the Trumansburg Water Treatment plant. The information was given to DEC and the DEC notified the Village that they do not see the testing results as a problem.

The Village is moving ahead with the test wells for the second source and also the Farmers Market is having a fund raiser on March 13th.

Ms. Thomas reported that the Trumansburg Youth said that last year the Youth were able to use \$6000 in a reserve account and this year they will be short funding again. Ms. Thomas explained what the Youth Committee is involved in and said that Debbie Nottke, Village Trustee has been working hard to streamline a couple of day camps that were administrated separately to combine those to save money. But the County will be cutting funds. The discussion was opened again with the school for the use of their parking to raise money at Grass Roots time.

Ms. Thomas said that at the TCOG meeting they had the letter of support for the grant on Broadband, which Ms. Thomas presented the letter and passed it around for the Board to sign. The letter is as follows:

Mr. Joseph Mareane
Tompkins County Administrator
125 E. Court Street
Ithaca, NY 14850

Re: Fiber Initiative

With this letter, the Town of Ulysses confirms its support for the Southern Tier East Regional Planning Development Board initiative to expand access to broadband services through eleven counties in the Southern Tier including Tompkins County.

For sparsely populated rural towns to be competitive in encouraging high technology businesses, ensuring our youth are well educated, and providing equal access to web-based information for all our residents, the Town of Ulysses, and other rural towns, need to work together to create the basic infrastructure for advanced telecommunications.

The Town of Ulysses supports working with ECC Technologies as a consultant to study the needs and feasibility of creating a fiber optic network for rural areas in the Southern Tier and finding funding to move the project forward. This collaborative project between the public and private sectors to implement a fiber infrastructure will be a great benefit to the community.

Ms. Tyler said that she attend the Health Care Consortium meeting and the two issues that are still remaining in order to go forward involve the unions. The Town of Ulysses is one of four towns in the consortium who do not have union representation so Ms. Tyler said it is a moot point for Ulysses. The point they still need to get agreement on is whether union representatives to the consortium will be allowed to hold office or be officers on the consortium.

Ms. Tyler said that there is going to be an Ithaca Car Shares information meeting at the Ulysses Library. They will come up and present and bring a car to show how the whole thing works, the cost to sign up, etc. This is March 4th at 7:00 p.m.

Ms. Marino asked how the word would be put out there for people.

Ms. Tyler said that David Means has offered to put up flyers and the Library has offered to put it on their web site and on their calendar.

Supervisor Roxanne Marino

Ms. Marino said that she optimistically thought she would have the close-out figures together for 2009 for the Board and she and Mary have been working very hard at it and are nearly there. Ms. Marino said as of today she has a set of print outs of the December 31, 2009, operating statements but would like to have a special meeting for this review. Ms. Marino said that because the Town is under five thousand people the annual report is due February 28th and Ms. Marino has asked for an extension.

Ms. Marino said that the Road Excavation Law draft that is being worked on is now out to the Highway Superintendents and they will be meeting Thursday morning at 9:00 a.m. with Supervisors and Highway Superintendents to get input from the Highway Superintendents. It is projected that there will be another discussion about the law and revision before giving it out to the Town Boards .

There also is another meeting on Friday that Don Barber is organizing about legal opinions that indicate municipal home rule might stand up stronger than currently thought as a basis for local laws to protect public health and safety and the environment from harm as a result of natural gas drilling. Ms. Geldenhuys gave her thoughts on this.

Deputy Supervisor Sue Poelvoorde

Ms. Poelvoorde said that she is working with the Ag and Farmland Protection Committee trying to figure out where they are with the grant. Ms. Poelvoorde said that Ms. Marino, John Wertis, Monika Roth, Ms. Thomas and she met and laid out the schedule again and said that they are on track because they did receive an extension for one year until

February 2011. They also identified what the Committee would like Bergmann Associates to do to finish this up and Ms. Poelvoorde has spoken with them.

Stormwater Agreement

Ms. Marino moved this up on the agenda to discuss the contract with Tompkins County Soil and Water in reference to Stormwater reviews that are needed in the Town.

Ms. Marino wanted to confirm this agreement with Mr. Rachun and make sure he is on board to continue with this contract. The cost for this will be \$50 per hour for their services.

Mr. Rachun is totally on board with this and said it is very much needed.

Ms. Marino moved seconded by Mr. Kerness the following:

BE IT RESOLVED that the Town Board of the Town of Ulysses authorize Supervisor Marino to renew the agreement with Tompkins County Soil and Water to have them provide Ulysses with the technical review for Stormwater.

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| Ms. Marino | aye |
| Ms. Thomas | aye |
| Ms. Tyler | aye |
| Mr. Kerness | aye |
| Mr. Romer | aye |

Adopted

OLD BUSINESS

EMS Contract and Working Group

Ms. Marino moved seconded by Mr. Kerness the following:

BE IT RESOLVED that the Town Board of the Town of Ulysses appoint Kevin Romer and Liz Thomas to the Village of Trumansburg EMS Task Force group.

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| Ms. Marino | aye |
| Ms. Thomas | aye |
| Ms. Tyler | aye |
| Mr. Kerness | aye |
| Mr. Romer | aye |

Adopted

Fire Contract

Ms. Marino discussed the following memorandum received from our attorney:

I. QUESTIONS PRESENTED

- A. Should the Town sign the proposed Fire Protection Agreement in its current form?
- B. Questions and concerns about possible billing of EMS services.
- C. The Federal anti-kickback statute.

II. ANALYSIS

- A. The proposed Fire Protection Agreement

In my memorandum dated January 26, 2010, I raised questions about paragraph 5 of the proposed Fire Protection Agreement. I have since discussed my concerns with the Village's legal counsel, Elena Flash and propose the following language:

“5. This contract shall be for a term of one calendar year, beginning January 1, 2010 and ending December 31, 2010. The parties hereto acknowledge that the Village of Trumansburg may implement a new arrangement for provision of emergency medical

services during calendar year 2010. If the Village forms a new entity for provision of such services, the parties agree that the provisions of this Agreement which pertain to emergency medical services may be assigned to such new entity. Any new arrangement by the Village to bill service recipients for emergency medical services shall require prior written approval of each town and the adoption by each town of rules and regulations authorizing billing for such services.”

It is my understanding from Elena that the Village is now looking at transferring EMS services to a new department within the Village, rather than establishing a separate entity, so assignment to another entity may not be an issue.

This revision acknowledges that the Towns need to consent to a billing system and pass their own regulations permitting it.

B. Questions and concerns about the Village’s proposed EMS billing

The questions I raised in my earlier memo are below, with the tentative answers from the Village’s legal counsel:

1. What exactly does the Village mean by “insurance only” billing? Will they bill only customers who have health insurance? *Yes, the intent is to bill only customers who have health insurance.*
2. Will they expect the customers to have insurance to pay deductibles and co-pays out of pocket? If not, will the Village absorb these costs for Village residents? *This is still under discussion and has not yet been decided.*
3. The details of the proposed billing system and how insurance reimbursements will be credited to the Town or subtracted from the amount the Town owes the Village for EMS services: *These questions are still being discussed.*

C. Federal anti-kickback statute. The opinions from the Office of the Inspector General indicate that municipal plans for insurance only billing (including plans where the Village waives co-pays) are permissible under the anti-kickback statute. Once all the details of the billing plan are available I will review this again but I do not anticipate it will present a problem.

Please let me know if you have any questions or need further information

Ms. Marino moved seconded by Ms. Thomas the following:

BE IT Resolved that the Town Board of the Town of Ulysses approve the wording for the Fire Contract with the following changes to the wording:

“5. this contract shall be for a term of one calendar year, beginning January 1, 2010 and ending December 31, 2010. The parties hereto acknowledge that the Village of Trumansburg may implement a new arrangement for provision of emergency medical services during calendar year 2010. If the Village forms a new entity for provision of such services, the parties agree that the provisions of this Agreement which pertain to emergency medical services may be assigned to such new entity. Any new arrangement by the Village to bill service recipients for emergency medical services shall require prior written approval of each town and the adoption by each town of rules and regulations authorizing billing for such services.”

| | |
|-------------|-----|
| Ms. Marino | aye |
| Ms. Thomas | aye |
| Ms. Tyler | aye |
| Mr. Kerness | aye |
| Mr. Romer | aye |

Adopted

Ms. Marino will contact the Village.

Change Working Meeting Date/Time

Ms. Marino moved seconded by Ms. Tyler the following:

BE IT RESOLVED that the Town Board of the Town of Ulysses change the second meeting of the Town Board from the 4th Thursday at 7 pm to the 4th Tuesday at 7:30 p.m. The first meeting will be February 23rd at 7:30 p.m.

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|-------------|-----|
| Ms. Marino | aye |
| Ms. Thomas | aye |
| Ms. Tyler | aye |
| Mr. Kerness | aye |
| Mr. Romer | aye |

Adopted

Website

Ms. Thomas had emailed a sample of the new web page to everyone and suggested those that are interested could attend a working session for additional changes and updates for the new site. Ms. Thomas also said that Andrew should attend to review the training that it would take to be an administrator of the site. Ms. Marino, Ms. Poelvoorde and Ms. Georgia all said they would be interested in attending a working session.

Vacancies

Ms. Marino said that there are still some vacancies on a few boards that need to be filled.

Ms. Marino has received a letter of interest from Richard Coogan to serve on the Zoning Board of Appeals.

Ms. Marino moved seconded by Mr. Romer the following:

BE IT RESOLVED that the Town Board of the Town of Ulysses appoint Richard Coogan to the five year term on the Zoning Board of Appeals.

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| Ms. Marino | aye |
| Ms. Thomas | aye |
| Ms. Tyler | aye |
| Mr. Kerness | aye |
| Mr. Romer | aye |

Adopted

Ms. Marino also received a letter of interest from David Means to serve on the Local Advisory Assessment Board.

Ms. Marino moved seconded by Ms. Thomas the following:

BE IT RESOLVED that the Town Board of the Town of Ulysses appoint David Means to serve on the Local Assessment Advisory Board.

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| Ms. Marino | aye |
| Ms. Thomas | aye |
| Ms. Tyler | aye |
| Mr. Kerness | aye |
| Mr. Romer | aye |

Adopted

Dog Control Contracts for 2010

Ms. Marino has talked with Chris Austin the Ulysses Dog Control Officer and reviewed all of the documentation he has furnished and she got many questions answered. She did the same for the SPCA. Ms. Marino emailed electronic information to the Board and compiled everything in a folder for the Board to review.

After some discussion Ms. Thomas moved seconded by Ms. Tyler the following:

BE IT RESOLVED that the Town Board of the Town of Ulysses approve the contract with the SPCA as follows:

This Animal Control Services Agreement is effective as of the __the day of February, 2010, by and between the SPCA of Tompkins County, a not-for-profit corporation created and existing under the laws of the State of New York, having its principal place of business at 1640 Hanshaw Road in the Town of Dryden, County of Tompkins, State of New York dba: **TOMPKINS COUNTY ANIMAL CONTROL (TCAC)**, and the **Town of Ulysses**, a municipal corporation of the State of New York.

In consideration of the covenants contained herein and other good and valuable consideration, the parties hereby agree as follows:

1. This Agreement has a term of 3 years beginning January 1, 2010 through December 31, 2012 and includes the Consortium of Towns of Newfield, Enfield, Danby, Caroline, Ulysses, Ithaca, and the City of Ithaca.
2. The terms of a new 3-year Agreement must be established before July 31, 2012
3. If a municipality states its intention to terminate its participation after three years, the TCAC budget, for the reduced workload, will be divided up with the participating municipalities per their respective total of human and dog populations pursuant to the formula set forth on page 4, under "Fiscal Matters", par.2.
4. If a municipality exercises its right to terminate this agreement with 60 days notice, the Advisory Board, as defined on page 2, will recommend a financial solution for the remainder of that calendar year. That financial solution must be ratified by the Boards of the SPCA of Tompkins County and the remaining participating municipalities. If universal ratification cannot be achieved, this agreement will be terminated for all parties within 60 days of such impasse.
5. Each participating municipality will by resolution deputize TCAC as the dog control agency and notify the New York State Department of Agriculture & Markets of that action. Each municipality will grant TCAC access to the New York State database for dog licenses.

ADVISORY BOARD

1. TCAC Advisory Board will be comprised of three members chosen by the participating municipalities and appointed by resolution of each participating municipality, serving along side three SPCA board members and one TCAC senior staff.
2. The Advisory Board will be the body to negotiate terms of any future agreements.
3. The Advisory Board will review dog control statistics and financials data and recommend procedures and policies to the Consortium municipalities and TCAC.
4. The annual budget for dog control will be recommended by the Advisory Board to the Consortium municipalities and TCAC by October 1st of the year prior to its implementation for approval separately by each party of the Consortium.

5. The Advisory Board will also be the panel for hearing and resolution of disputes between a participating municipality and management of TCAC.

DOG CONTROL SERVICE

1. Within the physical boundaries of the Municipality, the TCAC, through its duly appointed agents and employees, will serve as the “dog control officer” pursuant to Article VII of the Agriculture and Markets Law of the State of New York (the “Law”) and, in such capacity, will enforce the provisions thereof, including any rules and regulations promulgated thereto or hereunder. The dog control officers will have the required Division of Criminal Justice Services (“DCJS”) training and be certified peace officers.
2. Within the physical boundaries of the Municipality, the TCAC, through its duly appointed agents and employees, will provide the following services, including but not limited to:
 - a. Seize and impound unlicensed dogs of which the TCAC becomes aware, as described in local laws, as well as any dog found off an owner’s premises not wearing the tag required by Law;
 - b. Enforce provisions of quarantine orders enacted pursuant to Sections 122 and 123 of the Law whenever such laws are in effect within Tompkins County;
 - c. Provide and maintain a shelter or pound for seized dogs and for lost, stray, abandoned, or homeless dogs in accordance with Section 115 of the Law. Note this shelter is not required to be within the physical boundaries of the Municipality;
 - d. All seized and unredeemed dogs pursuant to Section 118 of the Law will be humanely destroyed (in accordance with the procedures described in the Law) or make them available for adoption through the SPCA of Tompkins County;
 - e. Provide proper and veterinary care for all dogs in the shelter described in Section 2(c) above, which shelter shall be under the care and charge of a competent and trained employee(s); and
 - f. TCAC will:
 - i. Require proof of or provide rabies vaccination prior to adoption or redemption, and
 - ii. Provide for licensing under the authority of the participating Municipality, and
 - iii. Keep records as required by sections 114(5) & (6) of the Law; and
 - g. Maintain a regular schedule during which the shelter described in Section 2(c) above will be open to the public.
3. The TCAC will enforce the provisions of any lawful dog control law or ordinance of the Municipality, including TCAC will prepare and issue appearance tickets in a prompt and timely manner (where called for within the Municipality’s corporate limits) and respond to reasonable requests for service within six (6) business hours. The Municipality will be made aware within 24 hours of any requests for service where TCAC didn’t respond. The TCAC will strive to talk to owners as a first response to any request for service so that disputes may be resolved prior to the issuance of an appearance ticket, but recognize that some situations require immediate action.
4. Each municipality will send out notices of dog license renewal and notice of expired license if needed. The Municipality will notify TCAC of any dog

owners holding an overdue dog license. TCAC will make reasonable attempts to make physical contact with the dog owner to deliver court appearance tickets.

5. TCAC will not issue or enforce any type of warrant, including, but not limited to, bench, arrest, and search and seizure warrants. However, the TCAC may accompany a police officer, upon request of the officer so named in any search and/or seizure warrant, where animal control or welfare issues may, will or do arise in connection with enforcement or execution of any such warrant. Neither the TCAC, nor any of its employees, officers, or animal control personnel (hereinafter referred to collectively as its "Agents"), shall be required to act as a prosecutor to enforce issued appearance tickets before any Court or Magistrate. TCAC will, however, with respect to those matters as to which TCAC personnel have personal knowledge, provide witnesses for any court proceeding as required by the Municipality without any cost to that Municipality.
6. Responses to requests for service shall be provided on a 24-hour, seven days per week basis. Requests are considered "Emergency" where they occur outside the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. and 4:00 p.m. on Saturday and Sunday. TCAC reserves the exclusive right to determine if a situation qualifies as an emergency. The Municipality will be made aware via email or phone call within 24 hours of any requests for emergency service for dog control that were denied.

FISCAL MATTERS

1. The annual charge for dog control service for 2010 will be \$14, 802. The cost distribution is based on the year 2000 human population.
2. For 2011 and beyond, the distribution of costs, determined by TCAC, will be prorated by a sum of human and dog populations for each participating municipality as its fraction of the total human and dog population for the Consortium. TCAC will notify the Municipality in writing by September 30th of each year of the annual charge to the Municipality for the next year.
3. The parties agree that the TCAC shall be compensated by participating municipalities for its performance of the above-described services as follows. If the contract is not paid in full, then any outstanding balance shall be paid down in equal monthly increments over the course of the year. Each monthly payment shall be paid by the Municipality on or about the 15th day of the month following the month in which services were rendered.
4. TCAC will remit to the Municipality all impoundment and license fees collected by the 15th of each month. The SPCA of Tompkins County will be entitled to retain all adoption fees. The adoption fee schedule shall be consistent for all municipalities that are participating in this Consortium.
5. The SPCA does not have the right to waive impoundment fees.

DOG CENSUS

1. The Advisory Board shall develop proposed language for dog census protocol and present to each participating municipality of the Consortium for approval to add as an addendum to this Agreement.
2. Each participating municipality must complete a dog census by September 30, 2010. The dog census process must meet the protocol's requirements.
3. Each participating municipality must update its dog census every three (3) years.

MISCELLANEOUS

1. This Agreement shall commence as of February __, 2010 and continue through December 31, 2012. TCAC and the Municipality, reserve the right to terminate the agreement at any time for any reason by giving the TCAC and the remaining municipalities sixty (60) days written notice. Notices shall be delivered by hand, certified mail-return receipt requested, or overnight delivery courier. Notices shall be addressed to the Supervisor or Mayor at the municipal offices (in the case of notice to a town or city), or to the SPCA’s Executive Director at the address listed above (in the case of notice to the SPCA). Notices are deemed given when received.

2. The TCAC shall allow the Municipality, upon five (5) days’ written request, to inspect TCAC’s books and records during normal business hours, excluding confidential information pertaining to individuals. The TCAC will deliver to the Advisory Board quarterly reports of all activities and financials.

3. TCAC will maintain general liability insurance coverage in a minimum amount of \$1,000,000 per occurrence, with a \$2,000,000 general aggregate. The Municipality shall be named an unrestricted additional insured, and the policy shall:
 - Be purchased from an A.M. Best rated "secured" New York State licensed insurer.
 - Contain a 30-day notice of cancellation, non-renewal or material change.
 - State that the organization's coverage shall be primary coverage for the Municipality, its Boards, officers, employees, agents and volunteers.
 - The Municipality shall be listed as an additional insured by using endorsement CG 2026 or broader. The certificate must state that this endorsement is being used. If another endorsement is used, a copy shall be included with the certificate of insurance.
 - Be written on an occurrence basis.

TCAC acknowledges that failure to obtain such insurance on behalf of the Municipality constitutes a material breach of contract. TCAC is to provide the Municipality with a certificate of insurance, evidencing the above requirements have been met, prior to the commencement of its services. The failure of the Municipality to object to the contents of the certificate or the absence of same shall not be deemed a waiver of any and all rights held by the Municipality.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first written below.

DATE _____
_____ Participating Municipality signature

DATE _____
_____ TCAC Authorized Official

Print Name

Title

Federal ID #

| | |
|-------------|-----|
| Ms. Marino | aye |
| Ms. Thomas | aye |
| Ms. Tyler | aye |
| Mr. Kerness | aye |
| Mr. Romer | aye |

Adopted

Ms. Marino will communicate with Chris Austin and the SPCA.

NYS Association of Towns Annual Meeting Resolutions

Ms. Marino said that Ms. Thomas is the Town's delegate to the Annual meeting and if the Town Board wants to give Ms. Thomas direction on how to vote we can do that tonight.

It was the general consensus of the Town Board to leave the designation of the vote on the resolutions at Ms. Thomas's discretion. The Board had not had time to truly study the resolutions and Ms. Thomas may hear information at the meetings to best make an informed decision of the votes.

NEW BUSINESS

Request for Funds Easter Egg Hunt

Mr. Cirri contacted the Board with a request for a donation to help with the Easter Egg Hunt.

Ms. Marino looked into this and found that it is against New York State law for the Board to give donations of this sort. Ms. Marino will contact Mr. Cirri and explain this. The Board urged anyone that wished to donate on their own to do so.

Resolution of NYSERDA Program

Ms. Marino moved seconded by Mr. Kerness the following:

BE IT Resolved that the Town Board of the Town of Ulysses authorizes the Town Supervisor to sign a grant application to the New York State Energy Research Authority (NYSERDA), currently known as RFP 10.

FURTHER Resolved the grant would provide funds for a staff person or persons, or consultant to work among several municipalities in Tompkins County to work on the following types of projects:

- * Projects to perform energy management functions
- * Projects to inventory local greenhouse gas emissions and developing reduction plans
- * Projects to develop zoning guidelines for sustainable development
- * Projects to implement regional plans that reduce energy use in various sectors

The grant submission is a collaboration between the Towns of Danby, Dryden, Caroline, Enfield, and Ulysses. Ulysses will not be the lead agency for the submission, and there is no cost to the Town associated with inclusion as a collaborator. The date for submission is February 17, 2010.

| | |
|-------------|-----|
| Ms. Marino | aye |
| Ms. Thomas | aye |
| Ms. Tyler | aye |
| Mr. Kerness | aye |
| Mr. Romer | aye |

Adopted

Special Meeting on Water District Issues

Ms. Marino explained the Board needs to set a date to discuss water issues. Ms. Marino said that she had met with the Town of Ithaca and they are saying that the Town has not

paid them for all of the water that they have billed the Town. Ms. Marino is gathering information on this issue.

Ms. Marino also met with Mr. Cardina and Mr. Pollack about their request to hook on the Water District #3 line. Ms. Marino reviewed with the Board what material and information she provided at the meeting.

The Board set a tentative date for March 5th at 1pm. The Board asked that representatives from the Town of Ithaca attend.

Resolution on Gas Drilling

Ms. Tyler previously presented a resolution to the Board at the January 28, 2010, Special Board Meeting.

Ms. Tyler moved seconded by Mr. Kerness the following:

Whereas there are many unresolved environmental issues associated with (hydrofracking) gas drilling,

BE it resolved that the Town of Ulysses will not lease any of its property for gas drilling, nor sell any water from its municipal source for that purpose.

| | |
|-------------|-----|
| Ms. Marino | aye |
| Ms. Thomas | aye |
| Ms. Tyler | aye |
| Mr. Kerness | aye |
| Mr. Romer | aye |

Adopted

Ms. Marino is having Ms. Geldenhuys look into the legal issues of the Town selling water to outside users and the amount that could be sold.

Agenda for February Working Session

The board had previously discussed areas that needed to be discussed at the working session now scheduled for the 4th Tuesday which is February 23rd at 7:30 pm.

Ms. Thomas asked a question about the clarification on the Grass Roots parking permit. Ms. Geldenhuys said that at this time they are looking at a town wide parking permit. She is working with Mr. Rachun and the Planning Board for draft language about this and then it will come before the Town Board for approval.

Hearing no further business Ms. Marino moved seconded by Ms. Tyler to adjourn the meeting. The Board unanimously approved and meeting adjourned at 10:18 PM.

Respectfully submitted,

Marsha L. Georgia
Ulysses Town Clerk

MLG: mlg