ULSTER TOWN BOARD WORKSHOP
December 4, 2007 AT 7:00 PM

**CALLED TO ORDER BY SUPERVISOR WOERNER, CHAIRMAN**

**SALUTE TO THE FLAG**

**ROLL CALL BY CLERK**
*TOWN COUNCILMAN CRAIG ARTIST - absent*
TOWN COUNCILMAN DAVID BRINK
*TOWN COUNCILMAN JOEL B. BRINK - absent*
TOWN COUNCILMAN ROCCO SECRETO
SUPERVISOR NICKY B. WOERNER

**PUBLIC COMMENT**
Mark Kuhnel – He requested the Town Board investigate the current use of the property, where the proposed Oxygen Day Spa is to be located, to see if it is being used as a half-way house. He suggested that if the Day Spa is built, the other building should be removed. He was against commercial ventures infringing on the residential areas.

A gentleman from the audience – What is the difference between a Town Board Workshop meeting and a Town Board meeting?
Supervisor Woerner – The workshop meetings are typically where there are discussions. However, it is an official meeting and anytime a board is convened, they can act on any business.

Robert Barton – What is the local law for sewer rates? What is the easement for IBM?
Supervisor Woerner -It is a law to add the Washington Avenue Sewer district to the rates. Town Attorney Zweben stated that the easement is to allow IBM to install an underground electric line to allow them to continue to monitor the site for pollution because Tech City is turning off its power station.

Peter Burnett – Submitted pictures into the record to show the conditions of the property for the Oxygen Day Spa. He read the attached letter into the record and submitted a list of questions in regard to the project.

**Discussion: Proposed Oxygen Day Spa on Morton Blvd.**

Supervisor Woerner stated that there are a couple of issues that need to be discussed in regard to the Oxygen Day Spa. The first matter is a possible need for a traffic study as the applicant stated at the public hearing there is going to be an increase in traffic and another concern was an environmental and health related one in regard to a public pool being on the property.

Town Attorney Zweben stated he had spoken to the Waste Water Superintendent, Corey Halwick, and he has no problem with the current building and its use as a day spa as there will be no significant impact on the sewer district. He did clarify a concern about the public pool and its discharge of water in the district. It is not connected at this time. Mr. Zweben spoke to the County Department of Health. The DEC allows for these discharges as they are infrequent. He

suggested investigating further the detail of the engineering plans, the discharge and the cleaning of its pool filter.

Paul Economos, the Town Building Inspector, reported that the Building Department became aware of the building violation earlier this year when the property owner started taking in boarders. He was contacted to remedy the situation. He went through the permitting process, completed it, paid for all the fees and will receive his certificate of occupancy for a single family dwelling (to be issued December 5, 2007). Mr. Economos stated that he is aware of the situation in the area with the maintenance and does drive by frequently. The lack of maintenance at this time is not substantial enough to warrant any action by the town. He spoke to Mr. Ulloa, the property owner, about the conditions and he was made aware that if they worsen, the town will act. In regard to the concern of the number of people living in the building, by law, the definition of the family is broad, so it is permitted to have multiple families in a building sharing a common area and splitting costs. This is a dwelling unit and it is a "use by right" in the district.

Supervisor Woerner stated that there is no proof that the building on the property is a boarding house. A local law is being introduced to address concerns that were brought up by the residents to control and regulate the location of such uses in the district to industrial areas away from residences.

A discussion occurred among the Town Supervisor, Town Building Inspector and a gentleman in the audience about the purpose of the local law and it regulating the locations of boarding houses in the township. The hearing is to gain public input to improve the law. The local law has to be in compliance with the other law and regulations including the town comprehensive plan.

Another gentleman stated that it is the responsibility of the town to investigate if their place is a halfway house and to ensure that it is a safe place.
Supervisor Woerner stated that there are no ongoing investigations or problems with the police on the property of the Day Spa site. He suggested the town pass the law in order for the town to proceed to enforce the code. If the Day Spa property or any other property is in violation of the law then the town can enforce the law.

Peter Burnett stated that he had reached out to people in positions in law enforcement and it was unofficially confirmed that there were two people who lived on the property who were in violation of their probation.
Supervisor Woerner stated that he will review this matter.

Councilman Secreto stated that his concerns about the Oxygen Day Spa are regarding the traffic along with the school, the little league and soccer league.

**7:30 – Proposed Boarding House Legislation**

Supervisor Woerner had opened the public hearing up at 8 PM.

Robert Barton – What prompted the creation of this proposed law? Are there any similar laws on the books today?
Supervisor Woerner stated that Councilman Artist brought this item up as it was brought to his attention. There is no law in the codebook. At this time, boarding houses would be allowed anywhere. The proposed law will only allow boardinghouses in the industrial zone. If a person wants to place one elsewhere, a he would have to get a special permit and the Town board would still need to issue a special permit.

Stacey Kuhnel – How will this affect any existing boarding homes in the town?
Supervisor Woerner stated that this will not exempt any preexisting condition. They will have to comply.

Bill Wallens – Stated he is in favor of the law as it is written.

Brett Kropf – Is there a way a person can have a boarding house outside of the industrial district? Inquired if a person who charges board to a child, who has become an adult, is qualified to be prosecuted? Felt that zoning it only to the industrial area is inaccurate because as long as a person pays the price and goes through the process, they will be allowed to open a boarding house in any area of the town. Further, he feels that there should be a provision about families who rent a room out to a child.
Supervisor Woerner – A person can apply for a non-conforming use from the zoning board of appeals or the person can make application to the Town Board for a zoning change on a parcel of property. Both would require public hearings and a special use permit by the Town Board.
Town Attorney Zweben stated that the law defines a boarding house as when a person rents a room versus a whole house. It is not the same as renting out a room to a child who has a job and contributes to the household income as opposed to a person who takes in any stranger with a single room occupant structure. You can not outlaw it, but you can regulate certain rooms. Without a law, it is allowed everywhere.

A gentleman from the audience – He supports the law as it keeps boarding houses in the industrial districts. What procedure allows the Town to determine if someone is in violation?
Supervisor Woerner – The Town can not go into a house and interview people for such violations, but the town can go to any agency to see if there are contracts that confirm there are rooms being rented out. The law gives the Town Board the power to act if there is a violation.

Mr. Richard Metzger – Section H of the local law states no sinks or toilets are allowed in the sleeping rooms. Does this allow for another room for them to be in with out it being in a common area? What is the difference between a rooming house and a boarding house? Are these one and the same? Does it make a hotel/motel a boarding house if it has under 10 rooms?
Supervisor Woerner stated that a bathroom facility has to be provided. A hotel/motel is defined as such, so this will not apply.
Town Attorney stated that the number of kitchens determines the number of families the household is rated. The law is to prevent a toilet in a sleeping room.

Mr. John Miggins – He stated that he is in favor of the law. He spoke to a person who had visited the inside of the premises and reported that there are 8 people who reside on the property of the

Oxygen Day Spa, who are paying $400.00 each per month. He estimates that the property would be rented out at $1,200 per month. He suggested the Town Board talk to some of the individuals who where removed from the premises. He has concern about the area, as he lives nearby and passes by the property daily.

Peter Burnett – What are the state and federal laws that apply to halfway houses/boarding home being located near a school?
Town Attorney Zweben stated there are no laws pertaining to this.

William Wynkoop – What would be proof of a boarding house/group home? Would multiple checks from different people to the landlord be proof versus a group of people pooling their money and then writing one check?
Town Attorney Zweben stated that the source of the funds would be one way to prove a boarding house.

Brett Kropf – To speak to that point, if the people pay with cash, it would be hard to prove a violation of the law. His opinion of the law is that the town receives money for someone who qualifies as a boarding house by going through process and that it does not limit the use to an area. Is there a grandfathering issue? He requested the Town Board be allowed more time to review the final document in its entirety.
Town Attorney Zweben stated that anyone now can operate one. After this, people will have to come to the town and ask permission and the Town can regulate the business.
Supervisor Woerner stated that the town cannot outright prohibit a boarding house in the area. Further, he finds it unlikely that the Town Board will allow an exception when they have been zoned to a certain area.

Stacey Kuhnel – Is there any law that addresses minimum feet to a residential area? If a variance is approved, what will the Town Board review for an approval of a special permit?
Supervisor Woerner stated he can not speak for a future Town Board, but stated it will be hard for him to allow a special permit to an individual where there is already zoning allowed for this use.

Town Clerk Cosenza –Is a half-way house, three quarters house, special home or other similar term the same definition of boarding house?
Town Attorney Zweben explained that a half-way house is a regulated facility. The others are non-regulated facilities. A half-way house is where people come from prison to return to the community.

A lady from the audience – If this law is passed and the house where the Oxygen Day Spa is determined to be a boarding house, what action does the town take?
Town Attorney Zweben explained a process is in place. If the matter is not a dangerous concern, a letter would be sent to the property owner to correct the problem. The building inspector could order the building to be vacated. Also if compliance is not obtained, then the Town could go to the supreme court and file an injunction and fine the person to make them compliant. Fines could be imposed at a set amount of dollars per day.

Supervisor Woerner motioned to close the hearing at 8:45 PM
2nd by Councilman Secreto
3 Ayes – Councilmen Artist and Joel B. Brink were absent

Councilman David Brink motioned to approve the following:

A LOCAL LAW AMENDING AN EXISTING LOCAL LAW

LOCAL LAW NO. 5 OF THE YEAR 2007

A Local Law amending Local Law No. 9 of the Year 1991 pertaining to the Zoning Law of the Town of Ulster.

Be it enacted by the Town Board of the Town of Ulster, Ulster County, New York, as follows:

SECTION I. AMENDMENT

A. Section 190-4 of the Code of the Town of Ulster is hereby amended to add the following definition of "Boarding House and/or Rooming House" in the appropriate alphabetical place:

"BOARDINGHOUSE AND/OR ROOMING HOUSE — Any dwelling with 10 or fewer sleeping rooms in which persons, either individually or as families, are housed or lodged for hire or otherwise, without separate kitchen facilities, with or without meals. If there are more than 10 sleeping rooms, such building shall be considered a hotel."

B. Section 190-25 of the Code of the Town of Ulster is hereby amended to add the following subsection "K":

"K. Boardinghouses and Rooming Houses are subject to the following requirements:

(1) No rooming house or boardinghouse which furnishes rooming or boarding accommodations for hire within the same shall exist or be maintained within the Town without a special permit, which shall be issued by the Town Board of the Town of Ulster, as hereinafter provided.

(2) No special permit shall be issued hereunder and any special permit heretofore or hereafter issued shall be subject to revocation, unless the applicant or holder of such permit fully complies with the following requirements:

(a) The applicant shall be the individual owner of such premises.

(b) At the time of the issuance of such special permit and at all times when said premises are used as a rooming house or boardinghouse, the owner thereof shall maintain his residence in and shall actually reside in said premises or there shall be a permanent resident of the Town of Ulster who

shall be the resident agent responsible for the management of the rooming house or boardinghouse.

(c) The maximum number of roomers or boarders shall be 12 and the maximum number of rooms shall be 10.

(d) There shall be no more than two people occupying a room as a roomer or boarder, and such room shall have a minimum of 80 square feet of floor space per occupant.

(e) All rooming houses and boardinghouses shall be heated by a central heating plant or permanently installed electric baseboard panel heating. No portable heating units are allowed.

(f) No cooking or storage of foodstuffs shall be permitted in any room other than a kitchen.

(g) In all parts of such building, artificial lighting shall be provided by means of electric current and each electric circuit shall be provided with a circuit breaker or fuse which shall meet the requirements of the New York Board of Fire Underwriters. Each new application shall be accompanied by a New York Board of Fire Underwriters' certificate. This certificate shall not be more than one year old. Thereafter, on renewal applications, a current New York Board of Fire Underwriters' certificate shall be required at least once each five years. Any fees involved in obtaining this current New York Board of Fire Underwriters' certificate shall be borne by the applicant.

(h) No sinks or toilet facilities shall be installed or used in any sleeping room.

(i) Bathroom facilities shall be maintained for the owner-occupant separate and apart from bathroom facilities for the roomers and boarders.

(j) The owner or resident agent of every rooming house and boardinghouse shall change supplied bed linens and towels therein at least once each week or prior to the letting of any room to any occupant. The owner or resident agent shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

(k) All garbage and kitchen wastes in every rooming house and boardinghouse shall be immediately deposited in suitable covered receptacles which shall be disposed of as needed in such a way as not to be or become offensive or unsanitary.

(l) All sleeping rooms shall be numbered with raised figures not less that three inches in height placed on the outside of the door to each room, and no two rooms shall bear the same number.

(m) Each and every floor on which rooms are occupied by roomers and boarders shall be equipped with a fire extinguisher in good working condition readily accessible for use at all times and approved by the Building Department of the Town of Ulster.

(n) No room shall be occupied by roomers or boarders in the third floor or attic of any dwelling unless the building complies fully with the New York State Multiple Residence Law. In a wood-frame dwelling, no room shall be occupied by roomers or boarders in the third floor or attic.

(o) Off-street parking must be provided on the premises at the rate of one space per occupant based on maximum possible occupancy, plus one space for each employee.

(p) All rooming houses and boardinghouses with special permits shall be subject to inspections at all reasonable hours by properly authorized representatives of the Town of Ulster. Failure to comply with this provision shall constitute grounds for immediate revocation of the permit.

(q) Every rooming house and boardinghouse and every part of the premises shall be at all times kept clean and free from dirt, filth and rubbish and in a sanitary condition. Cleaning and renovation shall be secured as may be ordered by the Building Department of the Town of Ulster.

(r) No sign shall be erected that identifies or advertises the use of the rooming house or boardinghouse for such purpose.

(s) Said use shall conform and be maintained in harmony with the overall character and appearance of the surrounding neighborhood.

(t) No rooming house or boardinghouse permitted pursuant to this subsection shall be located less than 1,200 feet from an existing rooming house or boardinghouse.

(u) No rooming house or boardinghouse permitted pursuant to this subsection shall be located less than 1,200 feet from an existing bed and breakfast.

(3) Any person maintaining such a rooming house or boardinghouse shall keep upon such premises a register showing the names of all persons residing or living in or upon said premises, as well as the room occupied by each, and shall exhibit the same to any member of the Police Department or the Building Department of the Town of Ulster or their deputy at any reasonable time upon demand, and the

failure to so exhibit the same shall constitute a violation and be punished in accordance with §190-67.

(4) For rooming houses and boardinghouses only, there shall be an annual special permit fee of $200 per building plus a charge per room of $20 for each room over four rooms per building which is used as an accommodation for hire. The fee for any special permit required by the provisions of this chapter shall be at the levels fixed from time to time by resolution of the Town Board of the Town of Ulster or by local law.

(5) No special permit shall be issued or renewed for a longer period than one year, and all permits shall expire one year following the date of issuance. All applications, properly filled out, must be filed with the Planning Board of the Town of Ulster at least 30 days prior to the expiration of the previous special permit or 30 days before the applicant intends to commence operations. The fee for the issuance of a special permit hereunder or for subsequent renewals thereof is hereby established for the whole or part of the calendar year.

(6) Every applicant of a rooming house or boardinghouse shall submit with his application to the Planning Board the following information which is to be filed both with the Town Clerk and the Building Department of the Town of Ulster:

(a) The name, address and phone number of the owner of the rooming house or boardinghouse.

(b) The name, address and phone number of the permanent resident of the Town of Ulster who shall be the resident agent responsible for the management of said rooming house or boardinghouse.

(c) A description of the property by street number, the number of apartments in each rooming house or boardinghouse, the number of rooms in each apartment, the number of rooms for sole occupancy and the maximum possible occupancy.

(d) The number of persons occupying each room and/or apartment.

(e) A plan or diagram of the lot containing the rooming house or boardinghouse and of each floor in the building, showing all dimensions, doors, windows, closets, water closets, bathrooms, staircases and means of exit.

(f) Proof of annual inspection by the Ulster County Department of Health.

C. The "Summary of Permitted Uses" chart at the end of Chapter 190 (Zoning) of the Town Code of the Town of Ulster is hereby amended to add "Boardinghouse and/or Rooming House" as a category of "Uses" in the appropriate alphabetical place and an "S"

(indicating that it is a use requiring a special permit and site plan approval) shall be placed in the box corresponding to Zone District "I".

SECTION II. SEVERABILITY

If any clause, sentence, paragraph, section, article or part of this Local Law shall be adjudicated in any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which such judgment shall have been rendered, and such invalidity shall not be deemed to affect the remaining portions thereof.

SECTION III. EFFECT OF AMENDMENT

Except as herein modified, Local Law No. 9 of the year 1991, and any subsequent valid amendments thereto, are hereby ratified and confirmed.

SECTION IV. EFFECTIVE DATE

This Local Law shall be effective as provided by law, upon filing and acceptance by the New York Secretary of State.

2nd by Councilman Secreto
3 Ayes - Councilmen Artist and Joel B. Brink were absent

**Proposed Local Law 6 of 2007 regarding Sewer Rates for the Town**.

Supervisor Woerner set a public hearing at 7:50 PM on Monday, December 17, 2007 for a proposed local law to set the sewer rates for the town (to include the new Washington Avenue Sewer District)

**Proposed Local Law 7 of 2007 regarding the establishment of a five member Police Commission.**

Supervisor Woerner motioned to set a public hearing at 8:00 PM on Monday, December 17, 2007 for a proposed local law to establish a five member Police Commission
2nd by Councilman Secreto
3 Ayes - Councilmen Artist and Joel B. Brink were absent

**Resolutions: Granting an extension of Site Plan Approval to Cryo Weld on Rt. 9W.**

Supervisor Woerner motioned to grant a one year extension for the site plan approval of Cryo Weld located on Rt. 9W.
2nd by Councilman David Brink
3 Ayes - Councilmen Artist and Joel B. Brink were absent

**Granting an Easement to IBM Corp. for the installation of an underground power line to the property owned by A.G. Properties Inc.**

Councilman David Brink moved the following:
RESOLUTION GRANTING AND EASEMENT TO INTERNATIONAL BUSINESS MACHINE CORP. FOR THE INSTALLATION OF AN UNDERGROUND POWER LINE FROM A CENTRAL HUDSON POWER POLE ON NEIGHBORHOOD ROAD TO THE PROPERTY OF A.G. PROP. INC. TO PROVIDE POWER TO THE GROUNDWATER TREATMENT BUILDING

WHEREAS, IBM, Inc. is required by law to maintain a operations building to facilitate the clean-up of the pollution on property owned by A.G. Prop. Inc.; and

WHEREAS, the power to said building is presently supplied by an electric line form the central power plant maintained by A.G. Prop., Inc.; and

WHEREAS, A.G. Prop. Inc. intends to discontinue operation of the central power plant, thus terminating the supply of power to the operations building; and

WHEREAS, the nearest point from which power can be provided to the operations building is a power pole on the southerly side of Neighborhood Road; and

WHEREAS, Central Hudson has requested that the Town allow it to run a line under property owned by the Town adjacent to Neighborhood Road for a distance of approximately (none stated) feet as more specifically set forth in the description attached hereto; and

WHEREAS, Central Hudson has requested permission to go on the Town lands as more specifically set forth in the description attached hereto for the temporary purpose of laying the aforesaid underground power line

WHEREAS, it has been determined by this Board desirable to allow for the laying of this cable underground rather than have poles installed to provide electrical power to facilitate the clean-up of the site;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Ulster hereby grants to International Business Machine Corp. a permanent easement for Installation of an Underground Electric Line as set forth in Exhibit "A" attached hereto; and

BE IT FURTHER RESOLVED, that the Town of Ulster hereby grants to International Business Machine Corp. a Temporary Construction Easement for Installation of an Underground Electric Line as set forth in Exhibit "B" attached hereto; and

BE IT FURTHER RESOLVED, that the Supervisor of the Town of Ulster is hereby authorized to execute documents as required to evidence the grant of said easements.

2nd by Councilman Secreto

3 Ayes - Councilmen Artist and Joel B. Brink were absence
(Exhibits A & B were not available at the time of the minutes for attachment)

**Enter into contract for Grant Writer Mark Blauer to administer the Lateral Grant applications for East Kingston**

Councilman Secreto motioned to authorize the Town Supervisor to enter into contract with Mark Blauer to serve as the program/grant administrative contractor with the cost of the service not to exceed $12,500 that will be eligible for reimbursement through the budget
2nd by Councilman David Brink
A Roll Call Vote was taken - 3 Ayes - Councilmen Artist and Joel B. Brink were absent

Robert Barton – He inquired about the East Kingston Blasting Study.
Town Attorney Zweben stated that the company performing the report is in the process of writing a summary cover page and there are still some items that they are reviewing.

Councilman Secreto motioned to adjourn the meeting at 9:05 PM
2nd by Councilman David Brink Secreto
3 Ayes - Councilmen Artist and Joel B. Brink were absent

Respectfully Submitted by
Jason Cosenza, RMC FHCO
Ulster Town Clerk

Peter Burnett
1015 Stoll Ct
Kingston, NY 12401
(845) 336-0929

December 4, 2007

I am concerned the town board may be prepared to make a decision tonight without the benefit of truly understanding the purpose of the recently adopted comprehensive plan as it pertains to development and smart growth in our town. What you are prepared to do totally contradicts the intent and guideline established by the comprehensive plan whose input includes citizens of our community.

In reference to this adopted comprehensive plan as it pertains to the community, I would refer to the Vision Statement. The town's vision statement is to form a plan which fosters growth and development while preserving the integrity of the town. Residential and business growth will be managed to retain rural and historic character, a quality environment and an active agricultural community.

This proposed Day Spa is incompatible development within our fragile and vulnerable neighborhood. Concerns raised by town residence including traffic congestion, negative impact on the quality of life for ourselves and our families, devaluation of properties and owners property rights, are concerns that should be taken seriously. Who better knows the local issues, problems and desires than the stake holders of the impacted neighborhood. We cannot dismiss people's observations, opinions, and beliefs and to do so, is a violation of open government and people's rights.

It seems this Comprehensive Plan as it relates to "smart development" may be intended to make ourselves feel good rather than preserving the integrity of the town. Is the Day Spa an expansion to the existing unapproved group home that currently exists on Van Keuren Highway? It seems very ironic that there is proposed local law #6 with intent to legitimize this group home. With the Town Attorney currently in process of an investigation regarding any legal implications and status of "boarding houses" within the town, a decision to open the Day spa during this investigation should not be permitted at this time.

**QUESTIONS RAISED AT 11/19/07 DAY SPA PUBLIC HEARING REQUIRING TOWN RESPONSES**

- **What was the outcome of your conversation with the Town Planner regarding the impact of this project on the quality of life and character of the neighborhood?**

- **On what legal basis did you make a determination that you had the right to pick and choose what elements of the public presentations would become part of the hearing record?**

- **What is the applicable state or federal statue and regulation regarding the allowable proximity of a group home or a half-way house to a school?**

- **Have you made a determination, after speaking to the owner, what the nature of the residency is and why was this facility is allowed to operate when specific violations were noted?**

- **Have you re-visited and re-evaluated the increased traffic issues and concerns as were expressed by the residents and what was the outcome?**

- **What is the town attorney's opinion regarding the legality of the connectivity between the group home or half way house and the Day Spa?**

- **What was the outcome of the building inspector checking on the unregistered vehicle?**

- **If the Town Board knew nothing about the existence of the group house or half-way house operation on Van Keuren Highway, as it claims, why out of the blue is the Town Board at this precise point in time proposing a local law that would legalize and allow the siting of rooming and boarding houses in residential neighborhoods?**

**Mr. Supervisor and Town Board members, all we are asking for is an unbiased decision so as not to affect our neighborhood and our quality of life.**

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DODGE STRATUS

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