

ULSTER TOWN BOARD MEETING
JUNE 18, 2009 AT 7:00 PM

CALLED TO ORDER BY SUPERVISOR WOERNER, CHAIRMAN at 7:05 PM

SALUTE TO THE FLAG

ROLL CALL BY CLERK

TOWN COUNCILMAN DAVID BRINK
TOWN COUNCILMAN JOEL B. BRINK
TOWN COUNCILMAN ERIC KITCHEN
TOWN COUNCILMAN ROCCO SECRETO
SUPERVISOR NICKY B. WOERNER

Supervisor Woerner announced that the Town Police have some smoke detectors available to residents for free.

APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

Councilman Joel B. Brink motioned to approve the minutes of May 21, 2009.
2nd by Councilman Secreto
All Ayes

ABSTRACT OF CLAIMS

Councilman Joel B. Brink motioned to approve the following:

FUND	CLAIM #	AMOUNT
GENERAL	601-620	6,191.45
ULSTER WATER	601-604	875.67
HALCYON PK. WATER	601	195.25
SPRING LAKE WATER	601-603	208.19
BRIGHT ACRES WATER	601	158.14
WHITTIER SEWER	601-602	121.46
ULSTER SEWER	601-603	8,103.06
WASHINGTON AVE. SEWER	601-602	57.31
SPECIAL LIGHT	601-606	3,147.70
GENERAL	601-6138	110,156.47
HIGHWAY	601-651	92,609.67
WHITTIER SEWER	601-605	629.62
ULSTER SEWER	601-629	18,203.19
WASHINGTON AVE. SEWER	601	375.00
ULSTER WATER	601-618	12,549.66
HALCYON PK. WATER	601	25.00
SPRING LAKE WATER	601	25.00
BRIGHT ACRES WATER	601-602	349.80
CHERRY HILL WATER	601	25.00
GLENERIE WATER	601-602	2,525.00

ULSTER TOWN BOARD MEETING
 JUNE 18, 2009 AT 7:00 PM

EAST KINGSTON WATER	601	25.00
INSURANCE (ALL FUNDS)	601-618	119,364.08
MEDICARE REIMB.		14,105.40
TRUST & AGENCY	601-623	25,956.00
DRAINAGE PROJECTS	601-602	16,847.00
	TOTAL	\$ 432,829.12

2nd by Councilman David Brink
 A Roll Call Vote was taken – All Ayes

Councilman David Brink moved to approve the following:

BUDGET MODIFICATIONS:

General Fund:

Transfer From:	Transfer To:	
A3120.101 Overtime Wages	A3120.100 Police Wages	6,009.68
A1355.401 Cataloging	A1355.403 Office Supplies	200.00
A1670.415 Legal Notices	A1670.417 Printing	200.00

Ulster Water:

Transfer From:	Transfer To:	
SW1-8320.409 Repairs & Supp.	SW1-8340.201 Truck	1,000.00

General Fund:

Modify Appropriation A7140.200 (Equipment) to be funded through A5110 (Approp. Reserve - Softball League) electric at Orlando St. 52.03

Modify Revenue A2680 (Insur. Recoveries) and Appropriation A3120.421 (Veh. Maint.) check from GAB Robins North America, Inc. for Property Damage Settlement (side mirror) 172.45

Modify Appropriation A7140.200 (Equipment) to be funded through A5110 (Approp. Reserve- Softball League) bulbs, conduit, pipe – Eastern States Electrical 21.10

Modify Appropriation A7140.200 (Equipment) to be funded through A5110 (Approp. Reserve- Softball League) paint, baseballs - Anaconda Sports 129.06

Modify Appropriation A7140.200 (Equipment) to be funded through A5110 (Approp. Reserve- Softball League) paint, bases, anchors, pitcher's rubber, and softballs - Anaconda Sports 795.64

Modify Appropriation A7140.200 (Equipment) to be funded through A5110 (Approp. Reserve- Softball League) rapid mix, concrete mix, cable ties, rakes and handles - Herzog Supply Co. 747.15

Modify Appropriation A7140.200 (Equipment) to be funded through A5110 (Approp. Reserve- Softball League) payments for scorekeeper forfeit fee and umpire forfeit fees 74.00

ULSTER TOWN BOARD MEETING
JUNE 18, 2009 AT 7:00 PM

Modify Appropriation A3121.400 (Drug Forfeiture) to be funded through A5110 (Approp. Reserve) payment to Cisco-Eagle for wire partition 1,509.00

Glenerie Water:

Modify Appropriation SW6-1989.400 (Grants Writer) to be funded through SW6-5990 (Approp. Fund Bal.) payment to Blauer Associates for grant application for water tower 2,500.00

Washington Avenue Sewer:

Modify Appropriation SS3-1420.400 (Legal Services) to be funded through SS3-5990 (Approp. Fund Bal.) payment to Andrew Zweben regarding easement 375.00

2nd Councilman Secreto
All Ayes

Public Hearing - 7:00pm - Ulster Hose #5 Pavilion to be located at the Ulster Hose #5 Ulster Avenue site

Supervisor Woerner call the Public Hearing to order at 7:12 PM for the Ulster Hose #5 Fire District Pavilion

Don Brott, representing Brinner and Larios, reported that the pavilion is being built at no cost to the tax payers through various donations from the community. The Ulster County Planning Board has made a few recommendations. The first one is about the light pollution from the pavilion. This issue is addressed by having the lights recessed inside the pavilion. Furthermore, it's located a long way from the road and is near a railroad and a few commercial buildings, so there is little conflict with usage of the pavilion. Town Attorney, Andrew Zweben, recommended that the Town overturn the cross easement suggestion, as a public safety concern as recommended, so as not to encourage traffic circulating on the fire house property as it may cause problems when the firemen have to respond to an incident.

Councilman Joel B. Brink motioned to close the hearing at 7:15 PM
2nd by Councilman Secreto
All Ayes

Councilman Secreto moved to approve a negative SEQR declaration for the Ulster Hose #5 Pavilion project.
2nd by Councilman David Brink
All Ayes

Councilman Kitchen moved to approve the following:

RESOLUTION TOWN OF ULSTER TOWN BOARD

**Site Plan Amendment
Ulster Hose #5 Pavilion
830 Ulster Avenue**

S-B-L: 48.58-06-05

WHEREAS, the applicant - Town of Ulster 5th Fire District- submitted an application for Site Plan Amendment approval to construct a 40 foot by 100 foot pavilion on property owned by the Town of Ulster 5th Fire District; and

WHEREAS, materials submitted in support of the proposed action include:

- *Narrative Description* prepared by Brinnier & Larios, P.C. dated May 5, 2009;
- *SEQRA Short EAF* prepared by James M. Bracco dated May 4, 2009;
- *Application for Site Plan Approval* prepared by Don Brott, B&L, PC dated May 5, 2009;
- *Existing Conditions Map* prepared by Brinnier & Larios, P.C. dated April, 2009;
- *Site Plan for Proposed Pavilion* prepared by Brinnier & Larios, P.C. dated April 2009;
- *Lighting Plan* prepared by Brinnier & Larios, P.C. dated April 2009; and
- *Elevations for Proposed Pavilion* prepared by Brinnier & Larios, P.C. dated April 2009.

WHEREAS, the Planning Board considered the application materials submitted by the applicant in support of the proposed action, along with the comments of its consultant planner & engineers made via memoranda (which memoranda are incorporated herein by reference); and

WHEREAS, after careful review of the proposed Site Plan, the Planning Board referred the matter to the Town of Ulster Town Board with a recommendation of approval; and

WHEREAS, the Planning Board referred the proposed action to the Ulster County Planning Board for GML 239 1 & m review; and

WHEREAS, the Ulster County Planning Board issued a required modification that "proposed canopy lighting should be flush mounted and that cross access easements should be established between the Ulster Hose #5 site and parcels adjacent to it."

WHEREAS, after careful consideration of the Ulster County Planning Board's recommendations, the Town Board determined that the placement of the canopy lighting under the inside the of pavilion would not result in lighting trespass and that cross access easements to the firehouse posed security concerns that outweighed potential benefits to traffic circulation.

WHEREAS, the Town Board upon review of the entire record (including SEQRA Short EAF) found that the proposed Site Plan Amendment to construct a 40 foot by 100 foot pavilion will not have an adverse impact on the environment; as Lead Agency made a determination of non-significance and issued a Negative Declaration pursuant to Part 617 of SEQRA.

NOW THEREFORE BE IT RESOLVED that the Town Board has determined that they have complied fully with the procedural requirements of Part 617 of the State Environmental Quality Review Act (SEQRA); and

FURTHER BE IT RESOLVED, that the Town Board hereby overrides the Ulster County Planning Board's required modifications as outlined in their June 3, 2009 GML 239 1 & m review.

FURTHER BE IT RESOLVED, the application by - Town of Ulster 5th Fire District- for Site Plan Amendment approval to construct a 40 foot by 100 foot pavilion is granted, subject to the conditions, limitations and restrictions set forth below.

1. Compliance with zoning and building laws, rules and regulations.
2. Compliance with all representations made by the applicant and his engineer as shown on the approved Site Plan.

2nd by Councilman Joel B. Brink
A Roll Call Vote was taken – All Ayes

7:15 PM - Hudson Landing Development request for a Traditional Neighborhood Development Overlay District

Supervisor Woerner opened the Public Hearing at 7:18 PM for a proposed local law for a development overlay district.

Mr. Dan Shuster gave a brief over of the proposed law. It is an amendment to the zoning law of the Town of Ulster, regulating a zoned area's land use, building design and height, landscaping and other development issues. The Town Planning Board recommended approval of the law as submitted.

Robert Barton inquired what is a development overlay district?
Town Attorney Andrew Zweben reported that it is an additional set of rules over an area above the regular laws. A discussion followed as to what should come first, the law or the development. The law came about as a result of the development in East Kingston. The Hudson Landing Development requested to have such a law.

Mr. Renno Budziak suggested including an additional preferred class for a young demographic and or first time home buyers clause in the law or remove the group categories to open up the law to all.

Mr. Adam Schulta spoke in favor of the East Kingston/Kingston project and requested that his client's easement be removed from the proposed zoning (see letter enclosed – Exhibit A)

Supervisor Woerner suggested that the Town form its own Housing Development Agency to oversee the district, rather than give all the Town's authority to the City of Kingston's Agency.

Councilman Secreto motioned to close the public hearing at 7:39 PM
2nd by Councilman David Brink
All Ayes

7:30 PM - Application for a Logging Permit on the lands of Joseph Emanuele

ULSTER TOWN BOARD MEETING
JUNE 18, 2009 AT 7:00 PM

Supervisor Woerner opened the Public Hearing at 7:41 PM for a logging permit for lands of Joseph Emanuele.

Mr. Edward Schreiber gave a brief overview of his permit. He wants to perform selective logging on the 17 acre lands of Joseph Emanuele. He has a County permit to use Lucas Avenue. He plans to remove 241 trees on the property, mostly hardwood with some pine.

Councilman David Brink inquired about slope, run off and the washing out of the property. Mr. Schreiber stated that he will follow NY State regulations and water bars will be installed as required.

James Maloney inquired about how long the process would take. Mr. Schreiber stated it would take 3-4 months.

Mrs. Kathy Dittus inquired if the road used for the logging will be removed when finished. Mr. Schreiber stated the road will be removed if the county required it.

Councilman Joel B. Brink motioned to close the Public Hearing at 7:44 PM
2nd by Councilman Secreto
All Ayes

Councilman David Brink moved to approve a negative SEQR declaration for the logging permit for the lands of Joseph Emanuele.
2nd by Councilman Joel B. Brink
All Ayes

Councilman Secreto motioned to approve a special use permit for logging on the lands of Joseph Emanuele, parcel lot # 56.30-1-39.110, located on 6 Sherry Lane, Kingston, NY in an R-30 zone
2nd by Councilman David Brink
All Ayes

7:45pm – Public hearing for the Town of Ulster MS4 Report

Supervisor Woerner opened the Public Hearing for a Town of Ulster MS4 Report at 7:47 PM

Highway Superintendent, Frank Petramale, gave a brief overview of the MS4 Report.

Robert Barton wanted to know what MS4 is?

Highway Superintendent, Frank Petramale, stated that MS4 is a requirement passed down to the town from the State and Federal Government to monitor the storm water run off quality and to ensure the health and safety of the residents.

Councilman Secreto motioned to close the Public Hearing at 7:50 PM
2nd by Councilman Joel B. Brink
All Ayes

Councilman Secreto moved to accept the Town of Ulster MS-4 report as submitted

ULSTER TOWN BOARD MEETING
JUNE 18, 2009 AT 7:00 PM

2nd by Councilman Joel B. Brink
All Ayes

Public Comment

Mr. Robert Barton inquired about the Highway Equipment Fund. Supervisor Woerner stated that the Town Board is considering it tonight. The interest rate is not available as the town has not gone out to bond for it.

Town of Ulster Summer Camp

Councilman Secreto reported that approximately 210 children have been signed up. Thirty five counselors have received safety training. Councilman Kitchen requested to be added to the website as a contact.

Highway Equipment Replacement Program

Councilman Secreto moved to approve the following:

A RESOLUTION AUTHORIZING, SUBJECT TO PERMISSIVE REFERENDUM, THE ACQUISITION OF HEAVY MACHINERY AND EQUIPMENT IN AND FOR THE TOWN OF ULSTER, ULSTER COUNTY, NEW YORK, AT A MAXIMUM ESTIMATED COST OF \$1,175,000 AND AUTHORIZING THE ISSUANCE OF \$1,175,000 SERIAL BONDS OF SAID TOWN TO PAY THE COST THEREOF.

BE IT RESOLVED, by the affirmative vote of not less than two-thirds of the total voting strength of the Town Board of the Town of Ulster, Ulster County, New York, as follows:

- Section 1. The acquisition of heavy machinery and equipment in and for the Town of Ulster, Ulster County, New York, including incidental costs and improvements, is hereby authorized at a maximum estimated cost of \$1,175,000.
- Section 2. It is hereby determined that the plan of financing of the aforesaid maximum estimated cost shall be by the issuance of \$1,175,000 serial bonds of said Town hereby authorized, SUBJECT TO PERMISSIVE REFERENDUM, to be issued therefor pursuant to the provisions of the Local Finance Law.
- Section 3. It is hereby determined that the period of probable usefulness of the aforesaid class of objects or purposes is fifteen years, pursuant to subdivision 28 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.
- Section 4. The faith and credit of said Town of Ulster, Ulster County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An

ULSTER TOWN BOARD MEETING
JUNE 18, 2009 AT 7:00 PM

annual appropriation of legally available funds, as the Town Board shall direct, shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. To the extent not paid therefrom, there shall annually be levied on all the taxable real property of said Town, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 6. All other matters except as provided herein relating to the bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, shall be determined by the Supervisor, the chief fiscal officer of such Town. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Supervisor shall determine consistent with the provisions of the Local Finance Law.

Section 7. The validity of such bonds and bond anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 8. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved,

ULSTER TOWN BOARD MEETING
JUNE 18, 2009 AT 7:00 PM

allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 9. Upon this resolution taking effect, the same shall be published in summary form in the official newspaper of said Town for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 10. THIS RESOLUTION IS ADOPTED SUBJECT TO PERMISSIVE REFERENDUM.

2nd by Councilman Kitchen
A Roll Call Vote was taken – All Ayes

Town of Ulster Senior Center

Supervisor Woerner reported that he and the Highway Superintendent, Frank Petramale had a meeting earlier in the day pertaining to site preparation of the Senior Center. The highway Department will remove a tree from the area and contact Dig Safe New York to mark out the area for the utility lines. The Town Engineer will have the bid proposals available to bidders for the town to act on next month. He has spoken to Congressman Hinchey and to County Executive Mike Heins about contributing grants to further offset construction costs or services.

Request for funds for the Ulster Fire Training Center

Supervisor Woerner stated that he has received a request from a member of the Ulster Fire Training Center to pave the entrance to the site. The cost will be roughly \$94,860.00. This cost may drop due to donations.

Councilman Joel B. Brink motioned to expend up to \$95,000.00 toward paving the road to the Ulster Train Center off of Ulster Landing Road.

2nd by Councilman Secreto

Supervisor Woerner stated that there was no money set aside for this request as it was unexpected.

A Roll Call vote was taken – All Ayes

Setting a Public Hearing on the Boice Mining Permit for July 23 at 7:15 PM

Supervisor Woerner announced that the Town Board meeting will be held on July 23, 2009 instead of July 16, 2009.

Councilman David Brink moved to set a public hearing for the Boice Mining Permit for July 23, 2009 at 7:15 PM.

2nd by Councilman Joel B. Brink

All Ayes

Settlement of Claim

Councilman Joel B. Brink moved to settle a claim in the amount of \$500.00 from Charles Roach, as his car was damaged by a Town of Ulster plow truck during a snow storm.

2nd by Councilman David Brink

All Ayes

Reaffirm Motion of March 19, 2009 in the amount of \$20,000.00 Grant for Town Park

Councilman Secreto moved to approve the following:

WHEREAS, this organization has received a special grant in the 2008-09 New York State Budget; and

WHEREAS, there are specific requirements and regulations governing the expenditure of these funds;

NOW, THEREFORE, this body resolves the following:

1. Administration of all funds under this grant will be in accordance with all terms and conditions contained in "GUIDELINES to prepare Grant Agreements for non-construction projects \$50,000 and under Fiscal Year 2008 - 2009," provided by the New York State Office of Parks, Recreation and Historic Preservation

2. That Nicky B. Woerner, as Supervisor of our organization, Town of Ulster is hereby authorized to sign legal documents on behalf of our organization and that such signature is the acknowledgement of the acceptance by this body of compliance with all terms and conditions of the grant agreement, to be executed for the grant.

2nd by Councilman Joel B. Brink

All Ayes

Plainfield Street – No Parking Signs

Councilman Kitchen motioned to place “No Parking” signs, between the hours of 8:30 AM to 5:30 PM along the west side of Plainfield Street from Stahlman Place to Southfield Street.

2nd by Councilman Secreto

All Ayes

Councilman David Brink moved to enter into executive session for the purpose of discussing legal litigation pertaining to Chambers Housing at 8:24 PM

2nd by Councilman Kitchen

A vote was taken – 3 Ayes – 1 Nay by Councilman Secreto – Supervisor Woerner abstained

Deputy Supervisor Craig Artist was invited into the executive session, as the acting chairman, as well as Town Assessor James Maloney

ULSTER TOWN BOARD MEETING
JUNE 18, 2009 AT 7:00 PM

Executive Session ended at 8:50 PM when Deputy Supervisor Artist informed the Town Board that he had signed the settlement agreement prior to the meeting.

Councilman Kitchen motioned to adjourn the meeting at 8:54 PM
2nd by Councilman Secreto
All Ayes

Respectfully Submitted by
Jason Cosenza, RMC FHCO
Ulster Town Clerk

Exhibit A

Gilberti Stinziano Heintz & Smith, P.C.
ATTORNEYS AND COUNSELORS AT LAW

555 East Genesee Street
Syracuse, New York 13202-2159
Telephone: (315) 442-0100
Telefax: (315) 442-0106
E-mail: emailroom@gilbertilaw.com

Writer's Direct Email: aschultz@gilbertilaw.com
Writer's Direct Fax: (315) 442-0169

June 18, 2009

Town of Ulster
Town Board
1 Town Hall Drive
Lake Katrine, NY 12449

City of Kingston
Common Council
420 Broadway
Kingston, NY 12401

Re: Hudson Landing Project
Proposed Traditional Neighborhood Development Overlay District
Tilcon, Inc. and Callanan Industries, Inc.

Dear Town Board and Common Council members:

This office represents Tilcon, Inc. and Callanan Industries, Inc. ("Callanan"). Callanan and its predecessors-in-interest (including Tilcon) have owned and operated a long standing quarry operation in the City of Kingston and the Town of Ulster currently known as the "East Kingston Quarry". Callanan operates the East Kingston Quarry pursuant to a State mining permit issued by the New York State Department of Environmental Conservation ("DEC") that authorizes quarrying operations, with on-site processing of material throughout a 350-acre parcel of land. (DEC Permit # 3-5199-00031/0003). These operations are located immediately adjacent to the westerly and eastern boundaries of the former Tilcon lands being redeveloped as the Hudson Landing project.

At this time, the Town of Ulster ("Town") and City of Kingston ("City") have been asked to rezone the parcels that comprise Hudson Landing to a Traditional Neighborhood Development Overlay District ("TNDOD"). It is our understanding that the purpose of the TNDOD is to promote a traditional neighborhood design of mixed-use development.

After having reviewed the publicly available documents describing the anticipated impacts of the Hudson Landing project ("Project"), including creation of the TNDOD, Callanan wishes to add its support for the Project and creation of the TNDOD, subject to the following comments.

June 18, 2009

Page 2

We believe that the scope of the SEQRA review of the Hudson Landing project, including its evaluation of the relationship and compatibility of Callanan's operations¹ with the Hudson Landing project was appropriate (*see* DGEIS, Page 2-11; § 2.8.2, Page 2-16, 17; § 3.5, Page 3-80). We also agree with the review's determination that Callanan's ongoing and future operations and the development of Hudson Landing are compatible and can exist harmoniously (DGEIS at 2-11).

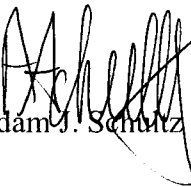
However, upon our review of the proposed TNDOD legislation, it appears that Callanan's easement to the dock/stockpile facility has, inadvertently, been included within the area proposed to be rezoned TNDOD. Given that the purpose of the TNDOD is to "encourage innovative, traditional neighborhood development", such as Hudson Landing, we believe that it is more appropriate for Callanan's lands (easement and dock/stockpile area) to retain their current zoning status, consistent with their historical industrial nature.

Callanan has discussed this matter with the proponents of the Hudson Landing project and have their agreement and support to remove the lands constituting Callanan's easement from the requested TNDOD rezoning. As the affected property owners have reached agreement regarding this matter, we ask that the Town and City take this request under consideration and remove the lands constituting Callanan's easement prior to final adoption of the TNDOD. We have attached the metes and bounds description of Callanan's easement for your convenience.

Thank you for your consideration of this matter, and please include this letter in the record of the Town Board and Common Council's consideration of the proposed TNDOD.

Very truly yours,

GILBERTI STINZIANO HEINTZ & SMITH, P.C.


Adam J. Schutz

AJS/dmm
Enclosure

cc: Callanan Industries, Inc.
Tilcon, Inc.

¹ The scope of Callanan's operations is fully set forth in the SEQRA review documents of Hudson Landing (*see* DGEIS at 1-1, 1-2, 2-3, 2-11 and 2-17). Callanan will continue these operations during and after construction of the Hudson Landing project.

EXHIBIT B

**DESCRIPTION OF A PROPOSED RIGHT OF WAY THROUGH THE LANDS
CURRENTLY OWNED BY TILCON MINERALS, INC.
TOWN OF ULSTER, ULSTER COUNTY, NEW YORK**

Beginning at a point on the Westerly side of First Avenue, said point being South 1° 19' 55" East, 8.08 feet from the Northwesterly corner of lands currently owned by Tilcon Minerals, Inc. , and running:

1) thence from said point of beginning through the lands currently owned by Tilcon Minerals, Inc. the following courses and distances: South 80° 30' 14" East, 346.13 feet to a point;

2) thence South 87° 01' 05" East, 266.77 feet to a point;

3) thence North 85° 34' 00" East, 59.82 feet to a point;

4) thence North 72° 45' 37" East, 95.29 feet to a point;

5) thence North 73° 44' 24" East, 43.33 feet to a point;

6) thence North 70° 59' 35" East, 124.69 feet to a point;

7) thence Easterly on a curve to the right having a radius of 180.00 feet, 134.16

feet to a point;

8) thence South 66° 18' 10" East, 26.41 feet to a point;

9) thence South 54° 11' 25" East, 55.86 feet to a point;

10) thence South 31° 35' 30" East, 60.30 feet to a point;

11) thence South 20° 14' 08" East, 109.03 feet to a point;

12) thence South 4° 18' 58" East, 144.47 feet to a point;

13) thence South 15° 23' 23" East, 29.35 feet to a point;

*Description of a proposed right of way through the lands
Currently owned by Tilcon Minerals, Inc.
Town of Ulster, Ulster County, New York*

- 14) thence South 36° 19' 10" East, 116.16 feet to a point;
- 15) thence South 48° 51' 19" East, 21.52 feet to a point;
- 16) thence South 30° 45' 38" East, 31.29 feet to a point;
- 17) thence South 18° 34' 19" East, 51.25 feet to a point;
- 18) thence Southeasterly on a curve to the right having a radius of 230.00 feet,
82.26 feet to a point;
- 19) thence South 1° 55' 17" West, 400.25 feet to a point on the Northerly line of a
7.001 acre parcel to be retained by Tilcon Minerals, Inc.;
- 20) thence along the Northerly line of said 7.001 acre parcel South 66° 21' 30"
West, 66.51 feet to a point;
- 21) thence continuing through lands currently owned by Tilcon Minerals, Inc. the
following courses and distances: North 1° 55' 17" East, 428.96 feet to a point;
- 22) thence Northwesterly on a curve to the left having a radius of 170.00 feet,
120.15 feet to a point;
- 23) thence North 38° 34' 29" West, 113.99 feet to a point;
- 24) thence Northerly on a curve to the right having a radius 175.00 feet, 75.13 feet
to a point;
- 25) thence North 13° 58' 31" West, 162.11 feet to a point;
- 26) thence North 4° 35' 08" West, 55.92 feet to a point;
- 27) thence Northwesterly on a curve to left having a radius of 115.00 feet, 209.45
feet to a point;

*Description of a proposed right of way through the lands
Currently owned by Tilcon Minerals, Inc.
Town of Ulster, Ulster County, New York*

- 28) thence South 71° 03' 37" West, 287.35 feet to a point;
- 29) thence South 74° 06' 49" West, 43.47 feet to a point;
- 30) thence North 88° 23' 39" West, 108.11 feet to a point;
- 31) thence North 86° 59' 51" West, 109.68 feet to a point;
- 32) thence North 81° 46' 15" West, 57.21 feet to a point;
- 33) thence North 70° 31' 27" West, 52.33 feet to a point;
- 34) thence North 80° 15' 39" West, 312.87 feet to a point on the Easterly side of

First Avenue;

35) thence along the Easterly side of First Avenue North 9° 57' 12" East, 40.92 feet to a point;

36) thence North 1° 19' 55" West, 19.44 feet to the place of beginning.

CONTAINING: 3.278 Acres

All bearings are referred to Grid North for the New York (East Zone) Plane Coordinate System.

JUNE 24, 2005

CHRISTOPHER J. ZELL, P.L.S.
BRINNIER and LARIOS, P.C.

CHECKED OC
 ENTERED SM
 MARK/OFF _____