



TOWN OF ULYSSES

DEPARTMENT OF PLANNING AND ZONING

STAFF MEMO

TO: Planning Board
FROM: Niels Tygesen, Planner
DATE: February 22, 2023
MEETING DATE: March 7, 2023
SUBJECT: Operational Items

INTRODUCTION

At the beginning of the year, it's generally good practice to review operational items as they apply to the Board (e.g. Planning Board Rules and Procedures for Meetings, calendar schedules, appointments, training, etc.) and make any changes as needed.

OVERVIEW

Per [Ulysses Town Code \(UTC\) 212-17](#), the Planning Board is required to adopt from time to time such rules and regulations as it may deem necessary, to choose its Vice Chair, and to comply with minimum requirements relating to attendance and training as established by the Town Board. It appears the last time the Board's Rules were reviewed and revised occurred in 2019. The Board reviewed items during its meeting on February 7th, and decided to continue the discussion during its next meeting.

REQUEST TO THE PLANNING BOARD

Review the information in this memo and determine if any changes are need in the Board's Rules, appoint a Vice Chair for 2023, discuss the 2023 calendar, and discuss attendance and training as needed.

EXHIBITS

- Exhibit A: Planning Board Rules and Procedures for Meetings
- Exhibit B: Town of Ulysses Zoning Code Sections
- Exhibit C: Town Board Rules and Procedures for Meetings

Town of Ulysses Planning Board Rules and Procedures for Meetings
Adopted 1/20/2015; revised 2/2/2016, 8/16/2016, 4/3/18

1. Regular Meetings

The Planning Board will meet at 7:00 PM on the first Tuesday of each month as called by the Chairperson. If there is a need for a second meeting in a month, that meeting will be held on the third Tuesday of the month as called by the Chairperson. The only Board member who may call a meeting is the Chairperson. The Chairperson appointed by the Town Board shall preside. In the absence of the Chair, the Vice Chairperson (elected by majority of the Planning Board) will preside assuming there is a quorum of at least three members present. In the absence of both the Chair and the Vice Chair, the attending members may elect a Temporary Chair to preside by a majority vote.

2. Quorum

A quorum for the five-member board shall be three members in attendance. _

3. Alternate

There may be appointed additionally up to two alternate members of the Planning Board. Alternate members shall be appointed by resolution of the Town Board for terms established by the Town Board.

The Alternate member is permitted to participate in discussion regardless of whether they are to vote on the particular resolution before the Planning Board.

The Chairperson of the Planning Board shall designate an alternate member to substitute for a regular member in the event that a regular member is unable or unwilling to vote because of a conflict of interest, recusal, absence, abstention, or any other reason and an alternate member is present at the meeting when the designation takes place.

4. Agenda

Agendas will be developed by the Town Planner and the Chair. A draft agenda will be emailed to Members approximately one week in advance of the upcoming meeting. Members may suggest changes or additions to the agenda via email up until 5:00 PM of the Thursday preceding the meeting. A final agenda will be distributed by e-mail and hardcopy in each Planning Board Member's mailbox by 5:00 PM on the Friday preceding the meeting. All items suggested by members for the agenda will be listed.

5. Special Meetings

Special meetings may be scheduled by a majority of the members attending a Regular Meeting, in response to the press of business before the Board, and noticed as outlined by NYS Open Meetings Law §104 (see below).

6. Site Visits

The Town Planner or Chair may use email communication to schedule a Site Visit, with as much advanced notice as possible. If a quorum of members plans to attend the Site

Visit, the meeting will be noticed as outlined by NYS Open Meetings Law 104 (see below).

7. Public Hearings

Public Hearings will be scheduled according to the Regulations of the Zoning Law for the Town. They will be held on the Regular meeting day for the Planning Board, unless Zoning Law regulations require otherwise.

8. Public Notice of Official Meetings (NYS Open Meetings Law §104)

- a. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given to the news media and shall be conspicuously posted in one or more designated public locations at least seventy-two hours before such meeting.
- b. Public notice of the time and place of every other meeting shall be given, to the extent practicable, to the news media and shall be conspicuously posted in one or more designated public locations at a reasonable time prior thereto.
- c. The public notice provided for by this section shall not be construed to require publication as a legal notice.
- d. If videoconferencing is used to conduct a meeting, the public notice for the meeting shall inform the public that videoconferencing will be used, identify the locations for the meeting, and state that the public has the right to attend the meeting at any of the locations.
- e. When a public body has the ability to do so, notice of the time and place of a meeting given in accordance with subdivision one or two of this section, shall also be conspicuously posted on the public body's internet website.

9. Informal Meetings

Informal meetings of less than a quorum do not constitute official meetings and do not require public notification.

10. Meeting Notice and Agenda Development

An agenda will confirm the occurrence of a meeting. All Board members are expected to attend all official Board meetings, in accordance with the Town's 2012 Attendance and Training Policy. Board members who cannot attend a scheduled meeting will notify the Chair and/or Town Planner by e-mail, phone or in person as soon as possible in advance of the meeting.

11. Agenda Items

There are three "streams" that flow into the development of agenda items.

- (1) Responding to Applications brought before the Planning Board by the Town Planner for Applicants for whom “actions” must be taken according to Town Law, and
- (2) Responding to Town Board Resolutions requesting considerations and recommendations on specific issues, and
- (3) Topics within the purview of the Planning Board’s authority, initiated by Planning Board members.

12. Agenda Format

- (1) Call to order
- (2) Approval of prior minutes
- (3) Privilege of the floor to the public with 3 minute limit
- (4) Applicant/Zoning Officer business
- (5) Old Business
- (6) New Business
- (7) Town Board Liaison Report

13. Minutes

An appointed, salaried Clerk shall record, compile and distribute draft minutes of every meeting. Draft minutes of the previous meeting shall be distributed with the agenda for any meeting scheduled. Draft minutes will be regularly reviewed, edited as necessary, and approved.

The most efficient way of approving minutes is for the chair to assume the motion and obtain unanimous consent that the minutes be approved as distributed (or as corrected). The chair says, “The minutes have been distributed to you. Are there any corrections?” If corrections are offered, the chair handles each by offering the correction to the membership, just to be sure everyone agrees that the correction is accurate. The clerk then enters the corrections on the master copy. When no further corrections are offered, the chair officer says, “If there are no further corrections . . . (pause) . . . the minutes are approved as distributed/corrected.”

14. Questions of Order

The Planning Board shall follow Robert Rules of Order in their deliberations. The Board will name a Parliamentarian from among its members to issue rulings as necessary. The Parliamentarian will read the basis for the ruling aloud.

15. Conducting a meeting

a. Seating

At all Planning Board meetings other than Public Hearings, Planning Board Members will be seated together at a table, or two tables facing each other. The Town Board liaison is welcome to sit at the table with the Board. Any other privileged speaker will be seated at some place that is separate from the public

speaking. This separation is necessary to avoid confusing the public as to who may speak. The Chair may invite the applicant(s) to join the Planning Board at the table.

b. Public Decorum

An opening statement shall be made in every meeting directing members of the public as to when and how they may participate. All shall be directed to restrict their statement to 3 minutes maximum. All speakers shall be recognized by the Chair. When invited to speak a member of the public shall be instructed to give their full name and town of residence. In speaking, the public should address the whole Board. Disruptive behavior will not be allowed during Board meetings. Such behavior shall include name calling, swearing, defaming, shouting or other similar behaviors found offensive by the Chair, or on appeal of the Chair's decision, by a majority of the Board. Any member of the Board may call the attention of the Chair to a violation of the rules, by calling out "point of order". In the event of disruptive behavior, one warning shall be given by the Chair. After one warning, the person being disruptive shall be asked to leave. At any time the Chair may address the public on matters having to do with process and decorum. This shall be done promptly when there is a breach and there shall be no exceptions. A statement on appropriate decorum for Planning Board meetings shall be included at the bottom/back of the agenda.

c. Board Decorum

A Board member wishing to speak raises his/her hand for privilege and shall be recognized by the Chair. The Chair shall assign order of speaking based on the order in which hands are raised. Member may not speak simultaneously and may not interrupt each other. The Chair shall interrupt any member who speaks continuously for more than three (3) minutes. Generally, a member who has not yet addressed the question shall be given privilege over those who have. The Board shall address only the Chair, other Board members, and the privileged speakers.

d. Members speaking with the Public

Board members shall not address the public except during the time allocated for public participation, and then only when the Chair indicates that they may do so. The indication shall only be made when the Board member indicates an interest in speaking with the person in the public.

16. Motions

a. Motions Defined

The business of the Board shall be conducted in a series of motions. A motion is a formal proposal that the Board take certain action. Because the Ulysses Planning Board is a small board that does not have a committee structure to work through motions before they are brought to the full Board, the motion to discuss is included here to allow for informal debate and editing of the wording of a motion before it is brought to the floor for action.

A motion to discuss can be made and seconded to bring a draft motion to the floor for discussion. Once a motion to discuss is on the floor, the Board can debate the motion and amendments can be made in response to the discussion if the member who brought the motion agrees, without the formal procedures that govern main motions. The Chair can call a vote to end discussion of a motion to discuss at any time.

A main motion bringing business before the Board shall be handled in all aspects according to the procedures in Robert’s Rules of Order Newly Revised (10th Ed.).

All other types of motions, with the exception of a motion to discuss shall be handled in all aspects according to the procedures in Robert’s Rules of Order Newly Revised (10th Ed.).

b. Seconds to Motions

A motion shall not be discussed until it has a Second. A member making a Motion may restate it once in seeking a Second, but may not argue for the second.

c. Voting on Motions

Voting shall be stating “Aye” or “Nay,” the clerk shall immediately state the outcome.

d. Any Board member may make any motion at any time when there is no Motion on the floor. If the Motion fits clearly within an item listed later on the Agenda the Chair may rule it out of order.

It is preferred that Motions be submitted in writing prior to the meeting and must be in writing if they are instructions to any body or person. A motion may be written out during the meeting (see motion to discuss).

17. Motion Exceptions

The Chair may present Emergency Motions without notice. They may be ruled out of order by the super majority of the Board. A super majority of the five member board shall require four or more members.

18. Standing of these Rules

- a. Amendment of these Rules of Procedure requires a super majority vote at one meeting. Permanent Removal of these Rules requires a super majority voting in two Regular Meetings.
- b. Any specific Rule may be waived during any meeting by a super majority. Such waivers stand for only the meeting when voted.

Chapter 212. Zoning

Article III. Administration

§ 212-17. Planning Board.

- A. The Planning Board is hereby charged with carrying out the functions provided for in § 274-a of Town Law: to review and approve, approve with modification and conditions, or disapprove site plans. The Planning Board is charged with carrying out the functions provided for in § 274-b of Town Law: to grant special permits. The Planning Board may be charged with additional specific activities by resolution of the Town Board.
- B. The Planning Board may review and provide written comments on all variance applications to the Board of Zoning Appeals for projects that would be subject to Planning Board review and approval if the variance is granted. If providing written comments, the Planning Board shall submit said comments no less than five calendar days prior to the public hearing for the zoning variance application.
- C. There is hereby established a Planning Board consisting of five persons who shall function in the manner prescribed by law.
- D. The members of the Planning Board shall be residents of the Town of Ulysses and shall be appointed by the Town Board to serve staggered terms of five years. Vacancies occurring in said Board by expiration of term or otherwise shall be filled in the same manner.
- E. All Board members must comply with Town Law § 271, Subdivision 7-a, as to noncompliance with minimum requirements relating to attendance and training as established by the Town Board.
- F. The Town Board shall designate the Chairman of the Planning Board. The Planning Board shall choose its Vice Chairman, who shall preside in the absence of the Chairman. In the absence of both the Chairman and the Vice Chairman, the Planning Board shall choose one of its number as acting Chairman. Such Chairman, or the party acting in his or her stead during his or her absence, may administer oaths and compel the attendance of witnesses.
- G. There may be appointed additionally up to two alternate members of the Planning Board. Alternate members shall be appointed by resolution of the Town Board for terms established by the Town Board.
- H. The Chairperson of the Planning Board shall designate an alternate member to substitute for a regular member in the event that a regular member is unable or unwilling to vote because of a conflict of interest, recusal, absence, abstention, or any other reason and an alternate member is present at the meeting when the designation takes place.
- I. To the extent this provision is inconsistent with Town Law § 271, Subdivision 15, it is intended to supersede such section, in accordance with Municipal Home Rule Law § 10(1)(ii)d(3). All other rights, responsibilities and procedures related to alternate members set forth in said § 271 shall apply.
- J. The Planning Board shall appoint a secretary, who shall take minutes of all its meetings and keep its records.

- K. The Planning Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this chapter and all its resolutions and orders shall be in accordance therewith.

TOWN OF ULYSSES
RULES and PROCEDURES FOR MEETINGS

Amended 8/8/17, 12/11/18, 8/10/21, 9/13/22

Be it resolved that all rules listed herein are adopted as the Rules of Order for all meetings and types of meetings of the Ulysses Town Board. Questions of Order beyond these Rules are to be resolved by reference to Robert's Rules of Order.

1. MEETINGS, DEFINED AND CALLED

1.1. Regular Meetings of the Board

The Board will set the date and time of Town Board meetings at the Organizational Meeting annually. Meetings will be conducted in the boardroom at the Town Hall. The Supervisor shall preside. In the absence of the Supervisor the members present, assuming a quorum, shall elect a Chair for the meeting from the Board members present.

1.2 Calling Special Meetings

Special meetings of the Town Board are all those Town Board meetings other than Regular Meetings set by resolution at the Organizational Meeting. A Special Meeting may be called by the Supervisor upon two-calendar days written notice to the entire Town Board. For the meeting to address any motions, the Supervisor, if challenged, must be able to demonstrate that effective notice has been given. Additionally, the Supervisor must call a Special Meeting within ten calendar days of a written request by any two Town Board members.

1.3 Special Meetings, Public Hearing

Public Hearings may be called according to the State or Local, Law or Ordinance that applies. The intervals specified in such Laws and Ordinances are the minimum intervals for the giving of notice. Notice shall be published in the both the Ithaca Journal and the Trumansburg Free Press whenever possible.

2. MEETINGS, FORMS

2.1. Notice

Written notice may be sent by regular postal mail. The preferred method for notice is by email. The sender must list the other four members in the "To or CC" field. A reply from any one member must be a "reply to all". All members will be considered to have received the notice if all members reply to the Supervisor as required. Members are responsible for keeping their addresses of record current, both postal and email.

2.2. Quorum

A Quorum shall be required to conduct business and pass any resolution. A Quorum of the five-member Town Board shall be three. In the absence of a Quorum, a lesser number may adjourn and compel the attendance of absent members.

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2.3. Majority and Supermajority

A Majority of the five-member Town Board shall be three, all present. There is no proxy voting. A Supermajority shall be four in all cases.

2.4. Executive Sessions

Executive Sessions shall be held in accordance with the N.Y. Public Officers Law Section 105. 11 Executive Sessions may be convened in a Regular or Special Meeting. The member making a motion shall state the basis for going to Executive Session under the law for Executive Session. The Board must also resolve any persons other than the Board Members who may attend and state how it is that minutes may be kept. The motion may also specify what information, if any, will be returned to the regular session.

3. MEETINGS, ORDER OF BUSINESS

3.1 Agendas

The draft Agenda for all meetings except the Working Session shall be prepared by the Supervisor. The Supervisor, or any other Town Board member, or any other elected Town Official may have an item placed on the Agenda. Items must be submitted by the end of the day 6 days prior to the publishing of the agenda. The Supervisor shall include any items so requested. Transmission by email notice as above is acceptable. The draft agenda shall be adopted by a majority vote of the Board at the start of each meeting

3.3 Meetings, Adjournment

The motion to adjourn is not debatable, but the Supervisor may, after the second, describe the nature and consequence of adjourning with any scheduled business left unfinished.

3.4 Questions of Order

The Board shall annually name a Parliamentarian from among the Board Members to issue ruling from Roberts Rules as required. The Parliamentarian will read the basis for the ruling aloud. Any such ruling is to be treated as temporary waivers of these Rules unless these Rules are permanently amended by Supermajority to include it.

4. CONDUCTING A MEETING

4.1. Seating

At all Town Board meetings other than Public Hearings, Board Members will be seated if at all possible, to be able to see each other. Any other privileged speaker will be seated at some place that is separate from the public seating. This separation is necessary to avoid confusing the public as to who may speak.

4.2. Public Decorum

An opening statement shall be made in every meeting directing those who are present as to when and how they may participate. All speakers shall be recognized by the Supervisor or Chair. When invited to speak a member of the public shall be instructed that they may, but do not need to give their full name and municipality of residence. In speaking, the public should address the whole Board. Disruptive behavior will not be allowed during Board meetings. Such behavior shall include name-calling, swearing, defaming, shouting, or other similar behaviors reasonably found to be offensive by the Supervisor or Chair, or on appeal of the Chair's decision, by a majority of the Board. Any member of the Board may call the attention of the Chair to a violation of the rules, by calling out "point of order".

In the event of disruptive behavior, one warning shall be given by the Supervisor or Chair. After one warning, the person being disruptive shall be asked to leave. At any time the Supervisor may address the public on matters having to do with process and decorum. This shall be done promptly when there is a breach and there shall be no exceptions. A statement on appropriate decorum for Town Board meetings shall be included at the bottom of the agenda.

4.3. Board Decorum

A Board Member wishing to speak raises a hand for privilege and shall be recognized by the Supervisor. The Supervisor shall assign order of speaking based on the order in which hands are raised. Members may not speak simultaneously and may not interrupt each other. Generally, a member who has not yet addressed the question shall be given privilege over those who have. The Board shall address only the Supervisor, other Board members, and the privileged speakers.

4.4. Members speaking with the Public

Board members shall not address the public except during the time allocated for public participation, and then only when the Supervisor indicates that they may do so. The indication shall only be made when the Board member indicates an interest in speaking with the person in the public.

4.5 Videoconferencing Policy Of The Town Of Ulysses

Purpose

To establish guidelines and requirements for the use of videoconferencing technology to participate in the meetings held by Town public bodies, as defined in Public Officers Law §102, and in conjunction with Town of Ulysses Local Law 2 of 2022.

Background

New York State suspended certain requirements of the Open Meetings Law to permit public bodies to meet and conduct business via videoconferencing platforms and to prohibit in-person attendance during the 2020-2022 COVID Pandemic/State of Emergency. In April of 2022, Gov. Hochul signed Chapter 56 of the Laws of 2022, which added Public Officers Law § 103-a allowing a municipality's public bodies to have the option of continuing to use videoconferencing under certain circumstances if the board of that public body adopts a local law authorizing the participation by videoconference, as well as written policies establishing guidelines and conditions for attendance of members at public meetings by videoconference.

Definitions

Extraordinary Circumstances - events or factors that would preclude a member's physical attendance at the meeting, e.g.: disability, illness or significant health concerns requiring precautionary actions, caregiving responsibilities, other significant or unexpected factors or events, and events when a member is out of town for a short duration.

Meeting - The official convening of a Public Body for the purpose of conducting public business, including the use of videoconferencing for attendance and participation by the members of the Public Body.

Open Meetings Law (OML) - Public Officers Law, Article 7

Public Body - All boards of the Town that meet the definition of "Public Body" in Public Officers Law, § 102. Town of Ulysses advisory committees are not public bodies as they do not have authority to take official actions.

Quorum - a majority of the full membership of the public body, regardless of vacancies or disqualifications to act.

Policy

Members of Public Bodies are permitted to attend and participate using videoconferencing from a remote location that is not open to in-person physical attendance by the public if (a) a Quorum of the Public Body is present, in person, in one or more advertised location(s) where the public may attend, and (b) they are experiencing Extraordinary Circumstances. A member participating pursuant to this section may not be counted toward Quorum, but may participate and vote if there is a Quorum of members at the physical location(s) open to the public.

Members of Public Bodies are permitted to attend and participate using videoconferencing from remote locations in all other circumstances if those locations are open to in-person physical attendance by the public. A member participating pursuant to this section may be counted toward a Quorum.

Requirements applicable to all meetings where videoconferencing is used:

Public notice of the meeting shall include the physical location(s) where the public can attend and/or participate in person, the fact that videoconferencing will be used, where the public can view and/or participate in-person or through videoconferencing, and where any required documents or materials associated with the meeting are posted or available. Such public notice shall, in addition to other requirements of state law, be posted on the Town's website.

All members of the Public Body must use video capabilities permitting the public to see, hear and identify them throughout those portions of the meeting that the Open Meetings Law requires to be held in open session, with limited allowance for customary temporary absences from a meeting for personal reasons.

Where public comment or participation is authorized, the public must be allowed to participate by videoconference in real time in a manner that affords the same public participation or testimony as in-person participation or testimony.

The minutes of all meetings must indicate who participated from each location and/or pursuant to Extraordinary Circumstances.

Each meeting shall be recorded and such recording must be posted or linked on the Town website within five (5) business days of the meeting and such recording must remain posted or linked for no less than five (5) years.

Additional requirements.

Non-public committees and bodies that are not required to have public meetings under the OML, such as advisory committees, may participate in meetings by videoconferencing or by any lawful means, and need not follow this policy. However, it is recommended that this policy guide such advisory or non-covered bodies and that, at a minimum, they adopt internal policies and procedures to assure fairness, openness, and public engagement.

Public Bodies and agencies need not follow these rules for non-public meetings and hearings, such as for training sessions.

This Videoconferencing Policy must be posted on the Town website.

State of Emergency

As provided for in the New York State legislation described in Section B, if a local state of emergency is declared or a NYS disaster emergency declaration is made, all public bodies may meet completely virtually without the need for a quorum in one or more location(s) at which the public may attend, if the Town Board determines that the circumstances necessitating the state of emergency or disaster emergency declaration would affect or impair the ability of the Town 's public bodies to hold an in-person meeting. If the Town Board makes such a determination, all requirements of this Policy, except the in-person member participation requirement, must continue to be met while the state of emergency or disaster emergency declaration remains in effect.

Amendments

This Policy may be amended from time-to-time by the Town Board by resolution. In the event any change in law, or change in the interpretation or application of law, is or becomes inconsistent with this policy, the proper application of law shall supersede the terms and requirements herein, and the Town Board shall forthwith amend this policy to bring it into congruence or alignment with current law.

Effective and Termination Dates

This Policy shall take effect upon its adoption by the Town Board, and shall automatically terminate if the New York State legislation described in Section B expires.

5. MOTIONS

5.1. Motions Defined

The business of the board shall be conducted as a series of motions. A motion is a formal proposal that the Board take certain action.

*A **motion to discuss*** can be made and seconded to bring a draft motion to the floor for discussion. Once a *motion to discuss* is on the floor, the Board can debate the motion and amendments can be made in response to the discussion if the member who brought the motion agrees, without the formal procedures that govern *main motions*. The only vote required for a *motion to discuss* is to end discussion and remove the motion from the floor. The Supervisor can call a vote to end discussion of a *motion to discuss* at any time.

*A **main motion*** bringing business before the Board shall be handled in all aspects according to the procedures in Robert's Rules of Order (10th Ed).

All **other types of motions**, with the exception of a motion to discuss shall be handled in all aspects according to the procedures in Robert's Rules of Order (10th Ed).

5.2. Seconds to Motions

A motion shall not be discussed until it has a Second. A member making a Motion may restate it once in seeking a Second, but may not argue for the Second.

5.3. Voting on Motions

Voting shall be by stating "Aye" or "Nay". The Clerk shall immediately state the outcome.

5.4. Presentation of Motions

Any Board Member may make any Motion at any time when there is no other Motion on the floor. If the Motion fits clearly within an item listed later on the Agenda the Supervisor may rule it out of order.

It is preferred that Motions be submitted in writing prior to the meeting and must be in writing if they are instructions to any body or person. A Motion may be written out during the meeting (see motion to discuss). Ideally, new Motions are presented 7 days in advance of the meeting to the Supervisor who will have them included in the resolutions for the meeting.

New Motions offered without the required notice may be debated, but unless there is a Super Majority to waive these rules it shall be tabled without a vote, and unless withdrawn by the Board Member making the Motion, it will automatically be on the Agenda of the next Regular Meeting.

5.5 Motion Exceptions

The Supervisor may present Emergency Motions without notice. They may be ruled out of order by the Super Majority of the Board.

6. STANDING OF THESE RULES

6.1. Amendment of these Rules of Procedure requires a supermajority vote at one meeting. Permanent Removal of these Rules requires a Supermajority voting in two Regular Meetings.

6.3. The Rules may be waived during any session by a Supermajority. Such waivers stand for only the session when voted.