

# New York Coalition



## For Open Government, Inc.

*Advocating for timely access to information & meaningful citizen participation*

[www.nyopengov.org](http://www.nyopengov.org)

January 4, 2022

Ulysses Town Board

*Via email only*

Re: Utilizing an Open Process to Fill Town Board Vacancy

Dear Town Board Members:

In a recent article in the Ithaca Times, it was reported that the Town Board is seeking applicants to fill a vacant board position. It is our understanding that the Town Board intends to conduct applicant interviews in an executive session.

As an organization devoted to open and transparent government, we strongly support a process whereby individuals interested in being appointed to a Town Board position are interviewed in public and the discussion of whom to appoint occurs in public as well.

Opinions by the New York State Committee on Open Government and court decisions have held that applicants for an elected position should be reviewed in public and not in an executive session.

In *Gordon v. Monticello*, the Court stated in its decision "...respondents' reliance on the portion of Section 105(1)(f) which states that a Board in executive session may discuss the 'appointment...of a particular person...' is misplaced. In this Court's opinion, given the liberality with which the law's requirements of openness are to be interpreted (*Holden v. Board of Trustees of Cornell Univ.*, 80 AD2d

378) and given the obvious importance of protecting the voter's franchise this section should be interpreted as applying only to employees of the municipality and not to appointments to fill the unexpired terms of elected officials. Certainly, the matter of replacing elected officials, should be subject to public input and scrutiny".

All too often public bodies conduct interviews and discuss the filling of a vacant position behind closed doors. There should be nothing secretive about seeking an elected office. Individuals seeking to serve on the Ulysses Town Board should have no qualms about discussing their interest, qualifications and goals in a public forum. The elected Town Board members who will vote to fill the vacancy should likewise have no concern about questioning, discussing and voting on interested applicants in public.

Other public bodies have addressed interviews and discussions regarding the filling of a vacant elected office without resorting to the use of an executive session:

- 2018, Buffalo School Board;
- 2019, Buffalo City Council regarding a vacant City Comptroller position;
- 2020, Potsdam Central School District;
- 2021 Waterloo School District
- 2021, Ithaca City Council

Filling an elected position should be a process done in an open, transparent and public way. Conducting interviews through an executive session, which excludes the public is the wrong way to conduct town business.

We hope the Ulysses Town Board will not proceed forward with an improper executive session and instead will adopt an open and transparent process for filling the current vacant board seat.

Sincerely,

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President

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CC:

Town Clerk

New York State Committee on Open Government

Ithaca Times

Ithaca Journal