

REGULAR TOWN BOARD MEETING  
Gaines, NY                      April 10, 2007

PRESENT:    Richard DeCarlo        ----- Supervisor  
              Dave Kast                ----- Councilman  
              James Kirby            ----- Councilman  
              Bill Lattin                ----- Councilman  
              Lorraine Oakley        ----- Councilwoman  
              Ron Mannella            ----- Highway Superintendent  
              Jean Klatt                ----- Town Clerk  
              Douglas Heath         ----- Council  
              John Gavenda            ----- Special Council arrived @ 8:47 PM

OTHERS PRESENT: Tibbs Ahlberg, Robert Bannan, Robert McGaffick, Paul Chatfield, David Oakley, Emilo Dilodovico

Supervisor DeCarlo called the meeting to order at 7:30PM with the Pledge to the Flag.

**PRIVILEGE OF THE FLOOR/PUBLIC CONCERNS**

Mr. Dilodovico addressed the board about a piece of property he owns off old Academy Street that has become landlocked. Attorney Heath will investigate the issue and report back to the board.

RESOLUTION 26- 07

**ATTORNEY TO RESEARCH TOWNS INTEREST IN ROAD**

On a motion from Councilperson Kirby, and seconded by Councilperson Kast the resolution was declared

ADOPTED    5 Ayes                      DeCarlo, Kirby, Oakley, Lattin, Kast  
                  0 Nays

Resolved that the Attorney will research the town's position and cost of researching the town's interest in Academy Street.

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RESOLUTION 27 - 07  
**APPROVAL OF MINUTES**

On a motion from Councilperson Oakley, and seconded by Councilperson Lattin the resolution was declared

ADOPTED    5 Ayes              DeCarlo, Kirby, Oakley, Lattin, Kast  
                  0 Nays

Resolved that the minutes from the March 13 & April 9, 2007 are approved.

RESOLUTION 28 - 07  
**APPROVAL OF ABSTRACTS**

On a motion from  
                  General- Councilperson Kast and seconded by Councilperson Oakley  
                  Highway - Councilperson Oakley and seconded by Councilperson Kirby  
                  Water - Councilperson Kast and seconded by Councilperson Oakley  
The resolution was declared

ADOPTED    5 Ayes              DeCarlo, Kirby, Oakley, Lattin, Kast  
                  0 Nays

Resolved that the bills on abstract #4 will be paid.

David Oakley is directed to file a use variance with the Zoning Board of Appeals. Once approved the use variance will transfer with the property.

RESOLUTION 29 – 07  
**CHANGE IN PLANNING & ZONING BOARD APPOINTMENT TERM**

On a motion from Councilperson Kast, and seconded by Councilperson Lattin the resolution was declared

ADOPTED    5 Ayes              DeCarlo, Kirby, Oakley, Lattin, Kast  
                  0 Nays

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Resolved that Planning Board Members will be appointed to a 7 year term and Zoning Board Members will be appointed to a 5 year term. Randy Klatt is reappointed to the Zoning Board, term to expire 12/31/2011 and Chris Watt is reappointed to the Planning Board, term to expire 12/31/2013.

RESOLUTION 30 - 07

**APPOINTMENT OF NEW PLANNING BOARD MEMBER**

On a motion from Councilperson Lattin, and seconded by Councilperson Kirby the resolution was declared

ADOPTED 5 Ayes DeCarlo, Kirby, Oakley, Lattin, Kast  
0 Nays

Resolved that the appointment will be tabled to a later meeting.

RESOLUTION 31 - 07

**AWARD BID FOR WD#7 CONSTRUCTION**

On a motion from Councilperson Kast, and seconded by Councilperson Lattin the resolution was declared

ADOPTED 5 Ayes DeCarlo, Kirby, Oakley, Lattin, Kast  
0 Nays

Resolved that Sergi Construction will be awarded alternate bid #2 in the amount of \$334,546.78 pending the awarding of a grant from the NYS Governor's Office of Small Cities.

RESOLUTION 32 - 07

**GARAGE FUME SENSOR**

On a motion from Councilperson Oakley, and seconded by Councilperson Kast the resolution was declared

ADOPTED 5 Ayes DeCarlo, Kirby, Oakley, Lattin, Kast  
0 Nays

Resolved that Ron Mannella has permission to replace a Fume Sensor at an approximate cost of \$875.00.

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RESOLUTION 33 – 07  
**TOPSOIL FOR BARRE**

On a motion from Councilperson Lattin, and seconded by Councilperson Oakley the resolution was declared

ADOPTED    5 Ayes              DeCarlo, Kirby, Oakley, Lattin, Kast  
                  0 Nays

Resolved that the Town will purchase no more than 4 ton of top soil for the Town of Barre's baseball field.

RESOLUTION 34- 07  
**LAWN MOWING CONTRACT**

On a motion from Councilperson Lattin, and seconded by Councilperson Kirby the resolution was declared

ADOPTED    5 Ayes              DeCarlo, Kirby, Oakley, Lattin, Kast  
                  0 Nays

Resolved that the Supervisor is authorized to sign the Lawn Mowing Agreement with Richard Nenni for the 2007 mowing season.

RESOLUTION 35 – 07  
**REPLACE ROOF ON TOWN HALL**

On a motion from Councilperson Oakley, and seconded by Councilperson Kast the resolution was declared

ADOPTED    5 Ayes              DeCarlo, Kirby, Oakley, Lattin, Kast  
                  0 Nays

Resolved that Ron Mannella will prepare a spec sheet to put replacing the Town Hall roof replacement project out to bid.

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RESOLUTION 36 – 07

**APPOINTMENT OF SPECIAL COUNCIL FOR SHARED MUNICIPAL GRANT STUDY**

**RESOLUTION No. 36** duly adopted at a regular meeting of the Gaines Town Board held on the 10th day of April, 2007, at which the following were:

**PRESENT:** DeCarlo, Lattin, Oakley, Kast, Kirby

**ABSENT:** None

Councilperson Lattin moved the adoption of the following resolution; Councilperson Oakley seconded the motion;

"WHEREAS, the Towns of Albion and Gaines and the Village of Albion have applied for and received grant funds from the State of New York for the purposes of investigating the feasibility of consolidation and sharing of municipal services to reduce operating costs and expenses; and

WHEREAS, as a condition of such project, the municipalities are to retain legal council to assist them in the administration of the grant project; and

WHEREAS, the parties desire to retain John C. Gavenda, acting Village Attorney of the Village of Albion and Town Attorney of the Town of Albion for such project; now, therefore, be it

"RESOLVED, that the Gaines Town Board does hereby appoint John C. Gavenda, Esq., as Special Legal Counsel for the Town of Gaines for the sole and limited purpose of representing the Town of Gaines in the matter of the administration of the so-called "Joint Municipal Shared Services Grant" project, which appointment shall immediately terminate upon conclusion of the grant project; and be it

FURTHER RESOLVED, that John C. Gavenda, Esq. shall be compensated for such legal services at a rate of \_\_\_\_\_ per hour which services shall be a charge upon grant funds and not a charge upon general town funds of the Town of Gaines.

Upon being put to a vote, the following voted "Aye" in favor of adoption of the resolution:

The following voted "No" in opposition thereto: None

The resolution was deemed adopted

Dated: April 10, 2007

Jean Klatt, Gaines Town Clerk

**CLERK'S CERTIFICATION**

STATE OF NEW YORK:  
COUNTY OF ORLEANS:ss.:

I, Jean Klatt, Town Clerk of the Town of Gaines, County of Orleans, and State of New York, DO HEREBY CERTIFY that I have compared the foregoing resolution duly adopted by the Town Board of the Town of Gaines, on the 10th day of April, 2007, with the original now on file in my office, and the same is a correct and true copy of said resolution and of the whole thereof.

Dated: April 10, 2007

  
Jean Klatt, Gaines Town Clerk

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RESOLUTION 37 – 07  
WIND MORITORIUM EXTENSION

**RESOLUTION INTRODUCING LOCAL LAW NO. 5 OF THE YEAR 2007**

**RESOLUTION** adopted at a recessed meeting of the Gaines Town Board held on the 10<sup>th</sup> day of April, 2007.

**PRESENT:** Richard A. DeCarlo, Supervisor  
Lorraine Oakley, Councilwoman  
C.W. Lattin, Councilman  
James Kirby, Councilman  
David Kast, Councilman

Councilperson Lattin moved the adoption of the following resolution, Councilperson Oakley seconded the motion.

**RESOLVED**, that Local Law No. 5 of the year 2007 of the Town of Gaines, Orleans County, New York being a local law entitled "The Extension of the Town of Gaines Moratorium on Wind Energy Deriving Towers, Meteorological Towers and Transmissions Facilities Law"; be and the same is hereby Introduced; and let it be

**FURTHER RESOLVED**, that this Local Law is to extend Local Law Number 1 of 2006 originally entitled "The Town of Gaines Moratorium on Wind Energy Deriving Towers, Meteorological Towers and Transmission Facilities Law" which was adopted by the Gaines Town Board on June 27, 2006; and was to expire in June of 2007; and let it be

**FURTHER RESOLVED**, that the Town Board shall conduct a public hearing to consider adoption of proposed local law of the year 2007 on the ~~8th~~ day of ~~May~~, 2007 at 7:30 p.m. in the Gaines Town Hall, 14087 Ridge Road, Albion, New York 14411, at which time all persons wishing to be heard in favor or in opposition thereto shall be heard; and let it be

**FURTHER RESOLVED**, that the Town Clerk shall cause notice of said public hearing to be posted on the official sign board of the Town of Gaines and published in the Batavia Daily News, the official newspaper of the Town at least five (5) days prior to the date of said public hearing; and let it be

**FURTHER RESOLVED**, that the Gaines Town Board acting in the capacity as the lead agency reaffirms and incorporates by reference the negative declaration of the Type I action under the New York State Environmental Quality Review Act (SEQR) previously prepared by Marjin Environmental Consulting

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dated May 16, 2006 prepared in conjunction with Town of Gaines Local Law Number 1 of 2006; and let it be

**FURTHER RESOLVED**, that the Town of Gaines is in the process of developing a set of comprehensive plans and regulations for Wind Energy Deriving Towers, Meteorological Towers and/or Transmission Facilities which have not been completed and seeks additional time to develop said regulations;

Upon being put to a vote, the following voted "Aye" in favor of adoption of the foregoing resolution; DeCarlo, Lattin, Oakley, Kast, Kirby

The following voted "Nay" in opposition thereto:None

The following abstained:None

The resolution was declared adopted.

Dated: April 10, 2007

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Jean Klatt, Town Clerk

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RESOLUTION 38 - 07  
PLANNING & ZONING TRAINING

RESOLUTION NO. 38 duly adopted at the regular meeting of the Gaines Town Board held on the 10th day of April, 2007 at 7:30 p.m. in the Gaines Town Hall at which the following were:

PRESENT: Richard A. DeCarlo, Sr., Supervisor  
C.W. Lattin, Councilman  
David Kast, Councilman  
Lorraine Oakley, Councilwoman  
James Kirby, Councilman

ABSENT: None

Councilman ~~Kast~~ moved the adoption of the following resolution; Councilman Lattin seconded the motion;

**RESOLUTION REQUIRING  
ACCEPTABLE TRAINING FOR PLANNING BOARD  
AND ZONING BOARD OF APPEALS MEMBERS**

WHEREAS, the Town of Gaines has primary responsibility to regulate private land use through citizen planning boards and zoning boards and their actions have a profound impact on state and local land use policies and individual land owners; and

WHEREAS, effective January 1, 2007, all planning board and zoning board of appeals members in New York State, as well as alternate members of those boards, must complete a minimum of four hours of training each year; and

WHEREAS, state law provides that planning board or zoning board of appeals members shall not be eligible for reappointment to such boards if they have not completed the training required by law; and

WHEREAS, training received by a planning board member or zoning board of appeals member in excess of four hours in any one year may be carried over by such member into succeeding years; and

WHEREAS, §§267 and 271 of the Town Law provide that the Town Board specifies which activities qualify as training to satisfy the state requirements;

NOW, THEREFORE, it is

RESOLVED, that the Gaines Town Board hereby authorizes traditional classroom training opportunities offered by the sources listed below as being acceptable for members of the Town of



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Gaines Planning Board and Zoning Board of Appeals to fulfill their annual training requirements. Such training shall address land use and/or environmental subject matters relevant to a decision-making public body and the administrative functions thereof, including but not limited to the conduct of a meeting and parliamentary procedures. It is the responsibility of Town Planning Board and Zoning Board of Appeals members to submit written confirmation of training attended to the Gaines Town Clerk to receive proper credit. The Gaines Town Board shall have the discretion to approve modifications of this list in response to changes in training providers and/or their curricula:

- Albany Law School, Government Law Center
- Association of Towns of the State of New York
- Cornell University and its Cooperative Extension
- New York Municipal Insurance Reciprocal (NYMIR)
- New York Planning Federation
- New York State Conference of Mayors and Municipal Officials
- New York State Department of State
- New York State Department of Agriculture and Markets
- New York State Department of Environmental Conservation
- Office of State Comptroller
- Office of Parks, Recreation and Historic Preservation
- Other New York State Agencies
- Orleans County Department of Planning and Development and/or County Planning  
Departments of other Counties within New York State
- Orleans County Soil and Water Conservation District
- Genesee-Finger Lakes Regional Planning Council
- The Lincoln Institute of Land Use Policy

and it is further

**RESOLVED**, that other training activities may be approved on a case-by-case basis by the Town Board upon the request of a Planning Board or Zoning Board of Appeals member subject to available funding and prior approval of the Town Board shall be required in order to be reimbursed; and it is further

**RESOLVED**, that any new member appointed to fill the last three months of an unexpired term shall not be required to have attended training to be reappointed to a first full term, but must thereafter comply with the municipal training policy as herein provided; and it is further

**RESOLVED**, that any member of the Town of Gaines Planning Board who is also a member of the Orleans County Planning Board and completes the required training in accordance with the County training policy shall be deemed to have completed the training requirements for the Town of Gaines; and be it

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**RESOLVED**, that the Town Clerk shall create and maintain a system of tracking the training individual members complete annually. Such information shall be presented to the Town Board prior to considering a member for reappointment.

Upon being put to a vote, the following voted in favor of adoption of the foregoing resolution: Decarlo, Lattin, Oakley, Kast, Kirby

The following voted against adoption: None

The following were absent from the meeting: None

The resolution was thereupon declared adopted.

Dated: April 10, 2007  
Gaines, New York

Gaines Town Board

**CERTIFICATE OF CLERK**

STATE OF NEW YORK:

ss.:

COUNTY OF ORLEANS:

I, **JEAN KLATT**, Town Clerk of the Town of Gaines, County of Orleans and State of New York, DO HEREBY CERTIFY that I have compared the foregoing resolution duly adopted by the Town Board of the Town of Gaines on April 10, 2007, with the original thereof now on file in my office, and the same is a correct and true copy of said resolution and of the whole thereof.

Dated: April 10, 2007

  
Jean Klatt, Gaines Town Clerk

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RESOLUTION 39 – 07  
**WD#8 PUBLIC HEARING**

**RESOLUTION**

**The following resolution being duly adopted at a regular meeting of the Gaines Town Board held on April 10, 2007 at 7:30 p.m.:**

Councilperson ~~Oakley~~ moved the adoption of the following resolution; Councilperson ~~Lattin~~ seconded the motion;

"RESOLVED, that the Town Board of the Town of Gaines does hereby adopt the annexed Order, dated April 10, 2007, pertaining to the establishment of Gaines Water District No. 8 based upon a map, plan and report last dated February 1, 2007, and setting the date and time of the public hearing to be conducted by the Town Board pursuant to §191 of the Town Law regarding establishment of said Water District."

Upon being put to a vote, the following voted "Aye" in favor of the adoption: Supervisor DeCarlo, Councilpersons Kirby, Kast, Oakley, and Lattin.

The following voted "No" in opposition thereto: None

The resolution was deemed adopted.

Dated: April 10, 2007

Gaines Town Board

**CERTIFICATE OF CLERK**

**STATE OF NEW YORK:  
COUNTY OF ORLEANS: ss.:  
TOWN OF GAINES:**

I, JEAN KLATT, Town Clerk of the Town of Gaines, County of Orleans, and State of New York, DO HEREBY CERTIFY that I have compared the foregoing Resolution with annexed Order duly adopted by the Town Board of the Town of Gaines, on the 10th day of April, 2007, and the same is a correct and true copy of said resolution and of the whole thereof.

Dated: April 10, 2007  
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(SEAL)

  
\_\_\_\_\_  
Jean Klatt, Gaines Town Clerk

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With no further business, on a motion from Councilperson Lattin and seconded by Councilperson Kirby the meeting was recessed until April 11, 2007 @3:30 PM.

Respectfully Submitted,

Jean Klatt, Town Clerk



