

REGULAR TOWN BOARD MEETING
Gaines, NY November 10, 2009

PRESENT: Bill Lattin ----- Deputy Supervisor
 David Kast ----- Councilperson
 James Kirby ----- Councilperson
 Lorraine Oakley ----- Councilperson
 Ron Mannella ----- Superintendent
 Jean Klatt ----- Town Clerk
 Douglas Heath ----- Council

EXCUSED: Richard DeCarlo ----- Supervisor

OTHERS PRESENT: Sue Smith, Carol Culhane, Tibbs Ahlberg, Connie Mosher, Lisa Mannella, Angie Daniels, Marilyn Miller, John Hovanesion, Lorienda Smith

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

Public Hearing for Water District #10 Revised Financing

The public hearing for WD#10 Revised Financing was opened at 7:32PM by Deputy Supervisor Lattin. Attorney Heath ask if there was any comment from the public regarding the revised financing for water district #10. With no comment from the public Deputy Supervisor Lattin closed the public hearing at 7:35 PM.

REGULAR TOWN BOARD MEETING
Gaines, NY November 10, 2009

Resolution 69 -09
WD#10 REVISED FINANCING

RESOLUTION

The following resolution being duly adopted at a regular meeting of the Gaines Town Board held on November 10, 2009 at 7:30 p.m.:

Councilman Kast moved the adoption of the following resolution; Councilman Kirby seconded the motion;

"WHEREAS, the Gaines Town Board did conduct a public hearing upon the revised method of financing the construction of Gaines Water District No. 10 serving portions of Sawyer Road, Kent Road, Transit Road and Densmore Road in the Town of Gaines on the 10th day of November, 2009, at which public hearing persons wishing to be heard in favor of or in opposition to the revised method of financing of said Water District as set forth in the map, plan and report last dated September 23, 2009 and further described in detail in an Order adopted by the Town Board on October 13, 2009 had an opportunity to be heard; now, therefore, be it

"RESOLVED, that the Town Board of the Town of Gaines does hereby adopt the revised method of financing of construction of Gaines Water District No. 10, whereby the amount of indebtedness to be issued by the Town of Gaines shall be increased by \$17,728.00 to \$228,000.00 and the amount of grant funds reduced by a like amount to \$613,000.00, together with a reduction in the annual percentage rate on debt service from 3.125% to 2.75%, with the total projected project cost of \$841,000.00 to remain unchanged; and be it

FURTHER RESOLVED, that upon adoption of the revised method of financing, the projected annual debt service charged per bond repayment unit during the period of indebtedness shall increase from \$297.81 per year to \$304.58 per year exclusive of hook up fees, water purchase fees or operation and maintenance fees.

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

Kast, Kirby, Oakley, Lattin

The following voted "No" in opposition thereto: None

The resolution was deemed adopted.

Dated: November 10, 2009

Jean Klatt, Gaines Town Clerk

PRIVILEGE OF THE FLOOR/PUBLIC CONCERNS

John Hovanesia – USDA Federal Grant Writer gave a presentation

Connie Mosher asked if there was any news from Mr. Spitzer regarding the wind energy update to amend the Zoning Laws.

Tibbs Ahlberg gave an update on the applications before the planning board. Intergrow is hoping to build on a Phase III.

Sandra Freeman wishes to divide her property hence creating a flag lot.

REGULAR TOWN BOARD MEETING
Gaines, NY November 10, 2009

Angie Daniels read a letter she had written to the board regarding the DiLodovico Property located on Academy Road She asked for the letter to be entered into the minutes.

To: Supervisor DeCarlo
Members of the Gaines Town Board
Secretary of the Gaines Town Board
Attorney Heath
Re: Property Belonging to the DiLodovico Family Trust
From: Angiolina Daniels, Trustee for the DiLodovico Family Trust
Date: November 10, 2009

Our quest to regain access to our property off Academy Road began in August 2004 when my brother, Emilio DiLodovico, and I discovered that the Town of Gaines had allowed Jack D. Baker and Donna Brooks to place their shed on Academy Road, thus blocking access to our property at the south end of Academy Road. My contention is that the Town of Gaines leaders abrogated their responsibility to protect our right of access from a town road, Academy Road, as taxpayers in Gaines by allowing Mr. Baker and Ms Brooks to erect their shed on Academy Road.

On August 24, 2004 I called Supervisor DeCarlo regarding this issue . He said he would look into it and also have Mr. McGaffick call me when he returned from Alaska. When I spoke to Supervisor DeCarlo on August 30,2004 to discuss this concern. His responses were that Academy Road is a "paper road", that it has been abandoned by the Town of Gaines", and that "Academy Road was never dedicated to the Town of Gaines" However, although requested , I was never given any written proof from the official, historic records that any of these statements are true. Supervisor DeCarlo suggested that he would have the town attorney research the status of Academy Road.

On September 1, 2004 Mr. McGaffick called me and said the Town Attorney , Mr. Heath would research Academy Road. On September 16, 2004 I called Mr. Heath's office and spoke to Beverly, and I requested that she give Mr. Heath a message to call me regarding our property in Gaines. I called Mr. Heath again later that same day, but still no contact or response from Mr. Heath.

In a conversation with Mr. McGaffick on September 14, 2004, he said that he had found that Academy Road was dedicated to the Town of Gaines in 1832, and that it crossed Route 104. (Gaines thought that it was going to be the County Seat and built a structure on Academy Road which was supposed to be the Court House, but later became the Gaines Academy.) Mr. McGaffick said that he sent the information to Mr. Heath. Mr. McGaffick said there is supposed to be a 7 foot setback and that the shed is in said road. Many phone calls were made relative to this issue with no progress.

We contacted Attorney Gavenda regarding this matter in the Spring of 2005. In a conversation with Mr. Gavenda on June 10, 2005 he informed us that Baker and Brooks have no title to the land their shed occupies on Academy Road, and that they have taken a 16 and ½ foot strip from Academy Road. Mr. Gavenda also found that the Town of Gaines maintains Academy Road north of Route 104 and not south of Route 104. This is discriminatory.

REGULAR TOWN BOARD MEETING
Gaines, NY November 10, 2009

In light of the above concerns I request that the Supervisor of the Town of Gaines, the Town Board Members and the Lawyer for the Town of Gaines supply answers to the following questions in writing:

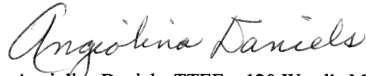
1. Shouldn't paying taxes on property serve to protect the landowner's right of access from a town road-Academy Road in this case--to his property?
2. Who owns Academy Road?
3. If Academy Road is not owned by the Town of Gaines, who is paying taxes on this property?
4. Is Academy Road for ^{sale?} If so, I would like to purchase it.
5. Where in the town records does it verify that the Town of Gaines abandoned Academy Road?
6. Does abandonment of a road mean that anyone can claim Academy Road? I do not want this encroachment to be grandfathered nor have this road claimed by adverse possession.

As Trustee of the DiLodovico Family Trust I am here to reclaim my right to access my property as a taxpayer in the Town of Gaines. It is incumbent upon the community officials of the Town of Gaines to protect such rights.

Therefore, I am requesting written answers to the aforementioned questions, and that the Supervisor, the Gaines Town Board Members and the Lawyer for the Town of Gaines, give notice to Mr. Baker and Ms Brooks to remove their shed from Academy Road, so that we again have access from Route 104 south on Academy Road to our property.

I further request that the Secretary attach this communication to be included in the record of the minutes for this meeting on November 10, 2009.

Respectfully submitted,



Angiolina Daniels, TTEE, 120 Weed's Mill Road, Highland, NY 12528

DiLodovico Family Trust

Resolution 70-09

JESSICA KLATT RESIGNATION

On a motion from Councilperson Oakley and seconded by Councilperson Kirby the resolution was

ADOPTED	Ayes	4	Kast, Kirby, Oakley, Lattin
	Nay	0	

The resignation from Jessica Klatt as Deputy Town Clerk was accepted with regrets effective 12-31-09.

REGULAR TOWN BOARD MEETING
Gaines, NY November 10, 2009

Resolution 71-09

BOARD OF ASSESSMENT REVIEW APPOINTMENTS

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

ADOPTED Ayes 4 Kast, Kirby, Oakley, Lattin
 Nay 0

Resolved that James Theodorakaus is reappointed the Board of Assessment Review for a 5 years term effective 9-30-2009 to 9-30-2014..

Resolution 72-09

ORLEANS COUNTY PLANNING BOARD APPOINTMENTS

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

ADOPTED Ayes 4 Kast, Kirby, Oakley, Lattin
 Nay 0

Resolved that Tibbs Ahlberg, Full Respresentative and Gary Davy, Alternate are reappointed to the Orleans County Planning Board for a 2 years term effective 12-31-2009 to 12-31-2011.

REGULAR TOWN BOARD MEETING
Gaines, NY November 10, 2009

RESOLUTION 73-09
Approval of Minutes

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

ADOPTED Ayes 4 Kast, Kirby, Oakley, Lattin
 Nay 0

The minutes from October 13, 2009 are approved as presented.

RESOLUTION 74-09
Approval of Abstract

On a motion from
 General Councilperson Kast and seconded by Councilperson Kirby
 Highway Councilperson Oakley and seconded by Councilperson Kirby
 Water Councilperson Kast and seconded by Councilperson Kirby

ADOPTED 4 Ayes Kast, Kirby, Oakley, Lattin
 0 Nays

Resolved that the bills on abstract #11 will be paid as presented.

General	Voucher	#293 – 331	\$11,761.57
Highway	Voucher	#167 -187	\$32,621.11
Water#1	Voucher	#68 – 73	\$ 1,887.29

REGULAR TOWN BOARD MEETING
Gaines, NY November 10, 2009

RESOLUTION 75-09

Accept Water District 8 as Complete

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

ADOPTED Ayes 4 ,Kast, Kirby, Oakley, Lattin
 Nay 0

Resolved that WD# 8 is accepted as complete and Ronald Mannella will be the operator.

RESOLUTION 76-09

Accept Water District 9 as Complete

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

ADOPTED Ayes 4 ,Kast, Kirby, Oakley, Lattin
 Nay 0

Resolved that WD# 8 is accepted as complete and Ronald Mannella will be the operator.

REGULAR TOWN BOARD MEETING
Gaines, NY November 10, 2009

Attorney Heath presented the board with a revised version of Local Law #2 of 2009, Revised Zoning Laws for review and discussion at the December Town Board Meeting.

Attorney Heath informed the board that he had spoke with Ada Grabowski and she was in agreement with the Town of Gaines regarding all legal expenses being shared in the law suit with Oak Orchard Estates.

Deputy Supervisor Lattin informed the board that Orleans County would be decreasing the amount of money they reimbursed the town for mowing and plowing of county roads by 1.9% for the year 2010. This will be a loss of \$2065.88 in revenue for the town.

With no further business, on a motion from Councilperson Oakley and seconded by Councilperson Kast the meeting was adjourned at 8:40PM.

Respectfully submitted,

Jean Klatt
Gaines Town Clerk