

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

A Regular and Organizational Meeting of the Town of Gaines, County of Orleans and the State of New York were held at the Town Hall, 14087 Ridge Road, Gaines, New York on the 6th day of January 2010.

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

EXCUSED: None

OTHERS PRESENT: Carol Culhane, Connie Mosher, Lorienda Smith, Marilyn Miller, Mrs. Draper

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

RESOLUTION 1-10
ANNUAL APPOINTMENTS and DESIGNATIONS

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

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

Resolved that the following appointments and designations are approved.

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

The OFFICIAL DEPOSITORIES for funds (all accounts) shall be:

First Niagara, 48 N. Main Street, Albion, NY

HSBC Bank USA, Main Street, Albion, NY

For INVESTMENTS:

First Niagara, 48 N. Main Street, Albion, NY

HSBC Bank USA, Main Street, Albion, NY

OFFICIAL PUBLICATION shall be Batavia Daily News, Batavia, NY

FAIR HOUSING OFFICER – Jean Klatt

RECORDS MANAGEMENT OFFICER- Jean Klatt@ \$ 860.00 per year

TOWN REGISTRAR – Jean Klatt

DEPUTY REGISTRAR – Sharon Harding@ \$9.15 per hour

DEPUTY TOWN CLERK – Sharon Harding @ \$9.15 per hour

WATER BILLING CLERK – Sharon Harding @ \$9.15 per hour

WATER COLLECTION CLERK – Jean Klatt@ \$6,967.00 per year

COURT CLERK – Marita Dumrese @\$10.39 per hour

TOWN HISTORIAN – Delia Robinson@ \$1236.00 per year

DEPUTY TOWN HISTORIAN – Janice Thaine

CONSTABLE – William Robinson \$15.75 per trip plus \$.50 per mile

CODE ENFORCEMENT OFFICER – Robert McGaffick \$15450.00 per year

WATER SUPERINTENDENT – Ronald Mannella @ \$ 23,079.00 per year

DEPUTY WATER SUPERINTENDENT – Dave Rustay

CO-DEPUTY WATER SUPERINTENDENT – Mark Radzinski

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

DEPUTY HIGHWAY SUPERINTENDENT – Mark Radzinski

CO-DEPUTY HIGHWAY SUPERINTENDENT – Dave Rustay

MEO – Mark Radzinski@ \$19.23 per hour

MEO/MECHANIC - \$19.83

SEASONAL EMPLOYEES - \$14.33

CLOTHING ALLOWANCE - \$500.00

CELL PHONE ALLOWANCE (for full-time highway employees) - \$200.00

ELECTION INSPECTORS - \$8.13 per hour or \$130.00 daily minimum

ZONING BOARD MEMBER shall be Mary Cooper for a five year term expiring 12/31/2014

ZONING BOARD OF APPEALS CHAIRMAN shall be Raymond Burke and
ZONING BOARD OF APPEALS VICE CHAIRMAN shall be Douglas Syck for a one year term expiring 12/31/2010

ZONING BOARD MEMBERS SHALL RECEIVE \$25.00 PER MEETING ATTENDED

PLANNING BOARD MEMBERS SHALL RECEIVE \$25.00 PER MEETING ATTENDED

PLANNING BOARD MEMBER shall be Molly Preston for a seven year term expiring 12/31/2016

PLANNING BOARD CHAIRMAN shall be Tibbs Ahlberg and
PLANNING BOARD VICE CHAIRMAN shall be Gary Davy for a one year term expiring 12/31/2010

PLANNING BOARD SECRETARY – Loretta Long – \$9.92

OFFICIAL MILEAGE shall be based on the federal rate which has been Established at \$.50 per mile for 2010

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

Supervisor's Appointments:

DEPUTY SUPERVISOR –David Kast
CONFIDENTIAL SECRETARY – Jean Klatt
BUDGET OFFICER – Jean Klatt @ \$ per year

COMMITTEE APPOINTMENTS:

HIGHWAY – Councilpersons Kast, Kirby, and Superintendent Mannella
UNION CONTRACT – Councilpersons Kast & Oakley
ZONING & PLANNING – Councilpersons Smith & Kirby
WATER – Councilperson Kirby, Superintendent Mannella, Richard DeCarlo
TOWN HALL & GROUNDS – Councilperson Oakley and Clerk Klatt
CODE ENFORCEMENT – Councilpersons Smith & Oakley
ASSESSOR & BOARD OF ASSESSMENT REVIEW – Councilpersons Kirby & Kast
CEMETARIES – Councilperson Oakley, Superintendent Mannella, and Clerk Klatt
FINANCE AND BUDGET –Councilpersons Kast & Oakley, and Clerk Klatt
RECORDS MANAGEMENT – Clerk Klatt & Delia Robinson
CABLE CONTRACT & COMMUNICATIONS – Councilpersons Oakley & Smith
GRANTS – Councilpersons Smith & Clerk Klatt
COURT – Councilpersons Kirby & Oakley

The first person named shall be considered the chairperson of the committee. Brief verbal reports will be in order at Town Board Meetings from committee chair when committees are active.

RESOLUTION 2-10

APPROVAL OF ENGINEERING SERVICES

On a motion of Councilperson Kirby, seconded by Councilperson Oakley, the following resolution was

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

Resolved that Chatfield Engineers is approved to provide engineering services for 2010.

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

RESOLUTION 3-10

LEGAL SERVICES

On a motion of Councilperson Kirby, seconded by Councilperson Oakley, the following resolution was

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

Resolved that Douglas Heath Esq. from Heath & Martin will provide legal services as Attorney for the Town of Gaines.

RESOLUTION 4-10

PREPAY BILLS

On a motion of Councilperson Kirby, seconded by Councilperson Oakley, the following resolution was

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

Resolved that the Town Clerk is authorized to pre-pay bills if due date is prior to the next board meeting to avoid late fees and penalties.

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

RESOLUTION 5-10

AUDIT REPORT

On a motion of Councilperson Kirby, seconded by Councilperson Oakley, the following resolution was

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

Resolved that the criminal and civil dockets of the Town Justice for 2009 having been duly examined with the monthly cash summary being viewed and the fines and fees have been turned over to the proper officials;

that the records of the Town Clerk for 2009 having been duly examined and found all fees have been turned over to the proper officials;

that the records of the Tax Collector for 2009 having been duly examined and found all fees have been turned over to the proper officials.

RESOLUTION 6-10

MEDICAL INSURANCE PLAN

On a motion of Councilperson Kirby, seconded by Councilperson Oakley, the following resolution was

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

Resolved that the Town of Gaines offer MPV Healthcare and Dental as the health insurance for active full time employees.

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

RESOLUTION 7-10

INSURANCE PLAN

On a motion of Councilperson Kirby, seconded by Councilperson Oakley, the following resolution was

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

Resolved that the Town of Gaines will carry its liability insurance plan for property and vehicles through Orleans Agency for the year 2010.

RESOLUTION 8-10

APPROVAL OF SCHOOLING

On a motion of Councilperson Kirby, seconded by Councilperson Oakley, the following resolution was

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

Resolved that schooling for Elected and Appointed Officials, Water Superintendent, and Code Enforcement Officer, when school pertains to respective jobs is duly authorized if funding was requested and approved in the 2010 budget.

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

RESOLUTION 11-10
APPROVAL OF OFFICIAL UNDERTAKING

On a motion of Councilperson Kirby, seconded by Councilperson Oakley, the following resolution was

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

Resolved the approval of the Official Undertaking as to its form and manner of execution and the sufficiency of the insurance, as surety as prescribed by law.

TOWN OF GAINES OFFICIAL UNDERTAKING OF MUNICIPAL OFFICERS

WHEREAS, C.W. LATTIN, of the Town of Gaines, County of Orleans, New York, has been elected to the Office of Supervisor of the Town of Gaines, and

WHEREAS, JEAN KLATT, of the Town of Gaines, County of Orleans, New York, has been elected to the Office of Town Clerk of the Town of Gaines, and

WHEREAS, JEAN KLATT, of the Town of Gaines, County of Orleans, New York, has been elected to the Office of Town Tax Collector of the Town of Gaines, and

WHEREAS, BRUCE R. SCHMIDT, of the Town of Gaines, County of Orleans, New York, has been elected to the Office of Town Justice of the Town of Gaines, and

WHEREAS, RONALD MANNELLA, of the Town of Gaines, County of Orleans, New York, has been elected to the Office of Superintendent of Highways of the Town of Gaines, and

NOW, THEREFORE, we as respective officers above, do hereby undertake with the Town of Gaines that we will faithfully perform and discharge the duties of our office, and will promptly account for and pay over all moneys or property received as a Town Officer, in accordance with the law; and

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

This undertaking of the Town Supervisor is further conditioned upon that he will well and truly keep, pay over and account for all moneys and property, including any special district funds, belonging to the Town and coming into his hands as such Supervisor; and

This undertaking of the Town Clerk is further conditioned that she will well and truly keep, pay over and account for all moneys and property coming into her hands as such Town Clerk; and

This undertaking of the Tax Collector is further conditioned that she will well and truly keep, pay over and account for all moneys and property coming into her hands as such Tax Collector; and

This undertaking of the Town Justice is further conditioned that he will well and truly keep, pay over and account for all moneys and property coming into his hands as such Town Justice; and

The Town does and shall maintain insurance coverage, presently with Trinity Insurance, in the sum of \$ 250,000.00 for the Tax Collector, Supervisor and Town Clerk to indemnify against losses through the failure of the officers, clerks and employees covered there under faithfully to perform their duties or to account properly for all monies or property received by virtue of their positions or employment, and through fraudulent or dishonest acts committed by the officers, clerks and employees.

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

RESOLUTION 12-10

APPROVAL OF MINUTES

On a motion of Councilperson Oakley, seconded by Councilperson Kirby, the following resolution was

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

Resolved that the minutes of the December 30, 2009 meeting be approved as submitted by the Clerk.

RESOLUTION 13-10

Approval of Abstract

On a motion from

General Councilperson Kirby and seconded by Councilperson Smith
Highway Councilperson Kast and seconded by Councilperson Kirby
Water Councilperson Kast and seconded by Councilperson Oakley

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

Resolved that the bills on abstract #1 will be paid as presented.

General	Abstract # 1 - # 20	in the amount of \$ 39,156.14
Highway	Abstract # 1 - # 12	in the amount of \$ 2,3840.17
Water 1	Abstract # 1 - # 5	in the amount of \$ 457.73
Water 8	Abstract # 1 - # 1	in the amount of \$ 475.00

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

RESOLUTION 14-10

Approve moving all accounts to 1ST Niagara

On a motion of Councilperson Kast, seconded by Councilperson Kirby, the following resolution was

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

"RESOLVED, that **First Niagara Commercial Bank, Lockport, New York** is designated an authorized depository of this corporation; and all accounts shall be moved from HSBC Bank to First Niagara Commercial Bank.

RESOLUTION 15 -10

TOWN OF GAINES
WATER DISTRICT NO. 10

LATERAL RESTRICTIONS RESOLUTION

WHEREAS, the Town Board of the Town of Gaines has created the Town of Gaines Water District No. 10 pursuant to Town Law for the express purpose of providing public water supply to residents along portions of Sawyer, Kent, Transit, and Densmore Roads; and

WHEREAS, part of the land area within the Water District No. 10 is also within Orleans County Agricultural District No. 3; and

WHEREAS, the Town Board has filed a Notice of Intent to Undertake an Action Within an Agricultural District to evaluate the impact of providing a source of public water supply within this area on lands within Agricultural District No. 3; and

WHEREAS, the New York State Department of Agriculture and Markets ("Department") has expressed concern about the potential adverse impact that said public water supply is likely to have on agriculture within the Agricultural District,

NOW THEREFORE BE IT RESOLVED, that the Town Board, in recognition of the concerns that have been raised, hereby resolves to adopt the "Lateral Restriction - Conditions on Future Service" specified by the New York State Department of Agriculture and Markets as follows:

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

Lateral Restriction - Conditions on Future Service

The Town of Gaines imposes the following conditions, as warranted or recommended on the management of water/sewer lines located along the portions of Sawyer, Kent, Transit, and Densmore Roads included in the Water District No. 10, within an agricultural district:

- (1) The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within an agricultural district will be existing structures at the time of construction, further agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, and special permit) is needed to move forward with project plans and the governing body has approved the action. If no local approval is required for the subdivision of land and/or the construction of structures, the municipality accepts the limitation under Public Health Law §1115 that defines a "subdivision," in part, as "any tract of land which is divided into five or more parcels." Water and/or sewer service will not be extended to the fifth and subsequent parcels where no local approval is required and the land is located within a county adopted, State certified agricultural district.

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- (2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident's property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.
- (3) If it can be demonstrated to the Department's satisfaction that the landowner requested the county to remove his or her land from an agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.
- (4) If land is removed from a county adopted, State certified agricultural district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

Attorney Heath was instructed by the board to prepare an agreement with the Village of Albion regarding repayment of the dollars we had been overcharged for water.

RESOLUTION 16-10

SWAN LIBRARY

On a motion of Councilperson Kast, seconded by Councilperson Oakley, the following resolution was

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

Resolved Supervisor Lattin is authorized to draft a letter of support to the Swan Library regarding building a new library.

PRIVILEGE OF THE FLOOR/ PUBLIC CONCERNS

Carol Culhane addressed the board regarding the expansion of Intergrow, the hydroponic plant, located on Oak Orchard Road. The following are the highlights of her concern.

DEC contact Capt. Mike Vandermy
Peter Lundt 226-5390

Points of concern:

Type II Ag SEQR does not apply to a hydroponic plant installation

Type I SEQR performed on phase 1 and 2

Type I SEQR is required for the expansion

Air Quality because of biomass burning plus disposal of ashes

Converting the gas furnace to biomass plan in the new plant air quality

Gasoline under Proctor Brook

Impact on water flow and flooding concerns

Impact on traffic and safety due to many more vehicles

Set backs for a 66 ft roadway on the north side

Over flow from retention pond

Federal Wetlands audit

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

Bond for demolition should the plants fail i.e. Sanborn New York and two others failed and cost the town a large sum to demo. Should be a huge concern for the tax payers.

No precedent for this type of operation in Gaines should be not err on the side of caution and investigate all aspects before giving a cart blanche approval.

The board instructed Attorney Heath to call Chatfield Engineers to be sure that the proper steps are being taken to protect the Town's interest. The board would like the completed application to be approved by the Town Planning Board before going to the Orleans County Planning Board.

RESOLUTION 17 -10
SEALED BIBS FOR PICK-UP TRUCK

On a motion of Councilperson Kast, seconded by Councilperson Kirby, the following resolution was

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

Resolved that Attorney Heath will prepare the legal notice to sell the pick-up truck for a minimum bid of \$3000.00.

The December Monthly report was presented to the board for their review and approval at the February 9, 2010.

The Town/County Animal Control Contract was presented to the board for their review and will be considered at the February 9, 2010 board meeting.

GAINES TOWN BOARD MEETING
Gaines, NY January 6, 2010

With no further business, on a motion from Councilperson Oakley, Seconded by Councilperson Kirby the following resolution was

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

Resolved that the January 6th, 2010 board meeting is adjourned at 8:50 PM.

Respectfully Submitted,

Jean Klatt
Gaines Town Clerk