

TOWN OF GAINES

Regular Meeting – August 5, 2019

The regular meeting of the Town Board of the Town of Gaines, County of Orleans, State of New York was called to order by Supervisor Joseph Grube at 6:00 P. M. on the 5th of August, 2019.

The following town officials were present:

Joseph Grube	Supervisor
Mary Neilans	Councilperson
Corey Black	Councilperson
Susan Heard	Town Clerk
Ronald Mannella	Highway Superintendent
James Kirby	Councilperson (arrived during Public Hearing)

Absent: Councilperson Allport

There were eight (8) Town residents present; Barbara Johnston, LaBella and Daniel Strong, Code Enforcement present during the Public Hearing. Three additional residents arrived for a total of eleven (11) residents for the remainder of the meeting.

The Supervisor opened the meeting with the Pledge to the Flag.

OPEN THE SCHEDULED PUBLIC HEARING FOR LOCAL LAW NO. 1 OF 2019

At 6:01 P. M. the Supervisor opened the Public Hearing for Local Law No. 1 of 2019, “Solar Energy Systems” seeking comments in favor of or in opposition to such proposed Local Law.

Connie Mosher said she had three questions. She asked, what are the required set-backs from residential property? Dan Strong, Code Enforcement officer responded, 50 feet from side and rear; 100 feet from road; 100 feet from Historic District. Mrs. Mosher asked if the law requires trees, hedges or barriers, and who is required to maintain the barriers? Supervisor Grube responded any solar project would require a site plan review, and neighbors would be allowed to make the demands prior to any installation. Mrs. Mosher asked if there was any mitigation of electric rates for consumers. Barbara Johnston (LaBella) responded the Town (or Town Board) would not control or be able to regulate such rates.

Sandra Brown said she is not against solar farms but when she moved to the Town of Gaines to live in a cobblestone house on the Ridge Road, her and her husband thought they had died and gone to heaven. She loves the historical district, the agricultural and residential area of the Ridge Road, and would not like to see any solar farms built on the Ridge Road.

Marilynn Miller questioned limiting the number of Solar Farms within the Town. Barbara Johnston responded the Town could change the policy at any time if they felt there were too many applications coming forward. Supervisor Grube responded he has talked to hundreds of Gaines residents over the last few years, and there has been only one party interested in Solar. Gerard Morrissey added most solar companies are very sensitive to the fact that power is not readily available in Gaines. Mrs. Miller asked what if someone put up another sub-station or grid and gets the power to operate a solar farm? Supervisor Grube and Barbara Johnston responded the Public Service Commission determines where

transmission centers are located, not the Town Board. No one knows what the future holds, obviously things can change.

Daniel Strong, Code Enforcement Officer for the Town of Gaines, added his comments and recommendations. He said the Zoning Board of Appeals should require a site plan as well as a review plan, mitigate, and a decommissioning plan. Write it into the ordinance, require the Coordinated Electrical System Interconnection Review (CESER) in advance, have all emergency agencies involved from the start, access roads, etc. Questioned the wording of decommissioning #9 B (3). Mr. Strong recommends a bond using the NYSERTA cost value, with no allowances for recycling. Councilperson Kirby asked how we would know if the bond would be enough 15 or 20 years out. Mr. Strong said the ZBA would annually review the NYSERTA cost and would be allowed to make changes, if needed.

Mr. Strong discussed Section 7 D (4); the Town should add description of the type of fencing to be allowed. Discussed Section 8 D (11) regarding hazardous materials, perhaps removing that section from the law, language too vague. Barbara Johnston agreed it was vague, and could be removed.

Justin Kirby said, in his experience, solar panels are bad within 10 years, or are starting to deteriorate. All questions and concerns were aired.

Motion by Councilperson Black and seconded by Councilperson Kirby to close the Public Hearing at 6:35 P. M.

Ayes 4; Nays 0; Absent 1, Allport

Regular Town Meeting Resumes

RESOLUTION NO. 77 – 0819 APPROVAL OF MINUTES OF JULY 8TH MEETING

Moved by Councilperson Neilans and seconded by Councilperson Kirby to approve the minutes of the July 8, 2019 meeting.

Ayes 4; Nays 0; Absent 1, Allport

RESOLUTION NO. 78 – 0819 PRESENTATION AND ACCEPTANCE OF TOWN CLERK'S REPORT

The Town Clerk reported the total local fees paid to the Supervisor of \$3,532.64, which includes the sale of the generator, tables and chairs of \$1,560.00 and Building Permits of \$1,088.60, as well as normal town clerk business. Paid to Ag & Markets \$97.00; DEC \$51.96; and the NY State Health Dept. \$22.50 for a marriage license.

Discussion: Gerard Morrissey asked why the PowerPoint board showed \$17.50 for marriage licenses, and the Town Clerk reported \$22.50. Supervisor Grube said his report shows the amount the town received, and the clerk reported what she paid to other agencies.

Moved by Councilperson Kirby and seconded by Councilperson Neilans to accept the monthly report of the Town Clerk.

Ayes 4; Nays 0; Absent 1, Allport

RESOLUTION NO. 79 – 0819

PRESENTATION AND ACCEPTANCE OF THE SUPERVISOR’S REPORT

The Town Supervisor used a PowerPoint presentation showing the expenditures and balances of each fund and account. Water District 1 is showing improvement.

Moved by Councilperson Black and seconded by Councilperson Neilans to accept the monthly report of the Town Supervisor.

Ayes 4; Nays 0; Absent 1, Allport

RESOLUTION NO. 80 – 0819

HIGHWAY SUPERINTENDENT’S REPORT

The Highway Superintendent reported the total fuel usage for the month of July as 227 gallons of gasoline and 717 gallons of diesel. The department is busy mowing and working on executing water valves, which they do annually for the County Health Department.

Moved by Councilperson Black and seconded by Councilperson Kirby to accept the report of the Highway Superintendent.

Ayes 5; Nays 0; Absent 1, Allport

RESOLUTION NO. 81 – 0819

APPROVAL OF ABSTRACTS

Moved by Councilperson Black and seconded by Councilperson Neilans to approve the abstracts, as follows:

General	\$ 7,664.31
Highway	\$ 8,502.49
Water	\$56,047.82

Ayes 4; Nays 0; Absent 1, Allport

RESOLUTION NO. 82 – 0819

ISSUING THE NEGATIVE DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE FOR LOCAL LAW NO. 1 of 2019 SOLAR ENERGY SYSTEMS

WHEREAS, the Gaines Town Board (hereinafter referred to as Town Board) has reviewed the Environmental Assessment Form Part 1 for the adoption of the Town of Gaines Local Law No. 1 of 2019 entitled Solar Energy Systems and has completed Part 2.

The Town Board has considered Environmental Assessment Form prepared for this action, comments received from the public, and the proposed Negative Determination of Environmental Significance.

NOW THEREFORE, BE IT RESOLVED THAT, the Town Board declares that the action to adopt the Town of Gaines Local Law No. 1 of 2019 Solar Energy Systems will not have a significant adverse effect on the environment.

The Town Board further declares that the reasons supporting this negative declaration include:

- a) Compared with the criteria listed in Section 617.11 of SEQR regulation, all indications are that the proposed action will not cause substantial adverse change in community character, aesthetics, design and natural features; and
- b) Review of the proposed Local Law No. 1 of 2019 Solar Energy Systems and the Environmental Assessment Form has indicated that the action to adopt the Local Law will not have a significant adverse impact on the environment of the Town of Gaines.

The Supervisor is directed to sign the Environmental Assessment Form Part 3 (Negative Determination of Environmental Significance).

The Town Clerk is directed to file copies of the Negative Determination of Environmental Significance and Attachment thereto with the Town of Gaines and to notify the Environmental Notice Bulletin.

The above Resolution was moved by Councilperson Black and seconded by Councilperson Kirby at a Town Board Meeting held on August 5, 2019, and after discussion was approved by a roll call vote of the Town Board recorded as follows:

ROLL CALL VOTE:	Councilperson Neilans	Aye
	Councilperson Kirby	Aye
	Supervisor Grube	Aye
	Councilperson Black	Aye
	Councilperson Allport	Absent

I, Susan M. Heard, Town Clerk, Town of Gaines, Orleans County, do hereby certify that the foregoing resolution to be a true and exact copy of said original resolution as adopted by the Gaines Town Board and contained in the official minutes of said Board.

Susan M. Heard, Town Clerk

Date: August 5, 2019

RESOLUTION NO. 83 – 0819
ADOPTING LOCAL LAW NUMBER 1 OF THE YEAR 2019 – SOLAR ENERGY SYSTEMS

LOCAL LAW NO. 1 OF 2019

Councilperson Kirby moved the adoption of the following resolution; Councilperson Black seconded the motion;

WHEREAS, Local Law No. 1 of the Year 2019 of the Town of Gaines, Orleans County, New York entitled “Solar Energy Systems” was introduced and placed on the desks and tables of the members of the Town Board at least seven (7) days prior to final adoption, and

WHEREAS, Local Law No. 1 was referred to the Orleans County Planning Board (CPB) for review and comment and the CPB did APPROVE WITH CONDITION the proposed adoption of Local Law No. 1 at its May 23, 2019 meeting; and

WHEREAS, the Gaines Town Board incorporated the recommendations of the CPB in the final version of the local law for consideration; and

WHEREAS, the Gaines Town Board did conduct a public hearing to consider the adoption of proposed Local Law No. 1 on the 5th day of August, 2019 at 6:00 P. M., at which public hearing all persons wishing to be heard in favor or against said adoption were heard; and

WHEREAS, the Gaines Town Board determines that the proposed action will not result in any significant adverse environmental impacts of SEQRA; and

WHEREAS, it is the intent and desire of the Town Board to adopt Local Law No. 1 of the Year 2019, now therefore, be it

RESOLVED, that Local Law No. 1 of the Town of Gaines, Orleans County, State of New York entitled “Solar Energy Systems”, be and the same is hereby adopted, as amended based upon comments of the Public Hearing.

ROLL CALL VOTE:	Councilperson Neilans	Aye
	Councilperson Kirby	Aye
	Supervisor Grube	Aye
	Councilperson Black	Aye
	Councilperson Allport	Absent

I, Susan M. Heard, Town Clerk, Town of Gaines, Orleans County, do hereby certify that the foregoing resolution to be a true and exact copy of said original resolution as adopted by the Gaines Town Board and contained in the official minutes of said Board.

Date: August 5, 2019

_____ Town Clerk

TOWN OF GAINES

LOCAL LAW NO. 1 OF 2019 – SOLAR ENERGY SYSTEMS

§ 1. Title

This Local Law will be referred to as, "Local Law No. 1 of 2019 - Solar Energy Systems."

§ 2. Legislative authority

This chapter is adopted pursuant to the legislative authority in Municipal Home Rule Law § 10, Town Law §§ 261 through 264, General Municipal Law § 96-a and § 119-dd and Public Service Law, Article 10.

§ 3. Purpose and intent

A. The purpose of this Solar Energy Systems Local Law is to advance and protect the public health, safety, and welfare of Gaines by regulating the installation and use of solar energy generating systems and equipment, with the following objectives:

- 1) To take advantage of a safe, abundant, renewable and non-polluting energy resource;
- 2) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
- 3) To increase employment and business development in the Town of Gaines, to the extent reasonably practical, by furthering the installation of Solar Energy Systems; and
- 4) To mitigate the impacts of Solar Energy Systems on environmental resources and agricultural land.

§ 4. Definitions

BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM: A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

GLARE: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system that is anchored to the ground and attached to a pole or other mounting system that is detached from any other structure and which generates electricity for onsite or offsite consumption.

LARGE-SCALE SOLAR ENERGY SYSTEM: A solar energy system that is ground-mounted and produces energy primarily for the purpose of on-site usage or consumption, with lot coverage of more than 4,000 sq. ft.

LOT COVERAGE: The land area occupied by a ground-mounted solar energy system. Lot coverage encompasses the entire area of the solar array, including spaces between the solar panels, as well as all fences, roadways, parking, structures and equipment.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A solar energy system, located on the roof of any legally permitted building or structure, which produces electricity for on-site or off-site consumption.

SOLAR ENERGY EQUIPMENT: Electrical energy storage devices, material, hardware, inverters, conduit, storage devices, or other electrical photovoltaic equipment associated with the production of electrical energy.

SOLAR ENERGY SYSTEM: An electrical generating system composed of a combination of both solar panels and solar energy equipment.

SOLAR FARM: A Solar Energy System that generates electricity primarily for off-site sale, usage or consumption.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electrical energy.

STORAGE BATTERY: A device that stores energy and makes it available in an electrical form.

§ 5. Applicability

- A. The requirements of this Local Law apply to all solar energy systems and/or solar farms proposed, installed, operated, maintained, modified or constructed in Gaines after the effective date of this Local Law, excluding general maintenance and repair.
- B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law are not required to meet the requirements of this Local Law.
- C. All Solar Energy Systems must be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), and the Town of Gaines local laws and ordinances.

§ 6. Solar energy systems as an accessory use or structure

- A. Roof-mounted solar energy systems.
 - (1) Roof-mounted solar energy systems are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.
 - (2) Height. Roof-mounted solar energy systems must not exceed the maximum height restrictions for buildings in the zoning district within which they are located and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
 - (3) Aesthetics. Roof-mounted solar energy system installations must incorporate, when feasible, the following design requirements: panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
 - (4) Roof-mounted solar energy systems that use the energy on-site are not subject to Site Plan Review pursuant to the Town's zoning regulations.

- (5) Roof-mounted installations may be installed on buildings in all zoning districts, subject to applicable permit requirements and New York State building codes.
- B. Ground-mounted solar energy systems as an accessory use.
- (1) Ground-mounted solar energy systems that use the electricity primarily on site are permitted as accessory structures and must be installed to the side or rear of the principal building on the lot.
 - (2) Setback. Ground-mounted solar energy systems must be set back a minimum of 100 feet from the centerline of the road except that the minimum front setback along Ridge Road is 120 feet. The minimum setback from the side and rear lot lines is 50 feet, except that solar energy systems must be set back a minimum of 100 feet from the boundary of the Commercial Historic District.
 - (3) Height. Ground-mounted panels must not exceed 20 feet in height at maximum tilt.
 - (4) Lot coverage. Lot coverage for solar energy systems, plus the area occupied by any other structure, driveway, or paved or impervious surface, must not exceed 80% of the lot area.
 - (5) Ground-mounted solar energy systems are permitted in all zoning districts.
 - (6) Site Plan Review is required for ground-mounted solar energy systems with lot coverage of 4,000 sq. ft. or more

§ 7. Application and approval standards for large-scale solar energy systems

- A. Solar energy systems with lot coverage of 4,000 sq. ft. or more but less than 40,000 sq. ft. are permitted in the AR Agricultural Residential and C Commercial zoning districts subject to Site Plan Review in accordance with the Town of Gaines Zoning Ordinance.
- B. Solar energy systems with lot coverage of 40,000 sq. ft. or more are permitted in the AR Agricultural Residential and C Commercial Zoning Districts, subject to a Special Use Permit and Site Plan Review in accordance with the Town of Gaines Zoning Ordinance.
- C. Application requirements. Any application for a large scale solar energy system must include the following documentation:
 - (1) If the property of the proposed project is to be leased, legal consent between all parties specifying the use(s) of the land for the duration of the project, including easements and other agreements, must be submitted.
 - (2) Blueprints showing the layout of the solar energy system signed by a professional engineer or registered architect are required.
 - (3) The equipment specification sheets must be documented and submitted for all photovoltaic panels, significant components, mounting systems and inverters that are to be installed.
 - (4) Property operations and maintenance plan. Such plan must describe continuing photovoltaic maintenance property upkeep such as mowing and trimming.
- D. Standards.
 - (1) Setback. Large-scale solar energy systems must be set back a minimum of 100 feet from the centerline of the road except that the minimum front setback along Ridge Road will be 120 feet. The minimum setback from the side and rear lot lines will be 50 feet, except that solar energy systems must be set back a minimum of 100 feet from the boundary of the Commercial Historic District.

- (2) Height. Ground-mounted panels must not exceed 20 feet in height at maximum tilt.
- (3) Lot size. Large-scale solar energy systems must be located on lots with a minimum lot size of three (3) acres.
- (4) Lot coverage. The lot coverage of a large-scale solar energy system that is ground-mounted must not exceed 80% of the lot on which it is installed. The lot coverage of any ground-mounted solar energy system includes all equipment and site improvements necessary or required for the system, including but not limited to the solar array, spaces between the solar panels, fences, roadways, driveways, and parking areas.
- (5) All large-scale energy systems must be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information must be placed on the entrance and perimeter of the fencing. The type of fencing must be specified in the application. The Zoning Board of Appeals may require additional screening, fencing or landscaping to avoid adverse aesthetic impacts.
- (6) All applications must comply with all applicable Site Plan Review requirements specified in the Town's Zoning Ordinance.
- (7) The Zoning Board of Appeals may impose conditions on its approval of a the Site Plan as needed to enforce the standards in this local law or to mitigate or minimize any potential environmental impacts identified during the State Environmental Quality Review (SEQR) process.

§ 8. Additional Requirements for Solar Farms

- A. This section establishes standards for the placement, design, construction, operation, monitoring, modification and removal of Solar Farms.
- B. In addition to any site plan approval required by the Gaines Zoning Board of Appeals for systems with 4,000 sq. ft. or more of lot coverage, a special use permit is required for a solar farm with 40,000 sq. ft. or more of lot coverage. The Zoning Board of Appeals will evaluate each proposed solar farm on a case-by-case basis and will consider neighborhood characteristics, topography, and potential impact to residents, business and community character in determining whether to issue the Special Use Permit.
- C. The following application information is required to be submitted with an application for a Solar Farm:
 - (1) Blueprints or drawings of the solar photovoltaic installation signed by a licensed professional engineer showing the proposed layout of the system and any potential shading from nearby structures.
 - (2) Proposed changes to the landscape of site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
 - (3) A description of the solar farm facility and the technical, economic and other reasons for the proposed location and design. Certification prepared and signed by a licensed professional engineer that the solar farm complies with all applicable federal and state standards.
 - (4) One- or three-phase line electrical diagram detailing the solar farm layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices.
 - (5) Documentation of the major system components to be used, including the PV panels, mounting system and inverter.

- (6) An operation and maintenance plan which must include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.
- (7) Information on noise (inverter) and reflectivity/glare of solar panels and identify potential impacts to abutters.
- (8) If the property of the proposed project is to be leased, legal consent between all parties specifying the use(s) of the land for the duration of the project, including easements and other agreements must be submitted.

D. The following standards are minimum requirements for solar farms:

- (1) For solar farms with lot coverage of 4,000 sq. ft. or more, the minimum lot size is three (3) acres.
- (2) Setback. Ground-mounted solar energy systems must be set back a minimum of 100 feet from the centerline of the road except that the minimum front setback along Ridge Road is 120 feet. The minimum setback from the side and rear lot lines is 50 feet, except that solar energy systems must be set back a minimum of 100 feet from the boundary of the Commercial Historic District.
- (3) Height. The maximum height for ground-mounted solar systems is 20 feet at maximum tilt.
- (4) All mechanical equipment on a solar farm, including any structure for batteries or storage cells, must be completely enclosed by a minimum eight-foot-high fence with a self-locking gate.
- (5) The lot coverage of the solar farm must not exceed 80% of the total parcel area.
- (6) A vegetated perimeter buffer must provide year-round screening of the system from adjacent properties.
- (7) All solar energy production systems must be designed and located to prevent reflective glare toward any habitable buildings, as well as toward streets, driveways and vehicular access rights-of-way.
- (8) All on-site utility and transmission lines must be, to the extent feasible, placed underground.
- (9) The installation of a clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- (10) The system must be designed and situated to be compatible with the existing uses on adjacent and nearby properties.
- (11) All appurtenant structures, including but not limited to equipment shelters, storage facilities, transformers and substations, must be architecturally compatible with each other and must be screened from view from neighboring parcels and streets.
- (12) Lighting of solar farms must be consistent with all state and federal laws. Lighting of appurtenant structures will be limited to that required for safety and operational purposes and must be reasonably shielded from abutting properties. Where feasible, lighting must be directed downward and must incorporate full cutoff fixtures to reduce light pollution.
- (13) No signs are permitted except announcement signs, such as "no trespassing" signs or signs required to warn of danger. A sign no larger than eight (8) sq. ft. in area is required that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a twenty-four-hour basis. Signage provisions in the Town Zoning or other laws, regulations and/or ordinances, State building code

requirements, and Federal standards including the National Electrical Code and/or Emergency Services, will prevail over the requirements in this subsection in the event that a conflict arises.

- (14) A minimum of one parking space must be provided in connection with the maintenance of the solar energy facility and the site. However, it must not be used for the permanent storage of vehicles.

E. Safety and Maintenance Requirements

- (1) The solar farm owner or operator must provide a copy of the project summary, electrical schematic and site plan to the local Fire Chief. Upon request, the owner or operator must cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar farm facility must be clearly marked. The owner or operator must identify a responsible person for public inquiries through the life of the installation.
- (2) No solar farm will be approved or constructed until evidence has been given to Gaines that the utility company operating the electrical grid where the installation is to be located has authorized the interconnected customer-owner generator.
- (3) A solar farm owner or operator must maintain the facility in good condition. Maintenance must include, but not be limited to, painting, structural repairs and integrity of security measures. Site access must be maintained to a level acceptable to the local Fire Chief and emergency medical services. The owner or operator must be responsible for the cost of maintaining the solar farm and any access road(s), unless accepted as a public way.

§ 9. Abandonment and decommissioning

- A. A large-scale solar energy systems and/or solar energy farm will be considered abandoned after six months without electrical energy generation and must be removed from the property. The Gaines Zoning Board of Appeals may grant an extension for a period of up to six months after such abandonment.
- B. All applications for any large-scale solar energy system and/or solar energy farm must include a decommissioning plan that includes the following components:
 - (1) An affirmative obligation that after any large-scale solar energy system and/or solar energy farm can no longer be used it will be removed by the applicant and/or any subsequent owner.
 - (2) Description of how the removal of all infrastructure and the remediation of soil and vegetation will be conducted to return the parcel to its original state prior to construction. Include an expected time line for execution and completion.
 - (3) A cost estimate detailing the projected expense of executing the decommissioning plan, prepared by a professional engineer or registered architect.
 - (4) Obligate the owner, operator and/or successors in interest to remove any ground-mounted solar collectors which have reached the end of their useful life or have been abandoned; they must physically remove the installation no more than six months after the date of discontinued operations and they must notify Gaines by certified mail of the proposed date of discontinued operations and plans for removal.
 - (5) An obligation to physically removal all ground-mounted solar collectors, structures, equipment, security barriers and transmission lines from the site.
 - (6) An obligation to dispose of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.

- C. Upon cessation of electricity generation of a Solar Farm or Large Scale Solar Facility on a continuous basis for 6 months, the Gaines Zoning Board of Appeals will notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within six months of notification. If the owner or operator of any large-scale solar energy system and/or any solar farm fails to remove the installation in accordance with the decommissioning plan within six months of abandonment or the proposed date of decommissioning, Gaines may enter the property and physically remove the installation upon application to a court of appropriate jurisdiction to obtain access to the property for that purpose.
- D. If the Gaines Zoning Board of Appeals approves an application for a solar farm, the applicant must provide or establish a bond, surety bond, financial deposit, undertaking, financial escrow or other financial security to ensure that sufficient funds are available to remove the installation and restore landscaping in the event that the applicant fails to comply with its decommissioning obligations. The Zoning Board of Appeals will review the form and amount of financial security annually. To assist in this review, the owner or operator must provide financial documentation, financial statements or any other information requested by said Board to ensure the sufficiency of the financial security. Gaines reserves the right to request reasonable access to the property upon notice and consent.

§ 10. Enforcement

Any violation of this chapter will be subject to the same civil and criminal penalties provided for in the Gaines Town Code, including any applicable zoning regulations, and/or the laws of the State of New York.

§ 11. Severability and/or validity

If any clause, sentence, paragraph, subdivision, section or part of this chapter, or the application thereof to any person, individual, firm or corporation, or circumstance, is found by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment will not affect, impair or invalidate the remainder thereof, but will be confined to the clause, sentence, paragraph, subdivision, section or part of this chapter, or in its application to the person, individual, firm or corporation, or circumstance, directly involved in the controversy in which said order or judgment will be rendered.

§ 12. Effective Date

This chapter will take effect upon the date it is filed in the Office of the New York State Secretary of State in accordance with the Municipal Home Rule Law § 27.

I, Susan M. Heard, Town Clerk, Town of Gaines, Orleans County, do hereby certify that the foregoing resolution to be a true and exact copy of said original resolution as adopted by the Gaines Town Board and contained in the official minutes of said Board.

_____, L. S.
Susan M. Heard, Town Clerk

Dated: August 5, 2019

**RESOLUTION NO. 84 – 0819
AUTHORIZING ISSUANCE OF BOND ANTICIPATION NOTE NOT TO EXCEED \$120,000 FOR THE
PURCHASE OF JOHN DEERE LOADER AND FURTHER AUTHORIZING HIGHWAY SUPERINTENDENT TO
ORDER JOHN DEERE LOADER**

(Waiting for Bond Counsel to send language required.)

Attorney Heath read the text of the resolution at the meeting.

ROLL CALL VOTE:	Councilperson Neilans	Aye
	Councilperson Kirby	Aye
	Supervisor Grube	Aye
	Councilperson Black	Aye
	Councilperson Allport	Absent

FURTHER RESOLVED, the Highway Superintendent is authorized to order the new John Deere 644K 4WD Wheel Loader at a cost not to exceed \$233,917.34 from Five Star Equipment, using the Sourcewell Contract pricing.

**RESOLUTION NO. 85 – 0819
NOTICE OF ESTOPPEL**

Moved by Councilperson Black and seconded by Councilperson Kirby to authorize the Town Clerk to publish the Legal Notice of Estoppel and Bond Resolution

Ayes 4; Nays 0; Absent 1, Allport

**RESOLUTION NO. 86 – 0819
AUTHORIZING SALE OF THE 1999 WHEEL LOADER**

Moved by Councilperson Neilans and seconded by Councilperson Kirby to advertise the sale of the 1999 Loader, with a minimum bid of \$50,000, sold "as is", with bids to be submitted by 5:00 P. M. on October 3, 2019.

Discussion: Sell by Sealed Bids, list on Craig's List, and other means of which to sell the old loader, to maximize the sale price. The Highway Superintendent indicates the value is \$50,000 or more, and the minimum bid should be at \$50,000.

Ayes 4; Nays 0; Absent 1, Allport

RESOLUTION NO. 87 – 0819

AUTHORIZING THE SUPERVISOR TO EXECUTE WATER CONTRACT WITH THE VILLAGE OF ALBION

Moved by Councilperson Kirby and seconded by Councilperson Black to authorize the Town Supervisor to sign the water contract with the Village of Albion, term of said contract being April 1, 2019 through March 31, 2029.

Discussion: Attorney Heath noted under Recitals, exclusive purchasing with the Village; and noted Page 3, Section 3 the annex to the Village.

Ayes 4; Nays 0; Absent 1, Allport

RESOLUTION NO. 88 – 0819

AUTHORIZING PARTICIPATION IN THE NEW YORK STATE DEFERRED COMPENSATION PLAN

WHEREAS, the Town of Gaines wishes to adopt the Deferred Compensation Plan for Employees of the State of New York and Other Participating Public Jurisdictions (the “Plan”) for voluntary participation of all eligible employees; and

WHEREAS, the Town of Gaines is a local public employer eligible to adopt the Plan pursuant to Section 5 of the State Finance Law, and

WHEREAS, the Town of Gaines has reviewed the Plan established in accordance with Section 457 of the Internal Revenue Code and Section 5 of the State Finance Law of the State of New York; and

WHEREAS, the purpose of the Plan is to encourage employees to make and continue careers with the Town of Gaines by providing eligible employees with a convenient and tax-favored method of saving on a regular and long-term basis and thereby provide for their retirement; now therefore, it is hereby:

RESOLVED, that the Town of Gaines hereby adopts the Plan for the voluntary participation of all eligible employees; and it is further

RESOLVED, that the appropriate officials of the Town of Gaines are hereby authorized to take such actions and enter such agreements as are required or necessary for the adoption, implementation, and maintenance of the Plan; and it is further

RESOLVED, that the Administrative Services Agency is hereby authorized to files copies of these resolutions and other required documents with the President of the State of New York Civil Service Commission.

Moved by Councilperson Neilans and seconded by Councilperson Kirby to authorize the participation in the New York State Deferred Compensation Plan.

Ayes 4; Nays 0; Absent 1, Allport

RESOLUTION NO. 89 – 0819

RE-APPOINTMENT OF THE ASSESSOR FOR THE TOWN OF GAINES

Moved by Councilperson Black and seconded by Councilperson Neilans to re-appoint Colleen A. Pahura as Assessor for the Town of Gaines for the term of October 1, 2019 to September 30, 2025, pursuant to our shared services assessment contract with the County of Orleans.

Ayes 4; Nays 0; Absent 1, Allport

PRIVILEGE OF THE FLOOR

Marilynn Miller questioned the bids on the furniture, was told the tables and chairs were sold. Wondered if the tariffs would affect the purchase of the loader, was told the loader is made by John Deere in the USA. Wondered if elected officials were allowed to participate in Deferred Compensation, was told any employee of the Town could participate.

ADJOURNMENT

Moved by Councilperson Neilans and seconded by Councilperson Kirby to adjourn the meeting at 7:20 P. M.

Ayes 4; Nays 0; Absent 1, Allport