

GAINES TOWN BOARD MEETING
REGULAR AND ORGANIZATIONAL
Gaines, NY January 8th, 2013

A Regular and Organizational Town Board Meeting of the Town of Gaines, County of Orleans and the State of New York was held at the Gaines Town Hall, 14087 Ridge Road, Gaines, New York on the 8th day of January 2013 at 7:30PM.

PRESENT:	Carol Culhane	-----	Supervisor
	James Kirby	-----	Councilperson
	Susan Smith	-----	Councilperson
	Douglas Syck	-----	Councilperson
	David Kast	-----	Councilperson
	Ron Mannella	-----	Highway Superintendent
	Jean Klatt	-----	Town Clerk
	Andrew Meier	-----	Attorney for the Town

EXCUSED: None

OTHERS PRESENT: Jerry Culhane, MaryJo Syck, Sharon Harding , Michael Grabowski, Marilynn Miller, Bruce Schmidt

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

RESOLUTION 1-13

APPROVAL OF MINUTES

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

ADOPTED	Ayes	5	Smith, Kirby, Culhane, Syck, Kast
	Nays	0	

Resolved that the minutes of the December 27th, 2012 Town Board Meeting are approved as presented by the clerk.

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RESOLUTION 2-13

APPROVAL OF SUPERVISOR'S MONTHLY REPORT

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

ADOPTED Ayes 5 Culhane, Kast, Kirby, Syck, Smith
Nays 0

Resolved that the December 2012 Supervisor's Monthly report is approved as submitted by the Supervisor Culhane.

RESOLUTION 3-13

APPROVAL OF ABSTRACTS

On a motion from

General Councilperson Kirby and seconded by Councilperson Kast
Highway Councilperson Kast and seconded by Councilperson Kirby
Water 1 & 10 Councilperson Syck and seconded by Councilperson Smith

ADOPTED Ayes 5
Nays 0

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

General	Voucher # 1 - # 18	in the amount of \$	23,117.53
Highway	Voucher # 1 - # 12	in the amount of \$	138,053.69
Water 1	Voucher # 1 - # 3	in the amount of \$	209.78
Water 10	Voucher# 1 - # 1	in the amount of \$	9,151.00

A discussion was held about amending the Code of ethics to include "no officer or employee whether elected or appointed shall be a committeeman or officer of any political party. It was table until a later date.

RESOLUTION 4-13

OUT OF DISTRICT WATER USER AGREEMENT

On a motion of Councilperson Syck, seconded by Councilperson Smith the following resolution was

ADOPTED Ayes 5 Smith, Kirby, Culhane, Syck, Kast
Nays 0

Resolved that the out of district water agreement is approved as presented.

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**TERMS AND CONDITIONS OF OUTSIDE USER ARRANGEMENT
APPLICABLE TO A GAINES WATER DISTRICT**

1. The Town of Gaines will tap the PVC water transmission line along the public highway which adjoins the applicant's premises and bring the water service to or near the edge of the highway right-of-way. The tap will be made by the Water District Superintendent and at the sole expense of the owner. The owner will be subject to a tap-in fee in accordance with the rules and regulations of Town of Gaines Water District serving the parcel (hereinafter referred to as the "Water District").

2. When required by the Water District Superintendent, the owner will be responsible for paying for and installing a meter pit of sufficient size, as determined by the Town Engineer or Water District Superintendent, within the highway right-of-way. The water meter will be supplied by the Town and shall be a Mueller meter pit or such other standard meter pit as determined by the Town from time to time. The owner shall pay for the water meter in advance and will be responsible for providing Town approved valves on both sides of the meter. The meter pit is to be installed within the boundaries of the Water District.

3. If any portion of the private water service is to cross private property, the owner shall be responsible for procuring any easement or right-of-way necessary to cross private property and for recording the same in the Orleans County Clerk's Office. Said easement or right-of-way shall include the right of the Town to enter upon such land as necessary in order to make any required repairs not timely made by the owner pursuant to paragraph 6 hereof.

4. The owner will be responsible for all expenses incurred in connection with the installation of the private water service from the meter pit to the owner's home. All materials utilized by the owner shall meet the Town's specifications (as set forth in the Rules and Regulations of the Water District), and meet state and local health department regulations. The installation shall be subject to final inspection by the Water District Superintendent or such other individual designated by the Town. The water service shall be installed as a single, one piece installation absent of any joints, if possible. If joints are necessary, all joint in the private water service must be left uncovered and be under normal water line operating pressure for inspection and approved by the Town prior to back filling. Owner shall include in the installation a tracer wire to show the location of the private water service. Owner agrees to bore, not open cut, any driveway or roadway necessary to be crossed.

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5. Any leak in a private water service between the curb box and the owner's home is the sole responsibility of the owner. Weather conditions permitting, the owner agrees to repair any such leak within 48 hours after the leak is discovered. If the Town highway, other Town owned property, or any other private property sustains damage as a result of a leak in a private water service, the owner of the service shall be responsible to the Town or the other property owner for the full amount of any such damages. Should the owner fail to repair a leak on, or damage to, Town owned property or property owned by another, the owner hereby authorizes the Town to make the repair or repair the damage, as the case may be, and to charge all expenses incurred in connection therewith back to the owner.

6. No excavation within the right-of-way of a Town highway or other Town owned property in connection with the installation, maintenance or repair of a private water service shall be made without the prior consent of the Town of Gaines, and any such excavation shall be subject to the supervision, inspection and approval of the Town Superintendent of Highways. Owner shall be responsible for obtaining any permits or consents required to connect to the Water District including the consent of the Town Board of the Town in which the owner resides.

7. The owner is considered an out-of-district user of the Water District with the same benefit of access to public water as a user located within the boundaries of the Water District except as set forth in this Agreement. As such, the owner will pay to the Water District the same amounts which are billed to users within the Water District from time to time for operation and maintenance costs, bond repayment unit costs, and water consumption based upon the application water rates schedules adopted by the Gaines Town Board from time to time and size of water service. Any out-of-district user located within the Town of Gaines will be billed for such fees and expenses at the same rate as users within the Water District. Any out-of-district user located outside the territorial limits of the Town of Gaines will be billed for such at the same rate *plus* an additional sum of \$5.00 per quarter for operation and maintenance and an additional sum of \$1.00/thousand gallons of water consumed over the applicable water rate charge. Such fees shall be subject to change from time to time as determined by the Gaines Town Board.

8. In addition to any and all other fees, charges or applicable water rates charged to out-of-district users hereunder, the owner of a parcel located outside the territorial limits of the Town of Gaines served as an out-of-district user will be required to pay to the Water District an one-time fee equal to \$500.00 prior to connection to the water line, which fee shall be non-refundable. Any subsequent purchaser of such parcel shall not be required to pay an additional

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fee at the time of purchase so long as the subsequent purchaser requests that the parcel continue to be served as an out-of-district user. Any disconnection of service shall require the payment of a subsequent one-time non-refundable fee before re-establishing water service to such parcel.

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9. The rules and regulations of the Water District as adopted and amended from time to time by the Town Board, to the extent that they are not inconsistent with or superseded by the provisions of this agreement, will apply to all out-of-district users.

10. In the event the municipality in which the owner resides at some future date establishes a new water district or extends an existing water district such that the owner's property or any portion thereof is located in the newly established or extended district, owner consents to be included in and participate in such new or extended district, including, but not limited to disconnecting from the Gaines Water District and connecting to the newly created Town Water District.

11. The Town may terminate and disconnect the private water service in the event the owner is in default of any of the terms and conditions herein contained. The Town shall give at least 10 days written notice of its intent to terminate and upon expiration of the 10 days, may terminate service.

12. The owner agrees to indemnify the Water District for all costs and fees, including reasonable attorney's fees incurred by the District in order to enforce the terms and conditions set forth herein against the owner. The owner agrees to reimburse the District for recording fees, permit fees and legal fees incurred by the District pertaining to the owner's request for public water as an out-of-district user.

13. The contractor hired by the owner shall submit to the District prior to commencement of construction proof of public liability and worker's compensation insurance in an amount acceptable to the District, naming the District as additional insured. The owner's contractor shall warrant his work for a period of at least one year following installation and shall supply a maintenance bond to the Town in an amount acceptable to the Water District Superintendent.

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14. The consent of the Town of Gaines to supply water to the owner as an “out-of-district” user shall apply only to “surplus water” and shall not be a guarantee to supply a specific quantity or supply of water. The Town of Gaines may suspend or terminate the sale or supply of water to the owner if, at any time, the supply of water is not sufficient to meet the needs of the Town of Gaines, its residents, or any existing or future water districts of the Town.

15. This agreement shall be binding upon the owner of the premises, their successors and/or assigns.

Dated: _____, 20____

Property owner

Property owner

RESOLUTION 5-13

PREAPPROVE PAYMENTS FOR WD#10

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

ADOPTED Ayes 5 Smith, Kirby, Culhane, Syck, Kast
 Nays 0

Resolved that pay application No.4 in the amount of \$162,149.97 for WD#10 and pay application #1 in the amount of \$38,858.03 for the Two/way Meter/PRV vault is approved for payment pending all applicable signatures.

RESOLUTION 6-12

LEGAL SERVICES

On a motion of Councilperson Smith, seconded by Councilperson Syck, the following resolution was

ADOPTED Ayes 5 Smith, Syck, Culhane, Kast, Kirby
 Nays 0

Resolved Andrew W. Meier Esq. from Webster, Schubel and Meier, LLP will provide legal services as Attorney for the Town of Gaines renewing his contract at the same rate for a period of 1 year. Authorize the supervisor to sign said contract.

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RESOLUTION 7-13

SUPERVISOR AUTHORIZED TO SIGN DOG CONTROL CONTRACT

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

ADOPTED Ayes 5 Smith, Kirby, Culhane, Syck, Kast
Nays 0

Resolved that Supervisor Culhane is authorized to sign the Animal Control Contract with Orleans County.

RESOLUTION 8-12

APPROVAL OF ENGINEERING SERVICES

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

ADOPTED Ayes 5 Kirby, Kast, Culhane, Syck, Smith
Nays 0

Resolved that Chatfield Engineers is approved to provide engineering services for 2013.

RESOLUTION 9 -12

PREPAY BILLS

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

ADOPTED Ayes 5 Kirby, Kast, Culhane, Syck, Smith
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.

RESOLUTION 10 -11

AUDIT REPORT

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

ADOPTED Ayes 5 Smith, Syck, Kast, Kirby, Culhane
Nays 0

Resolved that the criminal and civil dockets of the Town Justice for 2012 having been duly examined with the monthly cash summary being viewed and the fines and fees have been turned over to the proper officials;

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that the records of the Town Clerk for 2012 having been duly examined and found all fees have been turned over to the proper officials;

that the records of the Tax Collector for 2012 having been duly examined and found all fees have been turned over to the proper officials.

RESOLUTION 11-13

INSURANCE PLAN

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

ADOPTED Ayes 5 Kirby, Kast, Culhane, Syck, Smith
Nays 0

Resolved that Town of Gaines will carry its liability insurance plan for property and vehicles through Albion Agencies, NYMIR insurance for a period of one year beginning in October 2012 and ending October 2013

RESOLUTION 12-13

APPROVAL OF SCHOOLING

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

ADOPTED Ayes 5 Kirby, Kast, Culhane, Syck, Smith
Nays 0

Resolved that schooling for Elected and Appointed Officials, when school pertains to respective jobs is duly authorized if funding was requested and approved in the 2013 budget.

RESOLUTION 13-13

APPROVAL OF OFFICIAL UNDERTAKING

On a motion of Councilperson Syck, seconded by Councilperson Smith, the following resolution was

ADOPTED Ayes 5 Kirby, Kast, Culhane, Syck, Smith
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.

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.

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TOWN OF GAINES OFFICIAL UNDERTAKING OF MUNICIPAL OFFICERS

WHEREAS CAROL E. CULHANE, 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

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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

This undertaking of the Town Supervisor is further conditioned upon that she 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 her 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

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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 NYMIR Insurance, in the sum of \$ 500,000.00 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. All other employees are covered at \$250,000.00 through fraudulent or dishonest acts committed by the officers, clerks and employees.

RESOLUTION 14-13

SUPERVISOR'S APPOINTMENTS

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

ADOPTED Ayes 5 Kirby, Kast, Culhane, Syck, Smith
Nays 0

Resolved that the supervisor's appointment as approved as listed below.

DEPUTY SUPERVISOR –Douglas Syck
CONFIDENTIAL SECRETARY – Jean Klatt
BUDGET OFFICER – Carol E. Culhane @ \$1800.00 per year

RESOLUTION 15-13

2013 APPOINTMENTS

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

ADOPTED Ayes 5 Kirby, Kast, Culhane, Syck, Smith
Nays 0

Resolved that the 2013 annual appointment as approved as listed below.

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HIGHWAY/WATER COMMITTEE – Highway Superintendent Mannella,
Councilpersons Kast and Kirby

FINANCE AND BUDGET –Supervisor Culhane, Deputy Supervisor Syck,
Councilperson Smith

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

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

For INVESTMENTS:

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

OFFICIAL PUBLICATION shall be Batavia Daily News, Batavia, NY

FAIR HOUSING OFFICER – Jean Klatt

TOWN REGISTRAR – Jean Klatt

DEPUTY REGISTRAR – Mary Pettit @ \$10.20 per hour

DEPUTY TOWN CLERK – Mary Pettit @ \$10.20 per hour

DEPUTY TOWN CLERK – Sharon Harding @ \$9.64 per hour

WATER BILLING CLERK – Mary Pettit @ \$10.20 per hour

WATER COLLECTION CLERK – Jean Klatt@ \$6100.00 per year

DOG CONTROL OFFICER – Mary Pettit @ \$10.20 per hour

ZONING BOARD OF APPEALS AND PLANNING SECRETARY – Sharon Harding

COURT CLERK – Marita Dumrese @\$10.80 per hour

TOWN HISTORIAN – Delia Robinson@ \$600 per year

CODE ENFORCEMENT OFFICER – Roger Kopas \$16000.00 per year

WATER SUPERINTENDENT – Ronald Mannella @ \$ 18,294.00 per year

DEPUTY WATER SUPERINTENDENT – Mark Radzinski

CO-DEPUTY WATER SUPERINTENDENT – David Rustay

DEPUTY HIGHWAY SUPERINTENDENT – David Rustay

CO-DEPUTY HIGHWAY SUPERINTENDENT – Mark Radzinski

MEO – Mark Radzinski@ \$20.43 per hour

MEO/MECHANIC David Rustay - \$21.03 per hour

SEASONAL EMPLOYEES - \$14.91

CLOTHING ALLOWANCE - \$500.00 per year

CELL PHONE ALLOWANCE FOR FULLTIME HIGHWAY EMPLOYEES -
\$200.00/YEAR

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

OFFICIAL MILEAGE shall be based on the federal rate which has been
established at \$.55.5 per mile for 2013.

ZONING BOARD MEMBERS SHALL RECEIVE \$25.00 PER MEETING ATTENDED

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PRIVILEGE OF THE FLOOR

Lorienda Smith would like a copy of the out of district water agreement that was passed tonight. She was told it is available through the clerk's office. She questioned why the financial committee would not include all of the town board members. Councilperson Kast responded that because the committee has three town board members it will be a legal meeting and all board members and the public will be allowed to attend. She asked if the salaries listed in the appointments were in addition to the salaries discussed at budget time. Supervisor Culhane responded that in some case they were but not in all instances.

MOTION TO ADJOURN

On a motion of Councilperson Syck, seconded by Councilperson Kirby, the motion was

ADOPTED Ayes 5 Kirby, Kast, Culhane, Syck, Smith
Nays 0

Resolved that with no further business, the January 8th, 2013 regular & organizational board meeting is adjourned at 8:05PM.

Respectfully Submitted,

Jean Klatt
Gaines Town Clerk