

# Gaines Organizational and Regular Meeting

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January 5, 2016

An Organizational and Regular 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 5<sup>th</sup> day of January 2016 at 7:00PM.

PRESENT:	Carol Culhane	-----	Supervisor
	Mary Neilans, DMV	-----	Councilperson
	James Kirby	-----	Councilperson
	Susan Smith	-----	Councilperson
	Richard DeCarlo	-----	Councilperson
	Ron Mannella	-----	Highway Superintendent
	Jean Klatt	-----	Town Clerk
	Lori Grube	-----	Deputy Town Clerk
	Andrew Meier	-----	Attorney for the Town

Excused: None

OTHERS PRESENT: Marcia Thom, Ray Burke, David Thom, Larry Williams, Lisa Mannella, Joe Grube, Bruce Schmidt, Dan Strong, Marilyn Miller, Connie Mosher, C.W. Lattin, Mike Grabowski

Supervisor Culhane called the meeting to order at 7:00PM with the Pledge to the Flag and congratulated newly sworn in officials, Mary Neilans, Richard Decarlo, and Ron Mannella.

RESOLUTION 1-16

## **APPROVAL OF MINUTES**

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

ADOPTED	Ayes	5	Culhane, Smith, Neilans, Kirby, DeCarlo
	Nays	0	

Resolved that the minutes of the December 8th & 28th, 2015 Town Board Meeting are approved as presented.

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January 5, 2016

RESOLUTION 2 -16

## **APPROVAL OF ABSTRACTS**

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

ADOPTED    Ayes        5    Culhane, Smith, Neilans, Kirby, DeCarlo  
                 Nays        0

Resolved that the bills on abstract #1, voucher #'s 2176 - 2188, totaling \$ 29,372.04 will be paid as presented.

RESOLUTION 3 -16

## **PERMISSION FOR SUPERINTENDENT MANNELLA AND GAINES TOWN BOARD TO SIGN TOWN HIGHWAY AND COUNTY HIGHWAY AGREEMENT**

On a motion from Councilperson Smith and seconded by Councilperson Neilans the following resolution was

ADOPTED    Ayes        5    Culhane, Smith, Neilans, Kirby, DeCarlo  
                 Nays        0

Resolved that Superintendent Mannella and the Town Board Members are authorized to sign the following agreement with the Orleans County Highway Department.

January 5, 2016

AGREEMENT between the Town Superintendent of the Town of ORLEANS County, New York, and the undersigned members of the GAINES

Pursuant to the provisions of Section 284 of the Highway Law, we agree that moneys levied and collected in the Town of the repair and improvement of highways, and received from the State for State Aid for the repair and improvement of highways, shall be expended as follows:

GENERAL REPAIRS. The sum of \$ 125,000 shall be set aside to be expended for primary work and general repairs upon 18 miles of town highways, including sluices, culverts and bridges having a span of less than five feet and boardwalks or the renewals thereof.

**PERMANENT IMPROVEMENTS.** The following sums shall be set aside to be expended for the permanent improvement of town highways:

- (a) On the road commencing at Kenyonville Rd. (Ridge Rd)  
and leading to Howlett Rd., a distance of 1.0 miles,  
there shall be expended not over the sum of \$ 75,000.00  
Type 2" overlay Width of traveled surface 20 FT.  
Thickness \_\_\_\_\_ Subbase Already Established
- (b) On the road commencing at Kenyonville Rd. (Howlett Rd)  
and leading to E.H. Knowsville Rd., a distance of .8 miles,  
there shall be expended not over the sum of \$ 25,000.00  
Type T & L Width of traveled surface 20 FT.  
Thickness \_\_\_\_\_ Subbase Already Established  
Do A 2" overlay - Pending on funds after - T & L  
If this can't be done - Chip Seal had spots in the town.
- (c) On the road commencing at \_\_\_\_\_  
and leading to \_\_\_\_\_, a distance of \_\_\_\_\_ miles,  
there shall be expended not over the sum of \$ \_\_\_\_\_  
Type \_\_\_\_\_ Width of traveled surface \_\_\_\_\_  
Thickness \_\_\_\_\_ Subbase \_\_\_\_\_

Executed in duplicate this 4 day of January, 2016

*(Cecil E. Jackson)*  
Superior

Home Justice - Committee  
Jesse M. Smith  
Councilman  
Jesse M. Smith  
Councilman  
County Superintendent of Highways

Town Justice - Commissioners  
James R. Kirby  
Councilman  
Mary Neilans  
Councilman  
Lu Mulla  
Town Supervisor

**NOTE: This Agreement should be signed in duplicate by a majority of the members of the Town Board and by the Town Superintendent. All copies must be approved by the County Superintendent. One copy must be filed in the Town Clerk's office and one in the County Superintendent's office. COPIES DO NOT HAVE TO BE FILED IN ALBANY.**

COPY

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Resolution 4 -16

## **2016 APPOINTMENT**

### **LEGAL SERVICES**

Andrew W. Meier Esq. from Webster, Schubel and Meier, LLP will provide legal services as Attorney for the Town of Gaines renewing his annual contract for 2016 at the rate of \$7,800.

### **SUPERVISOR AUTHORIZED TO SIGN DOG CONTROL CONTRACT**

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

### **APPROVAL OF ENGINEERING SERVICES**

Chatfield Engineers is approved to provide engineering services for 2016.

### **PREPAY BILLS**

The Supervisor is authorized to pre-pay bills if due date is prior to the board audit to avoid late fees and penalties. List as follows:

- Utility Bills
- Vacation Pay
- Postage and Freight
- Payment to Federal, State and County Agencies
- Authorized Workshops or Schooling

### **AUDIT REPORT**

The criminal and civil dockets of the Town Justice for 2015 having been duly examined with the monthly cash summary being viewed and the fines and fees have been turned over to the proper officials;

The records of the Town Clerk for 2015 having been duly examined and found all fees have been turned over to the proper officials;

The records of the Tax Collector for 2015 having been duly examined and found all fees have been turned over to the proper officials.

### **INSURANCE PLAN**

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 2015 and ending October 2016

### **APPROVAL OF SCHOOLING**

Schooling for Elected and Appointed Officials, when school pertains to respective jobs is duly authorized if funding was requested and approved in the 2016 budget.

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## **Set Holidays for Town Office:**

New Year's Day  
Martin Luther King Day  
Presidents Day  
Good Friday  
Memorial Day  
July 4<sup>th</sup>  
Labor Day  
Columbus Day  
Veteran's Day  
Thanksgiving Day  
Day after Thanksgiving Day  
Christmas Eve and Christmas falls on the weekend  
Election Day-Town Office used as polling place

## **APPROVAL OF OFFICIAL UNDERTAKING**

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** 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 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

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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

## **SUPERVISOR'S APPOINTMENTS**

**DEPUTY SUPERVISOR** - Sue Smith  
**CONFIDENTIAL SECRETARY** – Jean Klatt  
**BUDGET OFFICER** – Carol E. Culhane @ \$2000.00 per year  
**BOOKKEEPER** - Lynne Johnson

## **2016 APPOINTMENTS**

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

**FINANCE AND BUDGET COMMITTEE**– Supervisor Culhane, Deputy Supervisor Smith

**ZONING AND AUDIT COMMITTEE** – Councilwomen Neilans and Smith

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

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

### **INVESTMENTS:**

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

**OFFICIAL PUBLICATION** shall be Batavia Daily News, Batavia, NY

**FAIR HOUSING OFFICER** – Jean Klatt

**TOWN REGISTRAR** – Jean Klatt @ \$932

**DEPUTY TOWN CLERK** – Lori Grube @ \$11.00 per hour

**DEPUTY TOWN CLERK** – Sharon Harding @ \$11.22 per hour

**WATER BILLING CLERK** – Bonnie Reigle @ \$11.00 per hour

**WATER COLLECTION CLERK** – Jean Klatt @ \$6309.00 per year

**ZONING BOARD OF APPEALS AND PLANNING SECRETARY** – Donna Chamberlain @ \$11.00 per hour

**COURT CLERK** – Maureen Kline \$13.26 per hour

**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@ \$21.68 per hour

**MEO/MECHANIC** David Rustay - \$22.32 per hour

**SEASONAL EMPLOYEES** - \$ \$15.82

**CLOTHING ALLOWANCE** - \$500.00 per year for MEO's and HIGHWAY SUPERINTENDENT

**CELL PHONE ALLOWANCE FOR HIGHWAY SUPERINTENDENT** - \$500.00 per year

**CELL PHONE ALLOWANCE FOR TOWN JUSTICE** - \$500.00 per year

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**CELL PHONE ALLOWANCE FOR FULLTIME HIGHWAY EMPLOYEES -**  
\$300.00/YEAR

**ELECTION INSPECTORS** - \$9.00 per hour or \$130.00 daily minimum

**OFFICIAL MILEAGE** shall be based on the federal rate which has been established at \$.54 per mile for 2016.

**ZONING BOARD OF APPEALS ORGANIZATIONAL MEETING** – Chairman Michael Grabowski, Vice Chairman, Marilyn Miller

**ZONING BOARD OF APPEALS APPOINTMENT:** Marilynn Miller term 12/31/2015 – 12/31/2020

**COUNTY PLANNING BOARD REPRESENTATIVE:** Michael Grabowski appointed to the County Planning board term 12/31/2015 – 12/31/2018 and shall receive \$25 per meeting attended

**ZONING BOARD MEMBERS** shall receive \$25 per meeting attended

On a motion from Councilperson Smith, seconded by Councilperson Kirby the motion was

ADOPTED	Ayes	5	Culhane, Neilans, Smith, Kirby, DeCarlo
	Nays	0	

Resolved that the 2016 appointments are approved as presented.

### RESOLUTION 5 -16

#### **APPROVAL FOR SUPERVISOR TO SIGN AN AGREEMENT WITH WENDELL FOR A TOWN HALL STUDY**

On a motion from Councilperson Smith, seconded by Councilperson Neilans the following resolution was

ADOPTED	Ayes	5	Culhane, Smith, Neilans, Kirby, DeCarlo
	Nays	0	

Resolved that Supervisor Culhane is authorized to sign an agreement with Wendell Engineering for a study regarding construction changes to the Gaines Town Hall. Wendall will utilize their architects and design professionals to conduct a preliminary design analysis, which entails space programming and planning, mechanical and electrical systems planning, and probable cost analysis for the project. The cost of the analysis not to exceed \$6000.00.



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## RESOLUTION 6 -16

### **APPROVAL FOR SUPERVISOR TO SIGN AN AGREEMENT WITH AMATO FOX**

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

ADOPTED    Ayes        5    Culhane, Smith, Neilans, Kirby, DeCarlo  
                 Nays        0

Resolved that Supervisor Culhane is authorized to sign an agreement with Amato Fox for them to perform an audit for the next 2 calendar years.

Supervisor Culhane advised the board that the ARC wanted the town to sign a new contract for the 2016 calendar year. She asked Superintendent Mannella how the cleaning service has been at the Highway Garage. Mannella said they had had some issues but he had spoke to them and the cleaning had improved. He asked the board to hold off on any decision for one month to make sure the improved service continues.

Supervisor Culhane opened a discussion for the board regarding Town Hall hours. She said there are many concerns about security when court is in session on Wednesdays. She would like to see the Clerk's office open 9AM-4PM Monday, Tuesday Thursday, and Friday, closed on Wednesdays and open 9AM - Noon on Saturdays. Councilperson Neilans asked if the public really wanted Saturday hours. Councilperson Kirby suggested having the office open on Wednesday mornings and skip Saturdays. Supervisor Culhane replied she has had calls requesting hours similar to those of Orleans County. Councilperson Smith agreed the hours needed to be changed and made the motion to change the hours to Monday, Tuesday, Thursday, and Friday 9AM - 4PM, and Saturdays 9AM - Noon effective immediately. Clerk Klatt asked if she could comment. Clerk Klatt reminded the board that the tax bills have the present hours printed on them. She also said because of safety concerns she would like 2 people at the office on Saturdays. Supervisor Culhane said it would be the clerk's choice. After further discussion among the board Councilperson Smith made a new motion.

## RESOLUTION 7 - 16

### **CHANGE TOWN HALL HOURS**

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

ADOPTED    Ayes        5    Culhane, Smith, Neilans, Kirby, DeCarlo  
                 Nays        0

Resolved that the Town Clerk's days of operation will change on May 1, 2016. The new days will be Monday, Tuesday, Thursday, Friday, and Saturday 9AM - Noon.



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## **RESOLUTION 8-16**

### **ADOPTING THE COMPREHENSIVE PLAN OF THE TOWN OF GAINES**

WHEREAS, the Town Board of the Town of Gaines is responsible for the preparation and adoption of the Town of Gaines Comprehensive Plan, pursuant to Section 272-a of the New York State Town Law; and

WHEREAS, the Town Board, pursuant to the provisions of Article 12-A of the General Municipal Law of the State of New York, has duly appointed a Planning Commission ("Planning Commission") to investigate and report to the Town Board of the Town of Gaines on the advisability of the adoption of and the creation of a Town of Gaines Comprehensive Plan ("Comprehensive Plan"); and

WHEREAS, Pursuant to Section 272-a of the New York State Town Law, the Planning Commission is required to hold, and did hold, one or more public hearings and such other meetings as it deems necessary to assure full opportunity for citizen participation; and

WHEREAS, Pursuant to Section 272-a of the New York State Town Law, the Planning Commission is required to recommend, by resolution, the proposed Comprehensive Plan to the Town Board for review and adoption; and

WHEREAS, the Town Board received the Comprehensive Plan from the Planning Commission for review and adoption in accordance with Section 272-a of the New York State Town Law, and

WHEREAS, The Town of Gaines desired to be proactive in dealing with regional and intermunicipal issues, protecting its resources, and planning for community and/or service needs; and

WHEREAS, the Planning Commission and its planning consultants undertook a comprehensive study of the historic and existing conditions in the Town of Gaines and the surrounding vicinity; identified issues and opportunities; analyzed numerous topics and potential options; and developed goals, objectives, policy recommendations and implementation strategies which resulted in the Comprehensive Plan; and

WHEREAS, the Planning Commission and its consultants consulted with various boards including, County departments/agencies and officials, surrounding municipalities, business groups, environmental and civic groups, civic leaders as well as various Federal, State and regional organizations; and

WHEREAS, the Comprehensive Plan is a vision document which identifies the important positive attributes and components which define the Town of Gaines and which provides a blueprint for the future; and

WHEREAS, the Comprehensive Plan will provide guidance to decision makers, residents, property owners and organizations through the Comprehensive Plan's goals, objectives and strategies relevant to the subject matters of: Environmental Protection, Access to Natural Resources, Economic Growth, Housing Improvement, Infrastructure Enhancement, and Citizen Development; and

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WHEREAS, there has been public participation throughout the process, including community planning forums, a public hearing held by the Planning Commission on May 4, 2015, a public hearing by the Town Board on December 8, 2015, resident interviews, newsletters and website publication, archival research and review of background documents and review of drafts of the Comprehensive Plan; and

WHEREAS, the Town Board referred the proposed Comprehensive Plan to the Orleans County Planning Board in accordance with Sections 239-l and m of the New York State General Municipal Law and the County Planning Board responded by means of its letter dated October 23, 2016 wherein the County Planning Board recommended that the Town Board adopt the Comprehensive Plan after consideration of the County's comments; and

WHEREAS, the Town Board has issued a Negative Declaration dated October 13, 2015 regarding the adoption of the Comprehensive Plan, for the extensive reasoning contained in the full Environmental Assessment Form and Negative Declaration document dated October 13, 2015, and thereby completed the SEQRA review of the proposed action pursuant to the criteria contained in Section 617 of 6 NYCRR,

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Gaines Town Board hereby adopts the proposed Comprehensive Plan of the Town of Gaines dated May 4, 2015, as an important planning tool which identifies a wide range of issues, initiatives, studies, projects and programs which can be undertaken by various entities in the short-term and the long-term.

On a motion from Councilperson Smith and seconded by Councilperson Neilans the resolution was

ADOPTED	Ayes	5	Culhane, Smith, Neilans, Kirby, DeCarlo
	Nays	0	

Supervisor Culhane informed the board the court had been awarded \$16,100.00 to upgrade some of the security concerns. The town had originally applied for \$30,000.00.

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## RESOLUTION 9 -16

### **THE WIND TOWER ON THE PROPERTY OF K AND W, ENTERPRISES INC.**

Whereas, the Town of Gaines (the “Town”), acting on their authority granted by the Municipal Home Rule Law, adopted regulations governing large and small wind towers in the Town; and

Whereas, the Town, based on the County Planning Board provided exemptions and a streamlined process for wind towers on agricultural properties in agricultural zones; and

Whereas, notwithstanding the expedited process, K and W Enterprises attempted to evade the requirements of the Town Law by obtaining a permit for a wind tower which required site plan approval; and

Whereas, with the illegal assistance of the former Chairman of the Planning Board, a permit was improperly issued which allowed the tower to be placed in a location which directly threatened public health and safety; and

Whereas, as a result, the tower was placed in a location which violated both local and state Agricultural Department setbacks; and

Whereas, thereafter the resident of the community commenced litigation against the tower and the Planning Board; and

Whereas, the next State Supreme Court confirmed that K and W Enterprises was not exempt from the law and remanded the matter to be heard by the Zoning Board of Appeals (ZBA) which had replaced the Planning Board; and

Whereas, the ZBA then determined, after a public hearing, to apply the Agriculture Department’s own setbacks; and

Whereas, the State Supreme Court affirmed the action of the ZBA; and

Whereas, the Agriculture Department then set about to undermine public safety and relying on false information and refusing to accept the Court’s decision that the building permit was illegal, issued letters and determination that falsely represented the facts in the case; and

Whereas, the Agriculture Department made it absolutely clear that the safety of the public, especially the children of the area, were unworthy of protection, even stating at one point that facilities used by migrant workers were not human inhabited structures; and

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Whereas, the Agriculture Department was invited many times to meet with the Town to discuss the matter, but in order to hide their immoral conduct refused to do so.

Now Therefore Be It Resolved By The Town Board Of The Town Of Gaines as follows:

1. Call on the State Legislature to adopt amendments to the Ag & Mkts preventing the Agriculture Department from ignoring public health and safety.
2. Calls on the State Legislature to require the Agriculture Department to comply with the State Administrative Procedure Act in issuing determinations regarding the validity of local zoning laws;
3. Calls on the Attorney General to conduct an ethics review of the conduct of the Agriculture Department in this and similar matters.

On a motion from Councilperson Smith and seconded by Councilperson DeCarlo the resolution was

ADOPTED	Ayes	5	Culhane, Smith, Kirby, DeCarlo
	Nays	0	
	Abstain	1	Neilans

RESOLUTION 10 -16

## **EXECUTIVE SESSION**

On a motion from Councilperson Smith, seconded by Councilperson Neilans the following resolution was

ADOPTED	Ayes	5	Neilans, Culhane, Smith, Kirby, DeCarlo
	Nays	0	

Resolved that the board will convene into executive session to discuss proposed, pending, or current litigation at 7:33PM.

RESOLUTION 11 -16

## **REGULAR SESSION**

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

ADOPTED	Ayes	5	Neilans, Culhane, Smith, DeCarlo, Kirby
	Nays	0	

Resolved that the board will enter into regular session at 8:25PM.

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## **MOTION TO ADJOURN**

On a motion from Councilperson Kirby, seconded by Councilperson DeCarlo the motion was

ADOPTED	Ayes	5	Culhane, Neilans, Smith, Kirby, DeCarlo
	Nays	0	

Resolved that with no further business, the January 5th, 2016 Organizational & Regular Town Board meeting is adjourned at 8:26PM.

Respectfully Submitted,

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Jean Klatt  
Gaines Town Clerk