

# Gaines Town Board Regular Meeting

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March 16, 2015

A 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 16<sup>th</sup> day of March 2015 at 7:00PM.

PRESENT: Carol Culhane ----- Supervisor  
Douglas Syck ----- Councilperson  
Susan Smith ----- Councilperson  
Jean Klatt ----- Town Clerk  
Andrew Meier ----- Attorney for the Town

EXCUSED: David Kast ----- Councilperson  
James Kirby ----- Councilperson  
Ron Mannella ----- Highway Superintendent

OTHERS PRESENT: Jerry Culhane, Mike Grabowski, Mary Jo Syck, Marilyn Miller, E. John DeFillipps, Connie Mosher, Bruce Schmidt, Fred Miller, Larry Williams, Mary Neilans, Lynn Johnson

Supervisor Culhane called the meeting to order at 7:00PM with the Pledge to the Flag.

RESOLUTION 13 -15

## **APPROVAL OF MINUTES**

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

ADOPTED Ayes 3 Syck, Culhane, Smith  
Nays 0  
Absent 2 Kast, Kirby

Resolved that the minutes of the February 10, 2015 Town Board Meeting are approved as presented.

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RESOLUTION 14-15

## **PERMISSION FOR SUPERVISOR TO CONTACT VILLAGE OF ALBION RE: FIRE AND WATER CONTRACTS**

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

ADOPTED	Ayes	3	Syck, Culhane, Smith
	Nays	0	
	Absent	2	Kast, Kirby

Resolved that Supervisor Culhane has the boards permission to contact the Village of Albion regarding the Fire and Water contracts.

RESOLUTION 15-15

## **APPROVAL OF ABSTRACTS**

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

ADOPTED	Ayes	3	Syck, Culhane, Smith
	Nays	0	
	Absent	2	Kast, Kirby

Resolved that the bills on abstract #3, voucher #'s 1389 - 1465, totaling \$ 96,072.54 will be paid as presented.

Supervisor Culhane told the board she had met with USDA regarding community block grants and was researching which grants would be the best fit for the Town of Gaines.

Supervisor Culhane explained the bids she had received for the new signs from Digital Ink, Stanton Signs, and Bill Downey.

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RESOLUTION 16-15

## **TOWN SIGNAGE BID**

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

ADOPTED   Ayes     3    Syck, Culhane, Smith  
              Nays     0  
              Absent  2    Kast, Kirby

Resolved that the Town will award Bill Downey the contract for 2 - Welcome Signs at the East and West side of town, 2 - Highway Garage signs and the Town Hall sign including enter and exit signs for a total cost of \$4100.00.

RESOLUTION 17-15

## **ADOPT POLICIES AND PROCEDURES**

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

ADOPTED   Ayes     3    Syck, Culhane, Smith  
              Nays     0  
              Absent  2    Kast, Kirby

Resolved that the Policy and Procedures Manual will be adopted as presented by Supervisor Culhane.

Supervisor Culhane said she had met with the water billing clerk, Devin Rogers and Water Superintendent, Ron Mannella. They will be including a customer update form in the next water billing. They also discussed concerns over billing the snowbirds and the time it takes them to receive their forwarded mail. Supervisor Culhane will check with First Niagara to see if we can possible allow our customers to pay their water bills directly through the bank.

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RESOLUTION 18-15

**PERMISSION TO GO TO BID FOR LAWNMOWING SERVICES**

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

ADOPTED   Ayes     3    Syck, Culhane, Smith  
              Nays     0  
              Absent  2    Kast, Kirby

Resolved that Supervisor Culhane is authorized to advertise for sealed bids for the 2015 lawn mowing season.

RESOLUTION 19 -15

**PERMISSION TO SIGN CONTRACT WITH WENDELL**

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

ADOPTED   Ayes     3    Syck, Culhane, Smith  
              Nays     0  
              Absent  2    Kast, Kirby

Resolved that Supervisor Culhane is authorized to sign the contract with Wendell for the evaluation of existing meter pits in the Town of Gaines water system.

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## RESOLUTION 20-15

### **SUPPORTING REFORM OF THE AID AND INCENTIVE FOR MUNICIPALITIES (AIM) FORMULA IN ORDER TO DISTRIBUTE THE NEW AID TO LOCAL GOVERNMENTS**

WHEREAS, unrestricted state aid to local governments – formerly known as revenue sharing, now known as Aid and Incentive for Municipalities, or AIM – is general purpose state aid provided to all of New York’s cities (outside of New York City), villages and towns; and

WHEREAS, since the late 1980s, the original “revenue sharing” formula – intended to provide property tax relief by redistributing the state’s progressive tax revenues to municipalities that do not have the tax base or the taxing authority to generate these revenues on their own – has been annually disregarded and various constraints have been imposed on the overall level of state aid to local governments; and

WHEREAS, the original “revenue sharing” formula has not been utilized for decades and, since that time, various additional aid categories have been targeted to specific municipalities based on no particular economic or demographic factors, the current allocation of unrestricted aid (AIM) fails to accurately reflect the fiscal need and capacity of its recipient cities, villages and towns; and

WHEREAS, unrestricted State aid to local governments is a clear and proven way to provide property tax relief, when sufficiently funded; and

WHEREAS, a strong and growing state-local fiscal partnership is essential to generating economic vitality in all regions of our State; and

WHEREAS, local governments are limited by the 2% cap on property tax levies, growth in unrestricted State aid is critical; now, therefore be it

RESOLVED, that the Gaines Town Board calls on the Governor and the State Legislature to implement a multiyear phased 50% increase in the AIM program funding and a reform of the AIM formula in order to distribute the new aid to local governments in a fair and objective manner, and would account for local fiscal capacity and need; and be it

FURTHER RESOLVED, that the new program’s formula components, at a minimum, should include population, population density, poverty and public safety services and the formula should also consider the amount of tax-exempt property a municipality has within its boundaries, as this has a significant effect on a community’s ability to raise revenue; and be it

FURTHER RESOLVED, that the Clerk of the Town of Gaines shall forward copies of this resolution to Orleans County Legislature.

Moved, Syck; second, Smith.

Adopted. 3 ayes; 0 nays; 2 absent.

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RESOLUTION 21-15

## **SUPPORTING LEGISLATION TO REPEAL THE NEW YORK SECURE AMMUNITION AND FIREARMS ENFORCEMENT (SAFE) ACT OF 2013**

WHEREAS, Senate bills S511-2015 and S1193-2015 have been introduced to the New York State Senate by Senators Michael Nozzolio and Katherine Marchione respectively, which would repeal all or part of the New York Secure Ammunition and Firearms Enforcement Act of 2013; and

WHEREAS, this Legislative Body has long advocated for the protection of the rights afforded our citizens under the Constitution, which has for generations guided our Nation and served as a framework to our republic and society; and

WHEREAS, the Second Amendment of the United States provides for the “right of the people to keep and bear arms” and further states that this right “shall not be infringed”; and

WHEREAS, members of the Gaines Town Board, being elected to represent the people of the Town of Gaines are duly sworn by their oath of office to uphold the Constitution of the United States; and

WHEREAS, members of the Orleans County Legislature, being elected to represent the people of Orleans County, are duly sworn by their oath of office to uphold the Constitution of the United States; and

WHEREAS, members of the New York State Assembly and the New York State Senate, being elected by the people of New York State, are duly sworn by their oath of office to uphold the Constitution of the United States; and

WHEREAS, the Civil Rights Law of the State of New York states in Article 2 Section 4, “ Right to keep and bear arms. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms cannot be infringed.”; and

WHEREAS, the lawful ownership of firearms is a recreational benefit to our residents through hunting and target shooting, along with an economic and environmental benefit to our region with several locally owned and operated gun/sporting businesses; and

WHEREAS, the New York State Secure Ammunition and Firearms Enforcement (NY SAFE Act) of 2013 which was rushed to passage by the New York State Senate, Assembly and Governor, will have a detrimental effect on hunters, sportsmen and legal gun owners, creating a hostile environment both for them and for the sale and manufacture of legal firearms; and

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WHEREAS, the legislation prohibits the sale of firearm magazines with a capacity larger than seven (7) rounds and, those firearm magazines with a capacity larger than seven (7) rounds, which are authorized to be retained by existing owners, may only be loaded with seven (7) rounds and eventually must be permanently altered to only accept seven (7) rounds or be disposed of; and

WHEREAS, few or no low capacity (seven (7) rounds or less) magazines currently exist for many of the firearms commonly possessed by law-abiding residents of New York State; and

WHEREAS, the legislation severely impacts the possession and use of firearms now employed by the residents of Orleans County for the defense of life, liberty and property; and

WHEREAS, the legislation severely impacts the possession and use of firearms now employed for safe forms of recreation including, but not limited to hunting and target shooting; and

WHEREAS, while there are some areas of the legislation that the Town of Gaines finds encouraging, such as the strengthening of Kendra's Law and Marks's Law, as well as privacy protections for lawful permit holders, we find the legislation fails to offer little meaningful solutions to gun violence and places undue burdens where they don't belong, squarely on the backs of law abiding citizens; and

WHEREAS, there are many parts of this legislation that place an unfunded mandate on the local Sheriff Departments, County Clerk's Office and County Judges, while tax payers are crying out relief; and

WHEREAS, there will be significant financial impact due to the approximately 4,850 Orleans County pistol permits that will have to be renewed requiring additional manpower and computer systems; and

WHEREAS, requiring law-abiding gun owners to verify ownership of certain types of firearms every five years, in addition to registering them on permits, which now also must be renewed every five years, does not increase the safety of the public and is unnecessarily burdensome to the residents of New York State; and

WHEREAS, this legislation effectively treats countless New York State law abiding gun owners as criminals; and

WHEREAS, the enactment of the NY SAFE Act has engendered significant controversy over both the process by which it was enacted and certain provisions contained within; and

WHEREAS, the manner in which this legislation was brought forward for vote in the State Legislature is deeply disturbing to the Town of Gaines; and

WHEREAS, this legislative body unanimously voted to oppose the New York Secure Ammunition and Firearms Enforcement Act of 2013 for all reasons stated above in RESOLUTION NO. 33-13 of the Gaines Town Board proceedings of March 13, 2013; now be it

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RESOLVED, that the Gaines Town Board does hereby support Senators Michael Nozzolio's and Katherine Marchione's bills S511-2015 and S1193-2015 to repeal all or part of the New York Secure Ammunition and Firearms Enforcement Act of 2013; and be it

FURTHER RESOLVED, that this Town Board supports the introduction of an Assembly bill which calls for the repeal of the New York Secure Ammunition and Firearms Act of 2013; and be it

FURTHER RESOLVED, that this Town Board supports efforts by the New York State Legislature to remove funds for enforcement of the New York Secure Ammunition and Firearms Act of 2013 from the New York State Budget; and be it

FURTHER RESOLVED, that certified copies of this Resolution be forwarded to the Orleans County Legislative Body.

Moved, Smith; second, Syck.

Adopted. 3 ayes; 0 nays; 2 absent.

RESOLUTION 22 -15

## **STANDARD WORK DAY RESOLUTION**

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

ADOPTED	Ayes	3	Syck, Culhane, Smith
	Nays	0	
	Absent	2	Kast, Kirby

Resolved that the has board has adopted the New York State Retirement Standard Work Day and Reporting Resolution for the year 2015.

RESOLUTION 23 -15

## **WAGE INCREASE FOR ELECTION INSPECTORS**

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

ADOPTED	Ayes	3	Syck, Culhane, Smith
	Nays	0	
	Absent	2	Kast, Kirby

Resolved that the election inspectors will receive be a pay increase to \$9.00 per hour.

Supervisor Culhane read the following press release.



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## TOWN OF GAINES TOWN BOARD PRESS RELEASE ON K & W ENTERPRISES MATTER

The Town Board has received and reviewed Justice Punch's Decision in Christopher and Catherine Watt's (K & W Enterprises) suit against the Town and the Zoning Board of Appeals. The Board is extremely pleased that the State Supreme Court has determined that the ZBA acted properly in determining that the wind turbine was placed in a location that unnecessarily presented a threat to the public health and safety. Based on a review of the record, such as the testimony of a number of patrons of the farm, the detailed site plans submitted by the Watts, the information provided by state and local agencies including proper setbacks, the Court found the ZBA had not acted in an "arbitrary and capricious" in establishing a 169.4 foot setback from public use areas. The Court confirmed that the areas used for the train ride, farm market, corn maize and U-Pick'em areas were properly designated as public use areas.

The Town Board reaffirms its support for the Town's agricultural community, noting that this was the only time in Town history where the ZBA had been forced to take action to protect the public health and safety. The situation arose because the turbine was built on an illegally obtained building permit without proper review, and in violation of Town laws and State setback guidelines. The ZBA, as directed by the Supreme Court, carefully reviewed the history of the turbine, evaluated submissions from the Watts, state agencies, and the public, and held an extended public input process (including a well-attended public hearing) before issuing its detailed findings. The ZBA's involvement solely rose from the intersection of the turbine's location and the farm's public use areas. Towns are specifically granted the power to act on properties in Agricultural Districts where public safety is at issue, and, the ZBA limited itself to the minimum intrusion on farm practices to protect the public.

The Town and the ZBA remains open to working with the Watts to resolve any outstanding issues in the best interests of the community.

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## **PRIVILEGE OF THE FLOOR**

Bruce Schmidt congratulated Dave Thom on being elected as President of SCOPE. He also congratulated Don Allport and Lynn Johnson for being recognized by the organization and thinks Gaines should be proud to be so well represented.

Connie Mosher asked where does the Watt law suit stand at this time? Supervisor Culhane explained that the appeal process takes time. Both sides will collect evidence to be head in about 6 months. following the case being presented to the court a decision will be handed down in 30 days.

RESOLUTION 24-15

### **EXECUTIVE SESSION**

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

ADOPTED	Ayes	3	Syck, Culhane, Smith
	Nays	0	
	Absent	2	Kast, Kirby

Resolved that the board will enter into executive session for medical, financial, credit or employment history of a particular person or corporation, or relating to appointing, promotion, demotion, discipline or removal at 7:24PM.

RESOLUTION 25 -15

### **REGULAR SESSION**

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

ADOPTED	Ayes	3	Syck, Culhane, Smith
	Nays	0	
	Absent	2	Kast, Kirby

Resolved that the board will enter into regular session at 7:50PM.

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## **MOTION TO ADJOURN**

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

ADOPTED	Ayes	3	Culhane, Syck, Smith
	Nays	0	
	Absent	2	Kast, Kirby

Resolved that with no further business, the March 16th, 2015 regular town board meeting is adjourned at 7:51PM.

Respectfully Submitted,

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Jean Klatt  
Gaines Town Clerk