

Town of Gaines  
Regular Monthly Meeting May 13, 2024

The Regular Meeting of the Town of Gaines, County of Orleans, State of New York was called to order by Supervisor Tyler James Allport at 7:00 P.M. on the 13<sup>th</sup> day of May, 2024.

The following town officials were present:

Tyler Allport	Supervisor
James Kirby	Deputy Supervisor
Ron Mannella	Councilperson
Rick Ebbs	Councilperson
Ken Rush	Councilperson
Janet Cheverie	Town Clerk
Charles Prentice	Town Justice
Mark Radzinski	Highway Superintendent
Douglas Heath	Attorney for the Town

The following individuals were present during the meeting: Carrie Cosentino, Erin Smith, Charlie Monacelli and Lorienda Smith

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

**APPROVAL OF MINUTES OF APRIL 08<sup>th</sup>, 2024 REGULAR MEETING**

Tabled to next month

**PRESENTATION AND ACCEPTANCE OF TOWN CLERK'S REPORT**

Tabled to next month as it was left in the office by mistake.

**PRESENTATION AND ACCEPTANCE OF THE SUPERVISOR'S REPORT**

Tabled to next month as it the accountant has been out of town.

**RESOLUTION NO. 52-0524**

**HIGHWAY SUPERINTENDENT'S REPORT**

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

Discussion: 157 gallons of gas were used this month and 174 gallons of diesel were used this month. The County waived the fee for the boom mower since we did not have the use of it last year. There was a water main break on 4/30/24. Our highway guys were unavailable so a crew came in right away from Carlton so sometime, our guys may have to go their to help them out. The company came out to look for water leaks and none were found.

Ayes 5; Nays 0

**RESOLUTION NO. 53-0524**  
**APPROVAL OF ABSTRACTS**

Moved by Councilperson Mannella and seconded by Councilperson Ebbs to approve the abstracts, as follows:

General	\$26419.86
Highway	\$ 2383.94
Water	\$89128.99

Discussion: There is concern about the Internet bills for the Town Hall being almost \$500.00 for the month. The Town Clerk is to look into it & report back next month. Also, the Verizon bill is for a phone line that used to be used by the Court for their fax however they no longer use it. It is the line that is used for the security system so that is why it is being claimed differently. The Town Clerk is to look into seeing if there is some other way to communicate with the security system at a lower cost.

Ayes 5; Nays 0

Discussion about updates needed for 2 local laws pertaining to Battery Energy Storage systems and Lolar Energy Systems.

Sherman Gittens, Engineer from MRB Group, reported to the board that the Solar Laws and Battery Storage Laws need to be updated to reflect the intent. The setbacks on the solar law are not consistent on pages 6 and 7. This law is Local Law 3 of 2022. The Planning Board discussed this at their last meeting and recommends identifying the historic district point of reference when measuring distance as the intersection of Routes 98 and 104 with a radius of 1.33 miles. Originally it was stated as 1 1/3 miles, however when it was entered into law, it was erroneously listed as 1.13 miles. The process to amend this law is for the Town Board to start the SEQR process, refer it to the County Planning Board for review and comment and set a public hearing date. The same issue exists in Local Law 2 of 2022 Town Zoning Law Regulating Battery Energy Storage Systems.

Attorney Heath recommended that Local Law No. 2 of 2022 proposed Amendment be called Local Law No. 1 of 2024 and Local Law No. 3 of 2022 proposed Amendment be called Local Law No. 2 of 2024. He also recommended that there be one resolution for each amendment which authorizes MRB Group to start the SEQR process, authorizes the referral to the County Planning Board and sets the public hearing date for June 10, 2024 @ 7:00 PM.

**RESOLUTION NO. 54-0524**

**AUTHORIZING MRB GROUP TO BEGIN THE SEQR PROCESS REGARDING AMENDING LOCAL LAW NO. 2 OF 2022 TOWN ZONING LAW REGULATING BATTERY ENERGY STORAGE SYSTEMS WITH THE NEW LAW BEING KNOWN AS LOCAL LAW NO. 1 OF 2024 AND SETTING THE PUBLIC HEARING FOR MONDAY, JUNE 10, 2024 @ 7:00 PM**

Moved by Councilperson Kirby and seconded by Councilperson Mannella authorizing MRB group to begin the SEQR process regarding amending Local Law No. 2 of 2022 town zoning law regulating battery energy storage systems with the new law being known as Local Law No. 1 of 2024 and setting the public hearing for Monday, June 10, 2024 @ 7:00 pm

Discussion: Town Clerk to advertise the public hearing

Roll Call vote taken as follows:

Supervisor Allport	Aye
Councilperson Kirby	Aye
Councilperson Mannella	Aye
Councilperson Rush	Aye
Councilperson Ebbs	Aye

**RESOLUTION NO. 55-0524**

**AUTHORIZING MRB GROUP TO BEGIN THE SEQR PROCESS REGARDING AMENDING LOCAL LAW NO. 3 OF 2022 TOWN ZONING LAW REGULATING SOLAR ENERGY SYSTEMS WITH THE NEW LAW BEING KNOWN AS LOCAL LAW NO. 2 OF 2024 TOWN ZONING LAW REGULATING SOLAR ENERGY SYSTEMS AND SETTING THE PUBLIC HEARING FOR MONDAY, JUNE 10, 2024 @ 7:00 PM**

Moved by Councilperson Rush and seconded by Councilperson Kirby authorizing MRB group to begin the SEQR process regarding amending Local Law No. 3 of 2022 town zoning law regulating solar energy systems with the new law being known as Local Law No. 2 of 2024 town zoning law regulating solar energy systems and setting the public hearing for Monday, June 10, 2024 @ 7:00 pm

Discussion: Town Clerk to advertise the public hearing

Roll Call vote taken as follows:

Supervisor Allport	Aye
Councilperson Kirby	Aye
Councilperson Mannella	Aye
Councilperson Rush	Aye
Councilperson Ebbs	Aye

**RESOLUTION NO. 56-0524**

**APPROVAL TO FORWARD APPLICATION TO ORLEANS COUNTY PLANNING BOARD FOR REVIEW, COMMENT AND RECOMMENDATIONS REGARDING AMENDING LOCAL LAW NO. 2 OF 2022 TOWN ZONING LAW REGULATING BATTERY ENERGY STORAGE SYSTEMS WITH THE NEW LAW BEING KNOWN AS LOCAL LAW NO. 1 OF 2024 TOWN ZONING LAW REGULATING BATTERY ENERGY STORAGE SYSTEMS**

Moved by Councilperson Kirby and seconded by Councilperson Mannella approving the forwarding of the application to Orleans County Planning Board for Review, Comment and Recommendations regarding amending Local Law No. 2 of 2022 Town Zoning Law Regulating Battery Energy Storage Systems, with the new law being known as Local Law No. 1 of 2024 Town Zoning Law Regulating Battery Energy Storage Systems

Roll Call vote taken as follows:

Supervisor Allport	Aye
Councilperson Kirby	Aye
Councilperson Mannella	Aye
Councilperson Rush	Aye
Councilperson Ebbs	Aye

**RESOLUTION NO. 57-0524**

**APPROVAL TO FORWARD APPLICATION TO ORLEANS COUNTY PLANNING BOARD FOR REVIEW, COMMENT AND RECOMMENDATIONS REGARDING AMENDING LOCAL LAW NO. 3 OF 2022 TOWN ZONING LAW REGULATING SOLAR ENERGY SYSTEMS WITH THE NEW LAW BEING KNOWN AS LOCAL LAW NO. 2 OF 2024 TOWN ZONING LAW REGULATING SOLAR ENERGY SYSTEMS**

Moved by Councilperson Rush and seconded by Councilperson Kirby approving the forwarding of the application to Orleans County Planning Board for Review, Comment and Recommendations regarding amending Local Law No. 3 of 2022 Town Zoning Law Regulating Solar Energy Systems, with the new law being known as Local Law No. 2 of 2024 Town Zoning Law Regulating Solar Energy Systems

Roll Call vote taken as follows:

Supervisor Allport	Aye
Councilperson Kirby	Aye
Councilperson Mannella	Aye
Councilperson Rush	Aye
Councilperson Ebbs	Aye

**RESOLUTION NO. 58-0524  
AWARDING MOWING BID FOR THE 2024 SEASON**

The Supervisor opened the sealed envelope received for the 2024 Mowing Bid.

Moved by Councilperson Mannella and seconded by Councilperson Rush to award the 2024 Mowing Season contract to Perry's Lawn Maintenance in the amount of \$10,625.00 for the season from April 29, 2024-November 2, 2024; upon proof of insurance.

Discussion: They did a good job this year.

Ayes 5; Nays 0

**AUTHORIZE THE TOWN CLERK TO ADVERTISE FOR POSITION OF PLANNING BOARD AND ZONING BOARD OF APPEALS SECRETARY – (IF NEEDED)**

Discussion: It has been advertised twice and there have been no applicants. We need to try something different. It was suggested that Supervisor Allport contact GCC to see if they have anyone in their secretarial science program or paralegal program. He will do that.

**AUTHORIZE THE TOWN CLERK TO ADVERTISE FOR POSITION ON THE BOARD OF ASSESSMENTS (POSSIBLE COMBINATION WITH BOARD SECRETARY ADVERTISEMENT – IF NEEDED)**

Discussion: There were no responses to that advertisement either. Clerk Cheverie received a call from Dawn Allen with Real Property, and she stated they need a name immediately in order to provide the training in time for grievance day which is set for May 29, 2024. Supervisor Allport will reach out to someone that she suggested to see if he is interested.

**SUPERVISOR'S COMMENTS**

- Carrie Cosentino from CVE would like to address the Board. They have gotten their decommissioning plan approval from the Planning Board and she is looking for Town Board approval. Since it was just given to the members of the Board, Chairman Watt suggested that they look it over in the next month & then review it at next month's meeting. The Board agreed.
- Judge Prentice asked for support for opposition to the District Court. Attorney Heath recommended sending a letter of support to the County Legislature.
- The Village of Albion is looking for a donation to the summer recreation program to assist with nutritional needs and short excursions that require transportation and entrance fees, along with supplementing athletic or craft activities for the children who attend each day. They are looking for \$300.00-\$500.00. It was discussed and agreed that this program benefits the children in the Town of Gaines also and it is a good program to keep kids focused so they don't get into

mischief. It was requested that the Village provide receipts to the Town for how the money was spent.

**RESOLUTION NO. 59-0524**

**APPROVE GIVING \$500.00 TO THE VILLAGE OF ALBION SUMMER RECREATION PROGRAM WITH RECEIPTS TO BE PROVIDED FOR HOW THE MONEY WAS SPENT**

Moved by Councilperson Ebbs, seconded by Councilperson Rush to give \$500 to the Village of Albion Summer Recreation Program with the understanding that receipts will be provided to the Town showing how the money was spent.

Aye 5; Nay 0

- The VFW is having a Memorial Day Service on 5/27/24 @ 11:00. All are invited to join them by RSVPing by 5/20/24 so that they have seating for everyone
- Code Enforcement Report for the first quarter of 2024. 5 building permits and 3 certificates of occupancy were issued. 2 residences have been red tagged and there were 3 call outs by the Albion Fire Department. The required annual NYS report and the census reports have been submitted. The owner of a property located at 2757 Gaines Road has been taken to court and has been given 30 days to get it up to code. Additionally, numerous emails and phone calls were returned to people requesting information on local code and zoning laws.

**OTHER NEW BUSINESS FROM THE TOWN BOARD: None**

**PRIVILEGE OF THE FLOOR**

Charles Monacelli inquired what the status of the Joint Albion Fire District is at this point. Attorney Heath stated that we are currently in the 30 day referendum period waiting to see if petitions are filed with any of the clerk's. If a vote is required, it will likely be a paper ballot vote with Yes or No responses. If it is approved or there are no valid petitions filed, the 3 municipalities will need to appoint the initial 5 Fire Commissioners. There has been some concern with the proposed budget that was devised by the committee, which consisted of the Town Supervisors, Village Mayor and the Attorneys for the respective municipalities. That is not the actual budget, the actual budget would be set by the Board of Commissioners. When the committee first went to the Village of Albion to see what the current cost of running the Fire Department really is, the Village was mixing pots of money so they were unable to give a specific budget amount. This made it very difficult to establish an exact amount for the current Fire Department budget. If it goes to a vote and it is voted down, we are set for 2 more years with the current contracts with the Village, but then the Village can & most likely will increase the contract significantly. If any municipality gets a valid petition, there will need to be a vote for everyone. Mr. Monacelli asked if anyone can carry a petition or if the person carrying the petition has to reside in the Town in which they are carrying it. He stated that people have been questioned about carrying a petition in a municipality in which they don't reside. He stated that they have checked with the Board of

Elections and they aren't sure. There was also a question about Town residents who also live in the Village, if they count as a valid signature in the Town. Attorney Heath's understanding is regardless of what Town you live in, if you live in the Village, you should be signing the petition in the Village, not the Town in which you also reside. Judge Prentice asked if a Village resident signs a Town Petition, does it invalidate the signature. Attorney Heath will check into that and get back to Mr. Monacelli along with answers to his other questions. He took the phone number so he can call him with the answers.

Supervisor Allport also reported that the ambulance service contract conversations will start next week.

## **ADJOURNMENT**

Moved by Councilperson Rush and seconded by Councilperson Ebbs to adjourn the meeting at 7:40 PM.

Ayes 5; Nays 0