

GAINES REGULAR TOWN BOARD MEETING

May 10, 2016

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 10th day of May 2016 at 7:00PM.

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

Excused: None

OTHERS PRESENT: Jerry Culhane, James White, Kay Marsh, Jim Peruzzini, Lori Grube, Joe grube, Julie Vendetti, Lorienda Smith, Marilyn Miller, Shannon Narburgh, William Trevino, Robert Albanese, Everett Jubenville, Al Capurso, Gretchen Sepik, Mallery Diefenbach, John DeFilipps, Walter Jakubowski, Maureen Kline, Ton Kline, Connie Mosher, John Mosher, Charlie Monacelli, Ray Burke, Dylan Bider, Marlene DeCarlo, Bill Lattin, Guy Smith, Bruce Schmidt, Tibbs Ahlberg

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

RESOLUTION 38-16

APPROVAL OF MINUTES

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

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

Resolved that the minutes of the March 2nd, 2016 Town Board Meeting are approved as presented.

GAINES REGULAR TOWN BOARD MEETING

May 10, 2016

RESOLUTION 39-16

APPROVAL OF MINUTES

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

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

Resolved that the minutes of the March 23rd, 2016 Town Board Meeting are approved as presented.

RESOLUTION 40-16

APPROVAL OF MINUTES

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

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

Resolved that the minutes of the April 7th, 2016 Town Board Meeting are approved as presented.

RESOLUTION 41-16

APPROVAL OF MINUTES

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

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

Resolved that the minutes of the April 12th, 2016 Town Board Meeting are approved as presented.

RESOLUTION 42-16

APPROVAL OF MINUTES

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

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

Resolved that the minutes of the April 18th, 2016 Town Board Meeting are approved as presented.

GAINES REGULAR TOWN BOARD MEETING

May 10, 2016

RESOLUTION 43-16

APPROVAL OF ABSTRACTS

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

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

Resolved that the bills on abstract #5,

Vouchers	General	# 35 - 372	\$ 14,834.10
	Highway	#11 - 24	\$ 136,260.26
	Water	#13 - 19	\$ 61,994.02

totaling \$ 213,080.38 will be paid as presented.

Ron Mannella had a short discussion about the 1 ton truck and the repairs it would. After discussing the selling price as running vs. not running Councilperson Kirby made a motion to repair the truck. There was no second and he withdrew his motion.

RESOLUTION 44-16

SELL THE 2005 1 TON TRUCK

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

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

Resolved that the 2005, 1 Ton Truck will be put out for bid as is. The minimum bid will be \$8000.00.

RESOLUTION 45-16

SWITCH CELLULAR COMPANIES FOR WATER MONITORING PROGRAM

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

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

Resolved that the town will switch cellular companies for the water monitoring program.

GAINES REGULAR TOWN BOARD MEETING

May 10, 2016

RESOLUTION 46-16

COURT CLERK DOOR

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

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

Resolved that Tower Construction will be contracted to install a new door on the court clerk's office at a cost of \$5300.00. Cost to be paid from the JCAP grant.

RESOLUTION 47-16

ALTERNATE TO ZBA APPOINTMENT

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

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

Resolved that James Navarra is appointed to the ZBA as an alternate member.

RESOLUTION 48-16

APPOINTMENT TO ADHOC COMMITTEE

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

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

Resolved that Don Algeo and James Hood are appointed to the ADHOC committee.

GAINES REGULAR TOWN BOARD MEETING

May 10, 2016

FIVE MILE HOUSE ON THE NORTH SIDE OF RIDGE ROAD, EAST GAINES IN 1930

In 1810, John Proctor was able to easily locate the article of land he purchased from the Holland Land Company since it was located on the north and south sides of an ancient Indian footpath through the forest then called, "The Ontario Trail"; our Ridge Road of today; and a north/south running Transit Line, today's Transit Road.

Proctor's article contained over 200 acres. In his own words, "I arrived in Batavia, since changed to Gaines, on the Holland Purchase, near the Transit Line. I chopped over five acres of land and built a log cabin in what was then called the 'Nine Mile Woods'. My cabin was situated seven miles from any cabin going east, and two miles west. There were no inhabitants going south nearer than Batavia village. Here I kept bachelor's hall, sleeping in the open air on hemlock boughs until I had completed the roof of my cabin, which I covered with bark. I had to travel seven miles to get bread baked" (Thomas, p. 220. Seven miles to the east was Abigail Sager. Two miles to the west was widow Elizabeth Gilbert, the pioneer settler of Gaines and Orleans County on the Ridge Road. Apparently, Abigail was more agreeable to baking Proctor's bread than Elizabeth was.

Around 1812, John Proctor transferred a portion of his article, the north side of the Ontario Trail to John Huff. Mr. Huff noted with interest the improvements NYS was making on what was, in 1815 now called "The Ridge Road"; the south shore of the ancient glacial Lake Iroquois, running from the Genesee River to the Niagara River, about 78 miles. So, in 1816, with lumber milled at Henry Drakes' saw mill on Otter Creek, West Gaines, John Huff built what came to be known as "Huff's Tavern" and 'The Five Mile House". Again quoting Arad Thomas 1874 Pioneer History of Orleans County, (in 1816) 'The mail was now carried in two horse carriages, three times a week each way (between Canandaigua and Lewiston); stopping over night at Huff's tavern in East Gaines".

FIVE MILE HOUSE, AS IT APPEARED IN 1909

The tavern business was brisk along the Ridge Road with several stage coaches per day; travelers heading to Lewiston and Niagara Falls and, of course, incoming settlers. Gaines was booming thanks to the Ridge. Huff was able to pay off his article in full and received the deed to his 100 acres of land in 1820; two years ahead of the ten year schedule the Holland Land Company GontraGt spelled out. By 1824, the year Fairhaven House (Tillmans' Historic Village Inn) was built, eight to ten stage coaches per day, carrying twelve persons per coach,

GAINES REGULAR TOWN BOARD MEETING

May 10, 2016

passed through Gaines daily. Gaines of that day was considered the most important village on the Ridge (p. 23, Gaines Centennial, 1909).

According to the above named source, Wm. Huff ran the tavern for a time, then Jerry Dunn and Horatio N. Ball; and for some time it was referred to as Ball's Tavern. He died in 1873 and the hotel closed in 1873 when Mr. Ball died, and never re-opened.

In 1932, an historical marker made of cast iron, was erected on the site with funds available through the New York State Department of Education. However, after decades signing this historic site, it fell into disrepair and was taken down in pieces and went into storage. Local citizens had inquired about the missing marker and with the help of former county historian Bill Lattin, it was located. Melissa Ierlan, the Clarendon Town Historian accepted the challenge of having it welded back together. She also removed the old paint and meticulously repainted it in the traditional blue background with yellow letters. She discovered the word "Canandaigua" was misspelled on both sides; so she made the proper correction when painting the lettering. The cost of a new marker now is around \$1100, not including the post. The new post was purchased and provided for by the Orleans County Historical Association. Also, many thanks to town highway superintendent, Ron Manella for installing the post, and to Shannon and Tracy Narburgh, the current owners of the property for allowing us to replace this historical marker.

Respectfully Submitted,

Al Capurso, Town of Gaines Historian May 10, 2016

AL Capurso, Town Historian gave a presentation and presented a Certificate of Appreciation to Shannon & Tracy Narburgh for allowing the 5 Mile House Marker to be placed on their property.

Supervisor Culhane announced that she had written letters for the Starkweather's and COVA in support of them seeking grant funds.

Supervisor Culhane commented that she thinks the article regarding the fire contract in the HUB was reckless and irresponsible and read the following letter in response. She said the letter would be mailed to all residents by weeks end.

GAINES REGULAR TOWN BOARD MEETING

May 10, 2016

To the Residents of the Town of Gaines:

In late April, the Orleans Hub published an article about the fire contract negotiations between the Town of Gaines and Village of Albion, which began nearly 18 months ago. The article contained statements of Village officials which were inaccurate and misleading and, unfortunately, the Town was not contacted for comment prior to publication. We now wish to set the record straight for our residents on where we stand.

The article stated, incorrectly, that the Town of Gaines is "unwilling to pay more" and "refuses to meet with the Albion board." Both statements are categorically false.

In truth, the Gaines Board has communicated its openness to paying more for fire service, and its desire for continued meetings with Albion. Our chief concern is that the new rate be based on a fair allocation of actual fire service expense, not conjectural estimates.

Accordingly, beginning early in this process, we made multiple requests for copies of the actual village budget, which was finally delivered in April 2016. Up until that point, starting July 2015, the Village furnished mere "budget estimates," which initially reflected fire expense of \$350,000. Each time Gaines asked for more detail, the Village provided revised estimates showing a decrease to \$221,000, then an increase to \$243,000. In December 2016, the Town furnished three possible dates to meet with Albion to clarify the discrepancies. No response was received [until January 11](#), when the Town was informed that a meeting was not necessary unless a counterproposal was ready.

It seem fundamental that preparing a proposal without solid numbers puts the cart before the horse. Nonetheless, the town attorney sent a letter to Albion [on February 1](#), explaining the Town's position on the limited and inconsistent information it had been provided. The Village's response, paradoxically, was that it did not desire to consider its own expenses in determining how to share them.

This position is simply not credible.

The sole determining factor, according to the Village, is that Gaines pay the same as the Town of Albion. This would leave our residents paying 40% of the cost, while receiving only 15% of the service by call volume. The bargain would be even more lopsided in the village's favor.

At this time, Gaines simply seeks what it has requested since at least December: a meeting to work out these differences and negotiate a new contract. Indeed, the present contract provides that after December 31, 2015, "the parties hereto agree that they shall meet and negotiate the terms and conditions of any fire protection contract, with due consideration of the impact of lost tax revenues upon the Town of Gaines for an indefinite period of time resulting from this annexation."

GAINES REGULAR TOWN BOARD MEETING

May 10, 2016

The Town of Gaines is committed to negotiating a new contract, and has been diligent in working with Albion. Rest assured, we will get there. We understand many of you now feel threatened with the loss of service, but we are confident that reasoned negotiations will occur with openness and transparency, and appreciate your continued patience.

RESOLUTION 49-16

CHANGES IN SALARY

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

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

Resolved that the Deputy Clerk and Billing Clerk's pay will increase to \$12.50 per hour. The Town Clerk's salary will be \$30,500.00 removing water receipts, and remove deputy clerk pay water receipts as separate pay.

PRIVILEGE OF THE FLOOR

Supervisor Culhane informed the audience that this was not a time for the discussion between the audience and board. She stated that she appreciated everyone's time and effort and asked each person to keep their comments to 5 minutes.

Joseph Grube - He asked why the minutes from the last regular meeting were not posted on the website. Supervisor Culhane responded that she had only received the minutes on Friday and had not posted them yet. She said the minutes were available at the office. Mr. Grube reminded that the board that they need to be made available within 2 weeks by law. He noted that there have been several special meetings held without the clerk. He asked if she was not available or asked not to be there. He stated by law the clerk needs to be present to take the minutes. He can provide the law if needed. Supervisor Culhane said no it wasn't necessary. He stated that the clerk was asked not to be there. He feels it is important that the clerk be present to take the minutes as a third party. He also noted that there have been 4 executive sessions this year for proposed, pending or current litigation. He has case law that says the board needs to state what the litigation is that they are going to discuss in executive session. Attorney Meier said the case law was from a town of the 2nd Class and we are a 4th Class town. Mr. Grube gave Attorney Meier copies of his research.

Mr. Grube asked about the Clerk appointment. He asked if the clerk office hours would be the same as Clerk Klatt's hours. Supervisor Culhane said it would be at the clerk's discretion. He asked if changing the salary of the Town Clerk needed to be done by referendum. He also asked if being the tax collector was part of the clerk's duties. Attorney Meier said he would be happy to look over Mr. Grube's research but what the board did tonight was not reduce the Town Clerk's salary but change the stipend for

GAINES REGULAR TOWN BOARD MEETING

May 10, 2016

some of the other duties. He asked how many people expressed an interest in the town clerk position. Supervisor Culhane said that according to the election commission the senior deputy clerk has to be offered the position. He said he didn't asked that. He asked how many people expressed an interest. Supervisor Culhane responded 1. He asked if that person had been notified in person or by letter that they had not been selected. Attorney Meier said it was discussed in executive session and wouldn't be discussed in public.

Mr. Grube gave the town his personal background. He again asked if anybody on the board had made contact with any neighboring fire departments. Attorney Meier said that he had. He said the previous fire contract is over. He doesn't think the transfer of property from the previous contract can be considered at this point. He addressed call volume and cost per call. He said that fire protection is about 2 things, protecting people and property. Equipment has to be available to protect and cannot be based on calls. He referenced the ISO, Insurance Services Office. He said they determine homeowner insurance rates. Each town is rated in classes 1-10. He said if we contract services from another fire department homeowners insurance rates would be impacted. Supervisor Culhane then interrupted Mr. Grube to remind him that he was limited to 5 minutes and thanked him for his concerns and comments. Mr. Grube then said he paid \$54.00 for fire protection on his tax bill last year and the gloves he received from the fire department cost \$70.00.

James White asked what part of selecting a clerk is related to an executive session for proposed, pending, or current litigation. Attorney Meier responded that that particular executive session was for employment of a particular person. Mr. White asked if anything can be discussed in executive session closing out the taxpayers. Attorney Meier said only matter pertaining to the reason the session is called can be discussed.

Lorienda Smith addressed Mr. Meier and the Town Board. She read a letter. In summary she said the town has spent \$50,000.00 to defend a law suit brought on by 1 farmer. Why weren't 2 other farmers included? How much is the town expecting to spend on the law suit just filed by the farmer against the town board members. She said the board is obsessed with tearing down businesses, being vindictive, and bringing frivolous lawsuits against businesses and citizens at the taxpayers expenses. She said the board should be working to lower taxes and promote new businesses. She asked if the board was concerned with a fire contract and if we had a contract. She asked what the board is doing about it. She said there is nothing that should be kept secret from the taxpayers. She said the town belongs to the taxpayers. The taxpayers are the boss of the board not the other way around. The board cannot ignore the will of the people and do as you please. She said the board and taxpayers need to be working as a cohesive unit. She said in the past the Town of Gaines was looked at as a model town but is now the laughing stock of the county if not the state.

Marilynn Miller said having attended meeting for 8 plus year the audience has been told the board was going into executive for litigation or personnel reasons. Regarding the 1 ton truck she is curious what the cost of repairs would be vs. the 2 different prices the

GAINES REGULAR TOWN BOARD MEETING

May 10, 2016

vehicle could be sold for. Superintendent Mannella said he would be happy to show her the estimate for repairs. She has been sitting in these meetings quietly for months but the articles that have recently appeared in the Hub regarding the fire contract have hit a bad nerve. She has been to meeting through 3 different supervisors and has seen things that would make a person's hair turn colors. She knows that Carol has been trying her best to make this town fair to everybody not just a few that have special connections with boards or people on the boards. She has done this at great financial sacrifice, sacrifice of time, attended many classes, and many, many meetings trying to do her best for the towns. She has also had a great deal of emotional sacrifice doing this job. The mentality of the town board has changed from one of giving a few people special favors to being one of trying to be fair to as many people as possible. There has been more accountability and ethics displayed by this board under Carol. She has done much to get the towns finances in order and done a lot to make the different departments accountable. There was a 60 million gallons water loss that under her seems to have damned itself up. From asking questions it seems that the water loss has been nullified and is no longer happening. The last thing she would like to say is about the fire contract and what was just brought to light about the property the Town of Gaines has lost tax revenue on and the Village of Albion has benefited from it. With that taken into consideration the 2 years that were mentioned in the HUB, 2013 & 2014 shows that a vast majority of calls were made in the Village with the call volume being followed by the Towns of Albion and Gaines and she doesn't see why it's fair that the Town of Gaines and even the Town of Albion should be paying as much or more as the Village of Albion when they are not using the services that much. Plus the Town of Gaines has turned over significant revenue 20 years ago and should see something from it. That doesn't just disappear. We are losing that revenue every year from a contract that was made long before Carol Culhane was made supervisor.

Supervisor Culhane asked to say one thing. She said the tax rate has been reduced by 51 cents per thousand. She said she would be happy anytime anyone wants to come in and talk with her. She is available, the door is always open, you have questions, she will answer them, the door is open, always has been. This is not a job that anyone signs up for or has any idea of what it entails but she is either all in or all out. She is all in and has done her best to learn the job to serve this community. There have been some pretty tough problems. It's not just taxes. The over levying of water districts. You all paid \$205,000.00 that you shouldn't have paid for your water levy and on and on and on. So if you are going to stand and judge her or accuse her or say that she has done this or that or not done this or that she suggest you come in and sit down with her and talk about it as civilized people and she will answer your questions. If you know how she operates Connie Mosher shed the light on the over levying. She asked questions and then the board went after it. That is how that all came to light. It was just one person asking questions. She appreciated everyone's comments and concerns.

Connie Mosher asked to speak. She expressed how grateful she was for the incredible effort Carol put into solving the over levying of water districts. She wanted to address the business of tearing down businesses in Gaines. Since Carol has been Supervisor it seems to her that there are more businesses than ever in Gaines. There is the Rocking

GAINES REGULAR TOWN BOARD MEETING

May 10, 2016

R, Fair Haven Treasures, The Old Goat and more. The Village Inn is thriving, the Cobblestone is still here. She thinks it is a wonderful atmosphere for businesses. They have the support of the board. There is no planning board to make life miserable for them. She would also like to point out after Lorienda brought up the whole fire contract issue after it had already been explained. Why did she have to bring it up again? It was very well explained and she knows that the information in the HUB was an error. Regarding the wind turbine maybe we have forgotten but Judge Punch ruled in favor of the town twice. He only changed the ruling during the appeals process because State Ag and Markets stepped in and changed the rules and that is why the Town of Gaines has had so many problems. If you have just come into Gaines in the last year or two you need to look at some of the history. She thanked Carol for everything that she does for this town.

RESOLUTION 50 -16

EXECUTIVE SESSION

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

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

Resolved that the board will convene into executive session to discuss proposed, pending, or current litigation at 8:08PM.

RESOLUTION 51 -16

REGULAR SESSION

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

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

Resolved that the board will enter into regular session at 8:50 PM.

GAINES REGULAR TOWN BOARD MEETING

May 10, 2016

MOTION TO ADJOURN

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

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

Resolved that with no further business, the May 10th, 2016 Regular Town Board meeting is adjourned at 8:50PM.

Respectfully Submitted,

Jean Klatt
Gaines Town Clerk