

December 5, 2016

The Gates Town Board held a Public Hearing and its regular Town Board meeting on Monday, December 5, 2016 at the Gates Town Hall, 1605 Buffalo Road and beginning at 7:15 P.M. Those in attendance for the Public Hearing and regular Town Board meeting were as follows:

Mark W. Assini	Supervisor
Lee A. Cordero	Councilman
David R. DiCaro	Councilman
Christopher B. DiPonzio	Councilman
Steve Tucciarello	Councilman
Frank Cassara	Deputy Town Attorney
Cosmo A. Giunta	Town Clerk
Absent: John A. DiCaro	Town Attorney

7:15 P.M. PUBLIC HEARING

**CONSIDERING THE APPLICATION OF
VERIZON WIRELESS FOR A CONDITIONAL
USE PERMIT TO COLLOCATE AND
OPERATE A MICRO CELL WIRELESS
TELECOMMUNICATIONS FACILITY ON THE
EXISTING BUILDING AND OTHER SITE IMPROVEMENTS
LOCATED AT 2150 CHILI AVE.**

Supervisor Assini called the Public Hearing to order at 7:15 P.M. The Deputy Town Attorney verified that the legal notice had been published as required by law.

Mr. Robert Burgdorf of Nixon Peabody and Mr. Peter Franz, RF Design Engineer made the presentation. Mr. Burgdorf stated that the Site consists of leased space on the front and rear faces of the existing building together with a 4' x 12' area of leased ground space from Buffalo – Westgate Associates LLC (the “Landowner”) Verizon Wireless proposes to construct and operate a micro cell wireless telecommunications facility, consisting of a low power wall-mounted power, single-sector radio unit with three (3) approximately 50.5” tall panel antennas Robert Burgdorf, of Nixon Peabody, LLP and Mr. Peter Franz RF Design Engineer made the presentation. Mr. Burgdorf stated that the site consists of leased space on the front and rear faces mounted on the center of the existing Walmart store, together with other site improvements on the Site, as shown on the enclosed site plan prepared by Costich Engineering, P.C. The Project conforms to the PCIA consensus definition of a small cell facility, which stated that such installations “consist of relatively inconspicuous small form-factor installations consisting of one or more radio transceivers, antennas, interconnecting cables, power supply, and other associated electronics.

RESOLUTION 166-16: Motion by Councilman DiPonzio who moved its adoption:

Resolved that the Gates Town Board hereby grants a Conditional Use Permit to Verizon Wireless to construct and operate a micro cell wireless telecommunications facility and other site improvements at 2150 Chili Ave. subject to the following condition:

1. The term of the Conditional Use Permit is for one (1) year.

Seconded by Councilman Cordero.

VOTE: Cordero – aye; DiCaro – aye; DiPonzio – aye; Tucciarello – aye; Assini – aye.

Motion Carried.

Supervisor Assini adjourned the Public Hearing at 7:28 P.M.

7:30 P.M. REGULAR TOWN BOARD MEETING

Supervisor Assini called the meeting to order at 7:30 P.M. He began the meeting with a Silent Prayer and Pledge of Allegiance to the Flag.

RESOLUTION 167-16: Motion by Councilman DiPonzio who moved its adoption:

Resolved that the Gates Town Board hereby approves the Minutes of the November 9, 2016 Public Hearing and regular Town Board meeting.

Seconded by Councilman Cordero.

VOTE: Cordero – aye; DiCaro – aye; DiPonzio – aye; Tucciarello – aye; Assini – aye.

Motion Carried.

AUDIENCE PARTICIPATION

Legislator Frank Allkofer, Historian Bill Gillette, and Rosemarie LaPietra from the Gates Garden Club told everyone about the upcoming event –“Wreaths Across America” to be held on December 17, 2016 at 11:30 A.M. at the Gates Town Hall, refreshments will be served in the Annex after the ceremony.

Supervisor Assini congratulated Chief VanBrederode and his Officers for a job well done in capturing the kidnapping assailant and getting him convicted of the crime.

He also congratulated them for raising over \$6,000 for the Brooks family which helped pay for funeral expenses.

Harry Azar, 1110 Hinchey Road, addressed the Town Board. He asked why none of the neighbors were notified about the group home being built in his neighborhood. Couldn't the Town have done something to stop it?

Supervisor Assini stated that the Town could not have interfered as this is a State matter. However, the Group Home has contacted the Town for addresses of area neighbors so that they could invite them to an upcoming meeting.

OLD BUSINESS

**CONSIDERING THE DONATION OF LAND
BY BERGINN ASSOCIATES LLP AND
THE RECOMMENDATION OF THE GATES
CONSERVATION ADVISORY BOARD
REGARDING SAID LAND**

Supervisor Assini stated that this land is approximately 19.54 acres of land, located at the end of BurMar Industrial Park off of Buffalo Road. The property is assessed for \$20,000 and is being offered to the Town as a donation by Berginn Associates LLP.

Councilman DiCaro stated that he and the Conservation Advisory Board have discussed this land and recommends that the Town accept this donation of land.

RESOLUTION 168-16: Motion by Councilman DiPonzio who moved its adoption:

Resolved that the Gates Town Board hereby accepts the donation of 19.54 acres of land, located at the end of Bur-Mar Industrial Park off of Buffalo Road; by the Berginn Associates LLP.

Seconded by Councilman Cordero.

VOTE: Cordero – aye; DiCaro – aye; DiPonzio – aye; Tucciarello – aye; Assini – aye.

Motion Carried.

NEW BUSINESS

**CONSIDERING THE RENEWAL OF THE
CONDITIONAL USE PERMITS FOR THE
FOLLOWING BUSINESSES: DEPAUL
COMMUNITY SERVICES – 1931 BUFFALO RD.
LITTLE CAESAR’S PIZZA – 2394 LYELL AVE.
STARBUCKS #14142 – 2110 CHILI AVE.;
TACO BELL - 2317 LYELL AVE.;
FIAMMA’S PIZZERIA - 1308 BUFFALO RD.**

Supervisor Assini stated that he has received a memo from the Building Department stating that they have reviewed the Code Enforcement files. There are no violations against these businesses. They find no reason why the Conditional Use Permits for these businesses should not be renewed.

REESOLUTION 169-16: Motion by Councilman DiPonzio who moved its adoption:

Resolved that the Gates Town Board hereby renews the Conditional Use Permits for the above captioned businesses for a period of one year (through December 5, 2017); subject to the same terms and conditions applicable to the original permits.

Seconded by Councilman Cordero.

VOTE: Cordero – aye; DiCaro – aye; DiPonzio – aye; Tucciarello – aye; Assini – aye.

Motion Carried.

**RE-APPOINTING THOMAS CARPENTER
TO THE GATES BOARD OF ASSESSMENT
REVIEW FOR A FIVE YEAR TERM; SAID
TERM TO BE OCTOBER 1, 2016 THROUGH
SEPTEMBER 30, 2022**

RESOLUTION 170-16: Motion by Councilman DiPonzio who moved its adoption:

Resolved that the Gates Town Board hereby re-appoints Thomas Carpenter to the Gates Board of Assessment Review for a five year term; said term to commence October 1, 2016 through September 30, 2022.

Seconded by Councilman Cordero.

VOTE: Cordero – aye; DiCaro – aye; DiPonzio – aye; Tucciarello – aye; Assini – aye.

Motion Carried.

**APPOINTING VITO (TONY) EAFFALDANO
TO THE GATES BOARD OF ASSESSMENT
REVIEW TO FILL THE UNEXPIRED TERM
OF LARRY MASTRELLA; SAID TERM TO
BE JUNE 15, 2016 THROUGH SEPTEMBER
30, 2021**

RESOLUTION 171-16: Motion by Councilman Tucciarello who moved its adoption:

Resolved that the Gates Town Board hereby appoints Tony Eaffaldano to the Gates Board of Assessment Review; to fill the unexpired term of Larry Mastrella said term to be June 15, 2016 through September 30, 2021.

Seconded by Councilman DiPonzio.

VOTE: Cordero – aye; DiCaro – aye; DiPonzio – aye; Tucciarello – aye; Assini – aye.

Motion Carried.

APPOINTING FRANK CASSARA AS

**TOWN OF GATES JUSTICE; TO FILL THE
UNEXPIRED TERM OF JUSTICE SAM
VALLERIANI**

Supervisor Assini stated that he has received a memo from John DiCaro, Town Attorney, recommending that the Town Board appoint Frank M. Cassara to fill the unexpired term of Justice Sam Valleriani as Gates Town Justice.

Mr. Cassara has been an attorney since 1991. He has worked for Shapiro, DiCaro, and Barak since 1996. His work in this office deals largely with Real Estate, however, he has acted as the Gates Zoning Board Attorney and Gates Town Prosecutor for almost eight years. As a result he is very familiar with the operations of the Justice Court and of town government in general.

Mr. Cassara is an intelligent and thoughtful attorney. I have seen him in a number of legal settings and he has always performed to the highest standards. In addition to his legal qualifications and work ethic, Mr. Cassara also possesses the temperament and understanding that is necessary to perform successfully as a Town Justice. He is a firm believer in the rule of law, but he also has the sensitivity and discretion to dispense justice in an appropriate manner.

RESOLUTION 172-16: Motion by Supervisor Assini who moved its adoption:

Resolved that the Gates Town Board hereby appoints Frank Cassara as Town of Gates Justice to fill the unexpired term of Justice Sam Valleriani (December 30, 2017).

Seconded by Councilman DiPonzio and Councilman Tucciarello.

VOTE: Cordero – aye; DiCaro – aye; DiPonzio – aye; Tucciarello – aye; Assini – aye.

Motion Carried.

**APPROVING THE ALL SEASONS
COUNTY/MUNICIPALITY
INTERMUNICIPAL WORK AGREEMENT**

RESOLUTION 173-16: Motion by Councilman Cordero who moved its adoption:

Resolved that the Gates Town Board hereby approves the agreement and authorizes the Supervisor to execute the above captioned agreement. (This agreement is for a 10 year term.)

Seconded by Councilman DiPonzio.

VOTE: Cordero – aye; DiCaro – aye; DiPonzio – aye; Tucciarello – aye; Assini – aye.

Motion Carried.

**AUTHORIZING THE TOWN CLERK TO OBTAIN
A BLANKET BOND COVERING ALL TOWN
EMPLOYEES AND TOWN OFFICIALS; EMPLOYEES
TO BE BONDED FOR \$5,000; AND THE FOLLOWING
TOWN OFFICIALS AND EMPLOYEES TO BE
BONDED FOR THE ADDITIONAL AMOUNTS SHOWN
AS FOLLOWS: SUPERVISOR AND DEPUTY SUPERVISOR
- \$195,000 EA.; TOWN CLERK AND RECEIVER OF TAXES –
- \$95,000; DEPUTY TOWN CLERK - \$95,000; DIRECTOR OF
- FINANCE -\$95,000; PAYROLL CLERK - \$45,000**

RESOLUTION 174-16: Motion by Councilman DiPonzio who moved its adoption:

Resolved that the Gates Town Board hereby authorizes the Town Clerk to obtain the above captioned Blanket Bond for Town employees and Town Officials.

Seconded by Councilman Cordero.

VOTE: Cordero – aye; DiCaro – aye; DiPonzio – aye; Tucciarello – aye; Assini – aye.

Motion Carried.

**APPROVING THE SETTLEMENT AGREEMENT
BETWEEN THE GATES CHILI SCHOOL DISTRICT
AND THE TOWN OF GATES**

Supervisor Assini stated that the Gates Chili School District and the Town of Gates entered into agreements for paving. The Town paved several parking lots under an inter-municipal agreement. The Town entered into an agreement with the School District for bus services. The net of the two is in dispute. We felt that the net expense of the two was (\$29,000 bus services; \$19,000 owned by Gates Chili for paving service). We have split the difference at \$20,000 to the school district.

RESOLUTION 175-16: Motion by Councilman DiPonzio who moved its adoption:

Resolved that the Gates Town Board hereby approves the above captioned agreement for \$20,000 to be paid to the School District.

Seconded by Councilman Cordero.

VOTE: Cordero – aye; DiCaro – aye; DiPonzio – aye; Tucciarello – aye; Assini – aye.

Motion Carried.

**SCHEDULING THE 2017 TOWN OF GATES
ORGANIZATIONAL MEETING**

RESOLUTION 176-16: Motion by Councilman DiPonzio who moved its adoption:

Resolved that the 2017 Town of Gates Organization meeting be scheduled for Tuesday, January 3, 2017 at 9:00 A.M. The regular Town Board meeting will be held on Tuesday, January 3, 2017 at 7:30 P.M.

Seconded by Councilman Cordero.

VOTE: Cordero – aye; DiCaro – aye; DiPonzio – aye; Tucciarello – aye; Assini – aye.

Motion Carried.

NEW BUSINESS OF COUNCIL MEMBERS

Councilman Cordero stated that in 2017 Chief VanBrederode, Historian Bill Gillette, and he will form a committee to beautify the town. They will go throughout the town and look to see what could be done to beautify the areas.

Supervisor Assini asked that they consult the Conservation Advisory Board when planning these projects.

Councilman DiPonzio wished everyone a Merry and Blessed Christmas and a Happy New Year.

Chief VanBrederode told everyone about the community program at the Gates Chili Field House on December 30, 2016 at 7:30 P.M. He distributed flyers on the program to the Town Board members. It's a great way to celebrate the holiday season.

REPORTS

ACCEPTING THE SUPERVISOR'S REPORT FOR THE MONTH OF NOVEMBER 2016

Supervisor Assini read his report for the month of November 2016 showing the following:

TOTAL RECEIPTS	\$812,087.26
TOTAL DISBURSEMENTS	\$1,564,179.24

WARRANTS

GENERAL FUND

Accounts Payable	
CI # 1038 – 1247	\$62,571.84

HIGHWAY FUND

Accounts Payable	
CI # 0300 – 0321	\$27,580.68

LIBRARY FUND

Accounts Payable	
CI # 0286 – 0323	\$46,494.09

Supervisor Assini noted for the record that the warrants for the month of October 2016 have been examined by the Town Board and paid.

RESOLUTION 177-16: Motion by Councilman DiPonzio who moved its adoption:

Resolved that the Gates Town Board hereby accepts the Supervisor's Report for the month of November 2016 as read and the warrants for November 2016 as read; subject to the approval of the Gates Town Board.

Seconded by Councilman Cordero.

VOTE: Cordero – aye; DiCaro – aye; DiPonzio – aye; Tucciarello – aye; Assini – aye.

Motion Carried.

ACCEPTING THE TOWN CLERK'S REPORT FOR THE MONTH OF NOVEMBER 2016

The Town Clerk read his report for the month of November 2016 showing the following:

TOTAL REVENUES TO THE SUPERVISOR	\$14,797.41
TOTAL NON-LOCAL REVENUES	2,316.32
TOTAL REVENUES COLLECTED	\$17,113.73

RESOLUTION 178-16: Motion by Councilman DiPonzio who moved its adoption:

Resolved that the Gates Town Board hereby accepts the Town Clerk's Report for the month of November 2016 as read.

Seconded by Councilman Cordero.

VOTE: Cordero – aye; DiCaro – aye; DiPonzio – aye; Tucciarello – aye; Assini – aye.

Motion Carried.

PERSONNEL STATUS REPORT – NONE

There being no further business to come before the Town Board, Councilman DiPonzio made a motion to adjourn the meeting. Councilman Cordero seconded the motion. All were in favor; the motion carried. Supervisor Assini adjourned the meeting at 8:15 P.M.

Town Clerk