

April 5, 2021

The Gates Town Board held (3) three Public Hearings and its Regular Town Board meeting on April 5, 2021 at the Town Hall Meeting Room at 7:00PM. Those attending the meeting were as follows:

Cosmo A. Giunta	Supervisor
Lee A. Cordero	Councilman
Christopher B. DiPonzio	Councilman
Andrew M. Loughlin	Councilman
Steve Tucciarello	Councilman
Daniel G Schum	Town Attorney
Veronica Owens	Town Clerk

7:00PM PUBLIC HEARING

**CONSIDERING A CONDITIONAL USE PERMIT FOR TIEN TRAN
TO OPERATE A NAIL SALON AS A HOME BUSINESS,
AT 2909 BUFFALO RD., IN A (R-1) RESIDENTIAL DISTRICT**

Supervisor Giunta called the Public Hearing to order at 7:05PM.

Town Attorney, Dan Schum verified that in respect to tonight's Public Hearings, the Legal Notice for all were properly published in official newspaper as required by law.

Supervisor Giunta welcomed the applicant and invited him to come up to the podium to state his name and address for the record.

Mr. Tien Tran, applicant residing at 2909 Buffalo Rd appeared.

Supervisor Giunta asked if he recently purchase this property and if actually lives in it and that he's looking to operate a nail salon out of the home. He also asked the number of employees to be working there.

Mr. Tran, replied he did just purchase the property and he as well as his wife live there. As far as employees, it will be his wife, himself and 2 additional people who do not live on site, for a total of four (4) employees.

Supervisor Giunta asked the hours of operation

Mr. Tran replied;

Monday through Saturday	10:00AM—6:00PM
Sunday	Closed

Supervisor Giunta asked if Mr. Tran owned any other nail salons or if this is his first? He also asked if it's strictly nails

Mr. Tran replied, this is his first business and it will consist of nails, such as manicures and pedicures only

Councilman Tucciarello asked if there would be any other services, besides manicures and pedicures?

Mr. Tran replied, no other services

Councilman Cordero asked Mr. Tran if any other employee lived on the property beside himself and his wife?

Mr. Tran replied, no other employee lives there

Supervisor Giunta asked if the parking lot will be striped.

Mr. Tran said there are (7) seven parking spaces

Councilman DiPonzio asked if the (7) seven spaces included his own personal cars or apart of that? What is the total of spaces and any given time?

Mr. Tran, the (7) seven spaces include his personal cars and that is the total amount of cars at any given time, (7) seven. He’s keeping it the same as when it was a dentist office 10 years ago.

Supervisor Giunta asked what will the name of the business be?

Mr. Tran, they haven’t decided yet, he was waiting for the TB Hearing for approval first.

Councilman Cordero asked when will the business be open? Mr. Tran, the plan if approved is to open in May

Supervisor Giunta asked if there were plans to get signs to put up and where?

Mr. Tran the plan is to duplicate the same type of signage as the prior dentist office signs. There is a post in front and the window as well.

Supervisor Giunta suggested Mr. Tran clarify with the Building Dept. regarding the signs. Mr. Tran agreed

Supervisor Giunta asked councilmen for any other questions or comments and then opened anyone from the audience. Hearing none closed the public hearing.

RESOLUTION 82-21: Motion by Councilman DiPonzio who moved into adoption:

Resolved that the Gates Town Board hereby approves the Conditional Use Permit for Tien Tran to operate an At-Home Nail Salon, at 2909 Buffalo Rd, in a Residential (R-1) District.

Hours of Operation:	Monday-Saturday	10:00AM-6:00PM
	Sunday	Closed

Seconded by Councilman Cordero

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye

Motion Carried.

PUBLIC HEARING

**TO ADOPT EIGHT (8) LOCAL LAWS,
LOCAL LAW #4-2021 THROUGH LOCAL LAW #11-2021 TO AMEND
CHAPTERS 62, 83, 131, 133, (2)-158, 174 AND 190 OF THE GATES TOWN CODE**

Supervisor Giunta, a copy of each Local Law changes was available in the Town of Gates Clerk's Office to be reviewed by any interested persons during normal business hours, but sure if anyone actually came in to inquire about them.

Chapter 62, dealt with animals, Chapter 83, dumping and littering, Chapter 131, regards to parking, Chapter 133, property maintenance, Chapter 158, streets and sidewalks, Chapter 174, trees and Chapter 190 was on zoning.

Supervisor Giunta, again, these were available to the public, and the Town Board has gone through them as well and still making some changes and modifications. These have been long standing through the years and due to COVID things got slowed down. He then asked if the Board if there were any further discussions on the codes and the changes?

Attorney Schum, the Code Review Committee has worked on this for over a year. These are matters that in some instances have been pending even before he was town attorney, and thanked Kurt the whole committee for the hard work in coming up with these proposed changes and a lot of them address matters that have been a concern with-in the town for some time. It was properly published, and as mentioned copies of the entire proposed changes of these local laws has been on file since the last town board meeting for review by the public.

Supervisor Giunta opened it up to the floor and asked if anyone from the audience wanted to come up and speak or ask questions to any of the proposed changes.

Bill Wood, 18 Monte Carlo Dr, questioned the sidewalks being the property owners responsible for the maintenance and keeping them clean and good and proper condition, and if that's the property owner's responsibility to replace the sidewalks that are heaved or buckled or paving issues.

Supervisor Giunta, responded, no those type of issues are the towns responsibility and need to be made aware of in order to repair. This is mainly about the property owner shoveling the sidewalk, it is the owner's responsibility to shovel in front and to maintaining cleanliness. The town does not have the equipment to maintain the sidewalks at this time. Some other towns do have sidewalk that those towns take care of due to the students walking to school more the ours. In our town it is the homeowner's responsibility to shovel, keep them clean and clear of debris

Mr. Wood feels this town was build backwards with residential streets having sidewalks, but main streets do not

Supervisor Giunta also pointed out that a lot of our main roads actually belong to the County and State road and it would up to their discretion to construct them.

Mr. Wood asked if this goes through, would it mean everyone would be responsible for their sidewalks, including during a snow storm?

Supervisor Giunta, yes for the most part, if everyone does their fair share. We don't expect you to shovel the whole thing during a snow storm, but when able to help, it would benefit the children who are catching the bus. There are some residents are kind enough who will use their snowblower to clean up the sidewalks

Mr. Wood asked who would be responsible to check if it's being done

Attorney Schum, the town has a Code Enforcer Officer, but will not be out looking specifically at sidewalks being shoveled. The sidewalks can be dangerous and if they're filled with snow and people walking on the snow filled sidewalks and can be inferred as the town's responsibility because it's a right of way and the alternative is people walking ion the road which is not safe either. This local law puts the obligation on the homeowner to maintain in a safe condition.

Supervisor Giunta asked the audience if there were any other comments from the floor in regards to the code proposed changes.

Attorney Schum, the consensus from the board, is to table action on these code amendments for final review to be considered at the next town board meeting,

RESOLUTION 83-21: Motion by Supervisor Giunta motioned to table to make more revisions and present at the next board meeting

Resolved that the Gates Town Board hereby **TABLES** the adoption of eight (8) Local Laws, Local Law #4-2021 through Local Law #12-2021 to Amend Chapters 62, 83, 131, 133, (2) -158, 174 and 190 of the Gates Town Code till the Town Board Meeting on May, 3, 2021.

Seconded by Councilman Tucciarello

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye

Motion Carried.

PUBLIC HEARING

TO CONSIDER THE RE-ZONING OF 28 LAND PARCELS WITHIN THE TOWN OF GATES

Town Attorney, Dan Schum verified that again, this was properly posted and published in official newspaper as required by law.

Supervisor Giunta reiterated this is something that has been the queue for many years to work on, with the current zone (Residential) on many of the properties were established many years ago, and some of these properties may have small businesses on them now. This is to help the town clarify and properly zone these particular parcels to its proper use and now they are finally getting around to getting these properly zoned. He then opened to the floor for public for comment.

Pearl Telban, 115 Twin Oaks Dr, is interested in the properties on Elmgrove road behind her house, which was all woods between her house and the business and have been leveled and wants to know what the plan is for that area

Supervisor Giunta, the town hasn't received anything for that particular area and believes the owner is just cleaning up the area and maybe to make it marketable. That road is very busy with more business uses popping up. That's why it's proposed to change to (NB) Neighborhood Business

Mrs. Telban, could a restaurant like McDonalds that cooks and has grease and oil go in there? She is just wondering what could go in there since it's not too big of a parcel?

Supervisor Giunta, there are already a few restaurants on that street already, and it could be later down the road a business looking to go in there, but being classified a neighborhood business, would allow them to put a building up for business. It could also possibly be an insurance company or offices.

Mrs. Telban, why does the zoning need to be changed?

Supervisor Giunta, right now its zoned Residential and due to the trend in that particular area are proposing to properly change the zone. Currently a special permit is needed to operate a business in that area and with proper rezoning it wouldn't require one

Mrs. Telban, asked if a business proposed to go in, would it be posted in the paper for residents to know prior

Supervisor Giunta, replied if business is allowable in that zone they would not have to come back in front of Town Board but go in front of Planning board for site plan approval so yes it would have a sign posting on the property if there is a public hearing.

John Pisaturo, Attorney with Mr. Piller regarding the property on 1569 Buffalo Rd. It has been a photographic studio for many years as well as his residence. They have had discussions with the director of Public Works, who spoke with the Assessor on this. They have (3) three concerns, but are ready to consent and want build a record. They were told that because it has been a residential use, that it would continue in the new zoning and wanted to be sure that would continue verbally and captured on the record. Also, that the Star program which was discussed with the Assessor would continue and not interfere with that. and that the rezone would not interfere that as well as his business if he resumes with it. They don't believe those conditions would interfere with the master plan of rezoning, but wanted to be sure it was captured and placing these conditions on record and are consenting to the rezone.

Supervisor Giunta, agreed that these conditions would remain as stated above and that these are grandfathered in and it is captured that way on record.

Anthony Perrotta, 711 Pixley Rd., wonders how the list for rezoning was made, were there complaints that the property was zoned wrong? He knows of several properties that are zoned residential and being used as commercial or industrial that are still zoned residential. How do you get on this list?

Attorney Schum, these properties were identified through the building department as properties are presently being used for uses other than what they are zoned for. The majority of the town still has a residential zoning on it and are properties that could be, and should be potentially rezoned for future uses, but these are properties presently being used for uses inconsistent with their zone. That's how this list was prepared, it doesn't preclude other residential properties in the future from being applied for rezoning for a use that more consistent with where they're located or the future use may be

Mr. Perrotta, isn't talking about future use, he's talking about. For instance, there is a piece of property on Howard Rd next to the bridge. It stores trucks, gravel, stone, they manufacture pipes there, it's zoned R-1-8

Supervisor Giunta, told Mr. Perrotta they will look into it.

Attorney Schum, there are probably others, but the Building Dept. did a good job identifying many of them, not all of them. He continued that these are actions taken on by the Town Board by its own motion under the zoning laws of the State of NY. It doesn't preclude an owner who has a property like then one mentioned on Howard Rd coming in and asking for a change in the zone. If the owner doesn't feel a need to do that, the town doesn't necessarily rezone properties for the heck of it, in many instances it is the applicant or the owner whot kicks the ball off.

Mr. Perrotta, if the owner isn't being bothered, so he doesn't care

Attorney Schum, his taxes aren't necessarily being impacted either, so there is a lot of reasons an owner might not

Mr. Perrotta, has a neighbor land bordering his property and it affects him

Attorney Schum replied that Mr. Perrotta doesn't own the land he's referring to

Mr. Perrotta, no but it effects his use because of the zone of the 100-foot buffer he needs to maintain

Attorney Schum, that could be an argument if Mr. Perrotta was to develop his property, by asking for a variance, but that's not the purpose of this meeting

Mr. Perrotta asked if it would be prudent for the town to zone property as it's being used the last (40) forty years?

Attorney Schum explained that is what this proposal is intending to do

Mr. Perrotta, another for instance is the town hall here, is zoned residential

Attorney Schum, responded so are churches. He agreed Mr. Perrotta makes a point

Supervisor Giunta agreed and said slowly but surely all properties will be looked at and zoned properly.

Supervisor Giunta asked if anyone else from the audience wanted to come up.

He continued, that a property on 1151 Spencerport Rd., currently zoned as R-1-11, was proposed to rezone (BNR) Business Non-Retail responded via E-mail and wants to keep it as R-1-1, so this is being removed from the list

Attorney Schum, this being a Rezoning Proposal and sent to the Monroe County Planning, and do not have a response from Monroe County as of yet the Town Board can not yet act on these applications

Sam Simone, 81 Marc-Mar Trail, owns 1531 Buffalo Rd and is being rezoned. He spoke with Kurt earlier, it's been zoned MR forever. He has a CUP for about 15 years and wants to know if that CUP will remain with this property or wiped out

Attorney Schum, a Conditional Use Permits is just what is sounds like, we renew CUP just about every TB Meeting. As long as the owner wishes to continue to use of that CUP and renews every year.

Supervisor Giunta added if this proposal goes though and gets changed to MR then a CUP would not be need, because it would be a permitted use in that zone

Mr. Simone knows in other towns who have mobile home parks and are zoned as (MC) Manufactured Housing Community and wanted to know why Gates doesn't, but has ordinances for it.

Attorney Schum believes it's due to the fact that the mobile homes in town were here a long, long time ago, and when zoning codes were put in place, the code that regulates mobile home areas was already on the books and no need to create a zone for those properties.

Kurt Rappazzo, Public Works Director wanted to clarify the matter of CUP in mobile homes is up in the air, the town has its own chapter. Chapter 120, that regulates mobile parks in the town. In that chapter it states that mobile home parks are only allowed in the MR District, which is one

of the reasons for this change. He doesn't know if the change precludes Mr. Simone from a CUP or mobile home permit. Still need to research that.

Supervisor Giunta asked if anyone else from the audience wanted to come up. Hearing none closed the public hearing and stated as Mr. Schum mentioned a response from Monroe County Planning has not been received so with that said a decision on this can not be made at this meeting

RESOLUTION 84-21: Motion by Supervisor Giunta who moved its adoption:

Resolved that the Gates Town Board hereby TABLES the Rezoning of 28 Land Parcels within the Town of Gates till the Town Board Meeting on May, 3, 2021.

Seconded by Councilman DiPonzio

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye

Motion Carried.

7:30PM REGULAR TOWN BOARD MEETING

Supervisor Cosmo Giunta called the meeting to order at 7:45PM. He began with a moment of silent prayer and Pledge of Allegiance, led by Councilman Lee Cordero.

RESOLUTION 85-21 Motion by Councilman DiPonzio to approve

The Gates Town Board hereby approves the minutes of March 1, 2021 Public Hearings and regular Town Board meeting as received.

Seconded by Councilman Cordero

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye;

Motion Carried.

AUDIENCE PARTICIPATION

None

OLD BUSINESS

None

NEW BUSINESS

**APPOINTING THE FOLLOWING PEOPLE TO
THE GATES LIBRARY BOARD OF TRUSTEES;
CATHERINE MUSCATO FOR A ONE (1) YEAR TO FILL THE UNEXPIRED TERM
OF NETTIE SCHIANO, TERM TO EXPIRE ON DECEMBER 31, 2021;
MIRIAM RIVERA FOR A ONE (1) YEAR TO FILL THE UNEXPIRED TERM OF
SARAH ONKEN, TERM TO EXPIRE ON DECEMBER 31, 2021; AND BOTH
CATHY RAPPAZZO AND WENDY HEFFER TO FIVE (5) YEAR TERMS,
TERM TO EXPIRE DECEMBER 31, 2025**

Supervisor Giunta welcomed all the Trustees and thanked them for being at the meeting.

Anna Souannavong, the Library Director is very excited to have Wendy, Cattie, Miriam and Catherine for joining the trustees for the library board, everyone brings special talents and all are seeking for a bit of diversity and bring their perspectives and is thrilled to have them on.

RESOLUTION 86-21 Motion by Councilman Loughlin who moved its adoption:

Resolved, that the Town of Gates do here Appoints the following people to the Gates Library Board of Trustees; Catherine Muscato for a one (1) year to fill the unexpired term of Nettie Schiano, term to expire on December 31, 2021; Miriam Rivera for a one (1) year to fill the unexpired term of Sarah Onken, term to expire on December 31, 2021; and both Cathy Rappazzo and Wendy Heffer to a five (5) year term, term to expire December 31, 2025

Seconded by: Supervisor Giunta

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio-Aye; Loughlin – Aye; Tucciarello – Aye;

Motion Carried

Supervisor Giunta Congratulated them and asked if they wanted to stay to sign their “Oath of Office”

**CONSIDER RENEWALS OF THE CONDITIONAL USE PERMITS
FOR THE FOLLOWING:**

**CLASSY CHASSY CAR WASH (2) TOW LOCATIONS;1985 BUFFALO RD & 2150
LONG POND RD; COLDWATER ANIMAL HOSPITAL, 612 COLDWATER RD; DUNN
TIRE #33, 1941 BUFFALO RD.; ELMGROVE AUTO SERVICES, 725 ELMGROVE RD,
GUIDA’A PIZZERIA, 736 ELMGROVE RD, TAJ MAHAL FINE INDIAN CUISINE,
1742 LONG POND RD,**

Supervisor Giunta stated that he has reviewed the files and there are no violations against these businesses and finds no reason why the Conditional Use Permits for these businesses should not be renewed and approved on mass.

RESOLUTION 87-21 Motion by Councilman Tucciarello who moved its adoption:

Resolved, that the Gates Town Board hereby approves the renewal of the Conditional Use Permits on mass for the following: Classy Chassy Car Wash (two locations), 1985 Buffalo Rd and 2150 Long Pond Rd.; Coldwater Animal Hospital, 612 Coldwater Rd.; Dunn Tire #33, 1941 Buffalo Rd.; Elmgrove Auto Services, 725 Elmgrove Rd.; Guida’s Pizza, 736 Elmgrove Rd.; Taj Mahal Fine Indian Cuisine, 1742 Long Pond Rd.

Seconded by Councilman Loughlin

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye;

Motion Carried.

**SCHEDULE PUBLIC HEARING AT 7:15PM
FOR CHARLIE MEGNA, OWBER, C.M. PROPERTIES OF ROCHESTER LLC TO
REZONE PROPERTY AT 1675 BUFFALO RD FROM (LI) LIMITED INDUSTRIAL TO
(GI) GENERAL INDUSTRIAL;**

RESOLUTION 88-21 Motion by Councilman DiPonzio who moved its adoption:

Resolved, that the Gates Town Board hereby schedules a Public Hearing for Monday, May 5, 2021 starting at 7:15PM to consider the applications for; Charlie Megna, owner, C. M. Properties of Rochester LLC to Rezone property at 1675 Buffalo Rd from (LI) Limited Industrial to (GI) General Industrial

Seconded by Councilman Cordero

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye

Motion Carried

**SCHEDULE PUBLIC HEARING
FOR 898 BUFFALO RD ASSOCIATES, LLC TO REZONE PROPERTY AT 898
BUFFALO RD FROM R-1-8 AND BN-R TO (PUD) PLANNES UNIT DEVELOPMENT**

RESOLUTION 89-21 Motion by Councilman Cordero who moved its adoption:

Resolved, that the Gates Town Board hereby **REFERS** this to the Planning Board for their input before scheduling a public hearing in order to consider the application for; 898 Buffalo Rd Associates, LLC, to Rezoning property at 898 Buffalo Rd from (R-1-8) and (BN-R) to (PUD) Planned Unit Development for 898 Buffalo Rd .

Seconded by Supervisor Giunta

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye

Motion Carried

**ADOPTING A RESOLUTION APPROVING THE SUPERVISOR TO BE
AUTHORIZED TO ENTER ONE OR MORE INTERMUNICIPAL AGREEMENTS OF
CO-OPERATION WITH MONROE COUNTY FOR THE PURPOSE OF CO-
OPERATIVE ENERGY PROCUREMENT AND PARTICIPATION IN THE MONROE
COUNTY ENTERPRISE FUND FOR THE OPERATION AND MAINTENANCE OF A
NATURAL GAS AND ELECTRICITY AGGREGATION POOL**

RESOLUTION 90-21 Motion by Councilman Loughlin who moved its adoption:

Resolved, that the Gates Town Board hereby approves that the Supervisor be and he hereby is authorized to enter into one or more intermunicipal agreements of cooperation with Monroe County for the purposes of cooperative energy procurement and participation in the Monroe County Enterprise Fund for the operation and maintenance of a natural gas and electricity aggregation pool.

Seconded by Councilman Tucciarello

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye

Motion Carried

NEW BUSINESS OF COUNCIL MEMBERS

Supervisor Giunta shared that the Easter Egg Hunt was this past Saturday, normally at TSE however this year was outside at Westgate Park with a restricted number of participants due to COVID. Started off a little chilly but turned out to be a nice event. He thanked Dan Hoock and the Recreation and Parks Department along with the Parks and Recreation Commission for putting on this much needed event.

Councilman Loughlin stated that Campaign D will be having their Autism Awareness Event this Thursday Apr. 8th and also wanted to thank Jim Campbell and the facilities crew for lighting up the Town Hall in Blue to commemorate Autism Awareness month.

Councilman Cordero also noted that the Police department is having one of their cars outfitted / decaled for Autism Awareness.

REPORTS**SUPERVISOR'S****ACCEPTING THE SUPERVISOR'S
REPORT FOR THE MONTH OF MARCH 2021****WARRANTS****GENERAL**

CLAIMS # A21-00390– A21-0160	\$109,127.27
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HIGHWAY

CLAIMS # D21-0077 – D21-0152	\$85,389.65
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LIBRARY

CLAIMS #L21-0023 – L21-0045	\$29,251.85
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TOTAL DISBURSEMENTS	\$1,232,750.18
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TOTAL RECEIPTS	\$931,871.21
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Supervisor Giunta noted for the record that the warrants for the month of March 2021 have been examined by the Town Board and paid.

RESOLUTION 91-21 Motion by Councilman DiPonzio who moved its adoption:

Resolved, that Gates Town Board hereby accepts the Supervisor's Report for the month of March 2021 as read; and the warrants for the month of March 2021 as read.

Seconded by Councilman Cordero

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye;

Motion Carried.

**ACCEPTING THE TOWN CLERKS REPORT
FOR THE MONTH OF MARCH 2021**

The Town Clerk read the report for the month of March 2021 showing the following:

TOTAL REVENUE COLLECTED	\$41,033.84
TOTAL REVENUE TO THE SUPERVISOR	\$39,896.48
TOTAL NON-LOCAL REVENUE	\$1,138.38

RESOLUTION 92-21 Motion by Councilman Loughlin who moved its adoption:

Resolved, that Gates Town Board hereby accepts the Town Clerk's report for the month of March 2021.

Seconded by Councilman Tucciarello

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye;

Motion Carried.

PERSONAL STATUS REPORT

The Town Clerk didn't have a Personnel Status Report for the month of March 2021.

Supervisor Giunta stated that the town is in the process of training and transitioning someone into the position and will have a report in future months.

There being no further business to come before the Town Board, Councilman Tucciarello motioned and Councilman Loughlin second to adjourn the meeting. All were in favor; motion carried. Supervisor Giunta adjourned the meeting at 7:59 PM.

Town Clerk