

July 11, 2022

The Gates Town Board held one Public Hearing and its Regular Town Board meeting on Monday, July 11, 2022 at the Town Hall Meeting Room at 7:10PM. 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

7:10PM PUBLIC HEARING

Supervisor Giunta called the Public Hearing to order at 7:14PM.

**CONSIDERING A PETITION FROM ROSS COOLEY
FOR A REZONE CHANGE OF 558 ELMGROVE RD FROM
BUSINESS NON-RETAIL (BN-R) TO GENERAL BUSINESS (GB)**

The Town Attorney, Dan Schum verified that the Legal Notice was properly published as required by law.

Supervisor Giunta asked if the applicant was present and would come up to speak on this application.

Ross Cooley, 4566 Clover St., Honeoye Falls has owned this property since 2014, when he purchased it from his father who bought it in 1991. He listed it for sale in November 2019 with no offers and then relisted it in December 2020 after he lowered the listing by \$50,000.00 and still received no offers, until just recently he received an offer from Mr. Jack Stewart at a substantially lower price, but none the less it costs him approximately \$30,000.00 a year to carry the property. This is why he is at the board meeting asking for a rezone, he hates just seeing the property just sit there.

Supervisor Giunta asked if he had a business in that location prior?

Mr. Ross responded he did, but they outgrew it and he relocated the business to Henrietta to a larger location.

Supervisor Giunta, clarified that Mr. Cooley has been trying to sell this property since 2019 and assuming COVID-19 didn't help the situation,

Mr. Cooley, with COVID-19 people are working from home and don't go into an office so there is no one who wants it. He thought is the rezone could open multiple uses of the property.

Supervisor Giunta understands there is a potential buyer of the property and asked if we would come up to speak on behalf of the property

Jack Stewart, 1099 Buffalo Rd. his occupation now is mainly warehouses and constructing buildings. Mr. Stewart is lifetime resident of Gates, his family helped build the church on Coldwater Rd. he grew up on Westside Dr. and was a Gates Police Officer for twenty-nine (29) years. At one point he took a piece of property that was vacant with not much use and he came up with a concept of a mini-storage in that location, it had no sewer or water. He came to the

town and went through the process and it has worked out very well and has been producing a tax break for the town. If anyone looks into the history of his properties, they can see likes to run clean properties without issues. When he saw Mr. Cooley's property he saw it was once used as some sort of manufacturing in the back area, but then the zoning changed and no longer able to do that and there is absolutely no use for office space in that area. He actually has several people interesting with different uses, like warehousing with no retail or selling out of, with a possible office in the front of the house. A possible tattoo shop, a storage type place and some others, but without rezoning he believes the property will just continue to sit. Rezoning will be advantageous for the Town as well.

Councilman Tucciarello heard the back of the building being referred to as something that could be used as warehouse space and wanted a better description of how the building is set-up now?

Mr. Cooley, when his father bought the building in 1991 it was just a house, then they added on to the back of the building roughly 40'x40' clear span construction, with no load bearing walls, that can be taken out as well as a double door. The front of the building was turned into offices, which is he utilized it for his business. His father had gutted the kitchen and removed everything to make the offices, the back of the building was actually for film processing.

Councilman Cordero asked if Mr. Stewart is looking at retail possibilities?

Mr. Stewart replied he's not looking for retail. Most people are looking or asking for commercial storage such as landscaping equipment.

Supervisor Giunta asked how far does the property back up too?

Mr. Cooley replies it backs up to the back of Big M

Councilman DiPonzio since the kitchen was gutted out, is there any type of kitchen in it?

Mr. Cooley, no, just the original bathrooms that are still there, just refreshed

Councilman DiPonzio asked what would be the effort to turn the into a living space?

Mr. Stewart has his own to crew and would have them go in and add a small kitchen. There wouldn't be any external changes.

Attorney Schum, one of the challenges, if it were to be rezoned for commercial would be that residential is not permitted in a commercial zone, it would be a mixed use if proposed to have a living space front

Mr. Stewart understands and has spoken with the Zoning Board and will need to have an additional application to change the front of it, but is not too concerned with that as much as to be able to make enough money for it to be worth it

Councilman Cordero asked if there is room for a pull barn? He also asked if the bedrooms are still there?

Mr. Stewart responded yes there is more then enough room to add a 40'x40' pole barn and the bedrooms are still there, were used as conference rooms. He added it's a beautiful home, with hardwood floors.

Supervisor Giunta asked if anyone in the audience had additional comments, hearing none closed the public hearing.

**SEQR RESOLUTION
REZONING FROM BUSINESS NON-RETAIL (BN-R)
TO GENERAL BUSINESS (GB) DISTRICT**

RESOLUTION 93-22

Motion by Councilman Tucciarello who moved its adoption:

Seconded by Supervisor Giunta

Resolved, that the Gates Town Board hereby declares itself as Lead Agency for this project pursuant to SEQR regulations and finds that this project is an unlisted action and administrative in nature of the rezoning. There is no significant adverse impact to the environment and based on the testimony of the applicant, no further SEQR action is required.

VOTE OF THE BOARD

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

Motion Carried.

**APPROVING THE PETITION FROM ROSS COOLEY
TO REZONE 558 ELMGROVE RD FROM
BUSINESS NON-RETAIL (BN-R) TO GENERAL BUSINESS (GB) DISTRICT**

RESOLUTION 94-22

Motion by Councilman Tucciarello who moved its adoption:

Seconded by Councilman Loughlin

Resolved, that the Gates Town Board hereby approves the petition from Ross Cooley for a Rezone Change of 558 Elmgrove Rd. from Business Non-Retail (BN-R) to General Business (GB)

VOTE OF THE BOARD

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

Motion Carried.

**CONSIDERING A LOCAL LAW 2-2022 TO ENACT CHAPTER 191
TO THE GATES TOWN CODE
AND TO PROVIDE USE OF INCENTIVE ZONING
IN FUTURE LAND DEVELOPMENT / RE-DEVELOPEMENT WITHIN THE TOWN**

Supervisor Giunta explained it's a new law , the purpose and intent of this new law, is for the Town Board to make appropriate adjustments to permissible density and requirements and other zoning regulations for specific purpose allowing future land development / redevelopment of existing lands in the town at a minimal cost to the residents and tax payers. The intent of this chapter is to empower the Town Board to grant incentives or bonuses to advance the vision and policies articulated in the Town of Gates Comprehensive Plan, and so forth. It's a tool for them to utilize within the Town with developers and builders

Attorney Schum reiterated, it is a tool, not a requirement to be used, it can be applied for and the board can consider whether or not it wants to use it as a tool or if the proposal that comes before the board fits the perimeter of what the incentives are.

Supervisor Giunta confirmed it has been published and a copy in the Town Clerks office for review and asked if anyone has come in to review

Town Clerk Veronica Owens confirmed no one had come in to review

Supervisor Giunta opened this up to the floor and asked if anyone in the audience had additional comments

Virginia McIntire, 1 Fairchild Rd is on the Comprehensive Update Plan Board and have been talking about this quite a bit. She is very concerned about it and its implications. It seems it's a way to work around certain situations that the public may not be in favor of and could affect negatively in a poorer area of our town and open the door to incentivize giving something to another part of our town while impacting negatively the poorer residents. She just doesn't like the door it opens. She knows this current board, but is thinking about future boards and how it could negatively affect long term. She has expressed her concerns with the Comprehensive Board and wanted to express her concerns with this board as well. She is not speaking about anyone on this board, it's just a concern.

Supervisor Giunta appreciates Ms. McIntire's concerns, but iterated this is a tool that could also help the town and other towns use this tool as well. He understands her point especially in the lower income neighborhoods, but doesn't think they would utilize this to put in something residents didn't want.

Ms. McIntire is not concern for now and this present board, but for the future and the future administration. If it passes now, it also impacts the future board, whether they have the best interest of the people or not or if it gets used inappropriately. She understands other towns have it, but Gates has a very diverse population, from the Chili area to the residents in the 14606 area that borders the city. She doesn't feel Brighton or Pittsford are good representations of the way this might impact a town like Gates. She is concerned and knows others are excited about this.

Attorney Schum, one of the things incentive zoning proposal insures is that, if the board was inclined to consider applying it, the board must have a public hearing on applying the incentive zoning, in addition to the proposal for the project itself, so there is basically "two bites of the apple", first for the neighborhood of the proposed project, whatever it may be and second whether or not the incentive zoning is the proper tool to use, there is actually more public input potential with two public hearings then a straight forward application to develop a piece of property. It's not to say, Ms. McIntire's concerns are not well spoken. Also, there are vacant properties that need to be redeveloped and that's where potentially the incentive zoning could be helpful in that properties that remain vacant for a long time and are eyesores can be redeveloped.

Councilman Tucciarello thanked Ms. McIntire for her trust in this board and if this board passes this believes this board will be able to do some good with it, when situations arise and don't know what they are in this point in time. If this whole board was gone and it was a different town board, they can easily do the same thing this board will do and pass it and then utilize it however they want to utilize it, so if this board does this now, they can utilize it for good projects in the town. He reiterated what the Attorney stated that a proposal would require more public hearings, publicity and postings. Looking forward to the projects that would utilize this are the right projects for it.

Ms. McIntire appreciates that, but the incentive in itself is given because it's something that wouldn't be normally passed, the point in giving an incentive is saying, we're going to resolve something that may not be popular, by giving something to make up for that, is how she understands it from how it was explained to her in the first place. She knows this boards intention are good, but feels it opens the door for problems in the future, especially for the residents

Cherie Stuhler, 11 Jordan Ave. finds the timing of this very interesting, considering it's exactly her neighborhood that there was this issue with. She has heard things and knows the plans is scaling down their project and offering an incentive to be allowed to have it, that's the rumor she heard. So, the timing of this law getting passed is alarming to her, because it's her neighborhood and looking at her neighborhood with the little greenspace as it is and a developer that wants to come in take more of their greenspace, which she knows is not the pretties, but it's their greenspace. They have no sidewalks, or areas for their kids to play, they use that are to get to the canal. They are "Old Gates" that has been forgotten and finds this alarming for this incentive zoning, because these kinds of deals come in, with a developer that has "friends helping" and that's her concern and wanted to voice that. She also, commented on that it was said there would be two public hearings, but they don't always get notified of them. The communication would for sure need to be improved so that residents know what is going on.

Supervisor Giunta, the project you are referring to was squashed if the board really wanted it, they would have approved it, without incentive zoning. Again, this is a tool for the town board to utilize, this Board will always look at doing right by the town and the residents.

Mrs. Stuhler, that sounds good, but looking at it from her point of view and how it looks to not just her, but others as well. It's also opens pandora's box Gates has always been pretty good about not needing to do these things and keeping taxes low and changing zoning to bring more things in is great and generate more, which is great, there are different ways. She agrees with Ms. McIntire that this board may do everything they can to make sure the town people know, but tomorrow is not guaranteed and to keep mindful of what this can open up and we are not Pittsford or Brighton, we are very different and enjoy our greenspaces here. She wanted to point all this out and that she does oppose this.

Supervisor Giunta, again, the incentive zone can also help with greenspace. If there is a developer that wants to add additional units for example, the board may allow, if they add a nice park for the residents to enjoy, things like that.

Mrs. Stuhler can see both sides of it, but using her situation, they would have taken some out and added somewhere else, but it's not what they wanted. It's a catch 22. She's just saying as a person who lives on that side of town and doesn't have much, it's concerning.

Supervisor Giunta added and point out that if the owners of Hytec Park could build another building and the board has no say, because of the existing zone, and the greenspace would be lost regardless, if they really wanted to build. He reminded her of what she had said, not knowing what tomorrow will bring. If the owners decided to build or extend out their warehouse or the industrial whatever, they can come up to one-hundred (100) feet.

Mrs. Stuhler, agreed and is aware of that

Councilman Cordero, all the neighborhood that came to that meeting and in seeing the reaction the board had towards the project. It was never going to take off, never because this board is always going to look out for the people and back the people of Gates.

Mrs. Stuhler agrees and added the only reason she is using that example is because it is fresh and easy to remember the visuals

Councilman Cordero added there have been other projects that have come before the Town Board and neighbors fought and the project denied. The board looks for what is best for the people always.

Councilman DiPonzio, other projects have come to play with people who initially not liking it with the developer and they got together, heads together and things got moved around and then realize it'll work

Councilman Cordero a great example is Byrne Dairy on Manito and Spencerport. The people in the condos di not want it, but then the residents asked for sidewalks and other things and then they loved it and go get ice cream all the time

Mrs. Stuhler, that's great, but she is a broader thinker and just wants to make sure all the points get brought out. She only used that example because it was fresh, she wants everyone to be mindful, not saying this board is going against what they want, but can there be better communication, Yes. She thinks there are things to be mindful of and consider and to understand both sides of the coin.

Supervisor Giunta asked if anyone in the audience had additional comments, hearing none closed the public hearing.

RESOLUTION 95-22

Motion by Councilman Tucciarello who moved its adoption:

Seconded by Councilman DiPonzio

WHEREAS, the Town Board of the Town of Gates is considering adding a new chapter to the Town of Gates Code to provide for the use of Incentive Zoning in future land development/redevelopment within the Town; and

WHEREAS, it is necessary for the Town Board to consider the enactment of a Local Law to accomplish such code change and the Board is desirous of holding and conducting a public hearing to consider such Local Law;

NOWTHEREFOR, be it RESOLVED by the Town Board of the Town of Gates, Monroe County, New York as follows:

SECTION I: That the Town Board of the Town of Gates shall hold and conduct a public hearing to consider the enactment of Introductory Local Law #2-2022 which public hearing shall be held and conducted at the Gates Community Center, 1605 Buffalo Road, Rochester, New York 14624, on the 11th day of July, 2022 at 7:00 pm. and at which hearing all interested persons should be heard concerning the subject matter thereof.

SECTION II: That the Town Clerk shall publish a Legal Notice of such public hearing as required by law.

VOTE OF THE BOARD

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 7:50PM. He began with a moment of silent prayer and Pledge of Allegiance, led by Councilman DiPonzio

There were no revisions made to the minutes of the Public Hearings and Regular Town Board Meeting held June 6, 2022. Minutes stand and will be published and made available on the website and Town Clerk's office.

AUDIENCE PARTICIPATION

None

OLD BUSINESS

None

NEW BUSINESS

**APPOINTING TANIOS SARKIS AS AN ALTERNATE MEMBER
TO THE GATES PLANNING BOARD FOR
A FIVE (5) YEAR TERM TO EXPIRE JULY 2027**

RESOLUTION 96-22

Motion by Supervisor Giunta who moved its adoption:

Seconded by: Councilman DiPonzio

Resolved, that the Gates Town Board hereby appoints Tanios Sarkis as an alternate member to the Gates Planning Board for a 5-year term, term to expire July 2027.

VOTE OF THE BOARD

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

Motion Carried.

**ACCEPTING THE RESIGNATION OF RONALD SCHMID
AS BINGO AND GAMES OF CHANCE INSPECTOR
FOR THE TOWN OF GATES**

Supervisor Giunta commented that Ron has been the Bingo Inspector for Gates for the past forty-one (41) years and served us greatly. The town appreciates his many years of service and dedication for the past 41 years. He has seen the ins and outs of Bingo and Games of Chance and has always helped. He will be missed.

RESOLUTION 97-22

Motion by Councilman Cordero who moved its adoption:

Seconded by: Supervisor Giunta

Resolved, that the Gates Town Board hereby Accepts the resignation of Ronald Schmid as Bingo and Games of Chance Inspector for Town of Gates.

VOTE OF THE BOARD

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

Motion Carried.

**CONSIDER RENEWALS OF THE CONDITIONAL USE PERMITS
FOR THE FOLLOWING:
INSTANT OIL CHANGE, 427 SPENCERPORT RD.; TOPS MARKET
GASOLINE STATION, 2345 BUFFALO RD.; NEWCOMB OIL, 2960 BUFFALO RD.;
PARADISE PIZZA, 777 SPENCERPORT RD.;
LKQ/KEYSTONE CORP., 72 SPENCERPORT RD**

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

RESOLUTION 98-22

Motion by Councilman Tucciarello who moved its adoption:

Seconded by Councilman Loughlin

Resolved, that the Gates Town Board hereby approves the renewal of the Conditional Use Permits on mass for the following; Valvoline Instant Oil Change, 427 Spencerport Rd.; Tops Market Gasoline Service, 2345 Buffalo Rd.; Newcomb Oil, 2960 Buffalo Rd.; Paradise Pizza, 777 Spencerport Rd.; LKQ/Keystone Corp., 72 Spencerport Rd.

VOTE OF THE BOARD

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

Motion Carried.

**SCHEDULE TWO PUBLIC HEARINGS STARTING AT 7:00PM
#1. TO CONSIDER A CONDITIONAL USE PERMIT FOR PHILIP SILVAROLE
TO OPERATE A TRUCK AND FREIGHT TERMINAL AT
630 COLDWATER RD. IN A GENERAL BUSINESS (GB) DISTRICT

#2. TO CONSIDER THE ENACTMENT OF A LOCAL LAW PROPOSING TO
ADD CHAPTER 148 RENTAL PROPERTIES TO THE TOWN CODE
OF THE TOWN OF GATES**

RESOLUTION 99-22

Motion by Councilman DiPonzio who moved its adoption:

Seconded by Councilman Cordero

Resolved, that the Gates Town Board hereby schedules TWO Public Hearings for Monday, August 1, 2022 starting at 7:00PM. #1. consider a Conditional Use Permit for Philip Silvarole to Operate a Truck and Freight Terminal at 630 Coldwater Rd, in a (GI) General Industrial District #2. To consider the Enactment of a Local Law proposing to add Chapter 148 Rental Properties to the Town Code of t6he Town of Gates.

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

Motion Carried.

AMENDING THE EXISITNG TOWN OF GATES FEE SCHEDULE AS TO PROVIDE FOR ADDITIONAL FEES TO BE COLLECTED WHEN AN APPLICATION IS MADE FOR A BUILDING PERMIT OR OTHER APPROVAL FOR WHICH THE OWNER OR APPLICANT DID NOT PREVIOUSLY OBTAIN A BUILDING PERMIT OR OTHER APPROVAL

RESOLUTION 100-22

Motion by Councilman Loughlin who moved its adoption:

Seconded by Councilman Tucciarello

Resolved, that the Town of Gates do hereby amends the existing Town of Gates fee schedule as to provide for additional fees to be collected when an application is made for a building permit or other approval for which the owner or applicant did not previously obtain a building permit or other approval.

VOTE OF THE BOARD

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

Motion Carried.

AUTHORIZING THE TOWN OF GATES TO ENTER INTO CONTRACT WIH ESP CONSULTING GRANT SERVICES

RESOLUTION 101-22

Motion by Councilman Cordero who moved its adoption:

Seconded by Councilman DiPonzio

Resolved, that the Town of Gates do hereby Authorizes the Town of Gates to enter into contract with ESP Consulting Grant Services.

VOTE OF THE BOARD

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

Motion Carried.

NEW BUSINESS OF COUNCIL MEMBERS

None

REPORTS

SUPERVISOR’S

ACCEPTING THE SUPERVISOR’S REPORT FOR THE MONTH OF JUNE 2022

WARRANTS

GENERAL

CLAIMS # A22-0297 – A22-0374 \$109,648.15

HIGHWAY

CLAIMS # D22-0230 – D22-0290 \$356,609.51

LIBRARY

CLAIMS #L22-0092 – L22-0114	\$24,688.28
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TOTAL DISBURSEMENTS	\$1,657,528.43
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TOTAL RECEIPTS	\$207,061.26
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Supervisor Giunta noted for the record that the warrants for the month of June 2022 have been examined by the Town Board and signed.

RESOLUTION 102-22

Motion by Councilman Cordero who moved its adoption:

Seconded by Councilman DiPonzio

Resolved, that Gates Town Board hereby accepts the Supervisor's Report for the month of June 2022 as read; and the warrants for the month of June 2022 as read.

VOTE OF THE BOARD

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

Motion Carried.

**ACCEPTING THE TOWN CLERKS REPORT
FOR THE MONTH OF JUNE 2022**

The Town Clerk read the report for the month of June 2022 showing the following:

TOTAL REVENUE COLLECTED	\$18,316.48
TOTAL REVENUE TO THE SUPERVISOR	\$17,092.78
TOTAL NON-LOCAL REVENUE	\$1,223.70

RESOLUTION 103-22

Motion by Councilman Cordero who moved its adoption:

Seconded by Councilman DiPonzio

Resolved, that Gates Town Board hereby accepts the Town Clerk's report for the month of May 2022.

VOTE OF THE BOARD

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

Motion Carried.

PERSONAL STATUS REPORT

The Town Clerk read the Personnel Status Report for the month of June 2022
Personnel Status Report for the month of June 2022.

Additions: (0) One

Terminations: (2) Two (Highway MEO Retirement & Resignation)

Net Change: (2) Minus Two

There being no further business to come before the Town Board, Councilman Loughlin motioned and Councilman Tucciarello second to adjourn the meeting. All were in favor; motion carried. Supervisor Giunta adjourned the meeting at 7:58 PM.

Town Clerk