

September 9, 2024

The Gates Town Board held Three (3) Public Hearings and its Regular Town Board meeting on Monday, September 9, 2024 at the Town Hall Meeting Room starting at 7:10PM. Those attending the meeting were as follows:

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

### **7:10PM PUBLIC HEARINGS**

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

#### **TO CONSIDER A CONDITIONAL USE PERMIT FOR MARK TENG TO OPERATE JBC RICE NOODLES & RAMEN AT 3872 LYELL RD., IN A NEIGHBORHOOD BUSINESS (NB) DISTRICT**

Supervisor Giunta asked if the applicants were present.

Jason Pearce, consultant on behalf of Mark Teng for 3872 Lyell Rd.

Supervisor Giunta, stated this restaurant replacing Waffles R Wild. It is ready to go with all the permits in place and believes Mr. Teng has several other restaurants. He also asked the hours of operation and how many employees?

Mr. Pearce responded the hours of operation will be 11:00am-11:00pm, seven days-a-week with about twelve (12) employees. This is the second of three JBC Noodles in the area, but there will be more within and outside Monroe County. The first is in the Regional Market, second in Gates and the third on Main Street in Pittsford. Mr. Teng does own quite a few other restaurants as well.

Councilman Cordero asked if it's just Ramen noodles.

Mr. Pearce responded the best way to see the menu in on the website.

Councilman Tucciarello asked when it will open?

Mr. Pearce as soon as possible, it is ready to go, not much was needed to do inside the building

Supervisor Giunta added that the Gates-Chili Chamber of Commerce could hold a ribbon cutting when Mr. Teng is ready.

Councilman DiPonzio asked if this will be dine-in and take out and if anything changed like the seating capacity?

Mr. Pearce, yes for both. Sit-in or take-out and nothing else changed.

Councilman Cordero asked how many can be seated?

Mr. Pearce responded, under fifty.

Supervisor Giunta asked if anyone from the audience wanted to speak for or against this?

Chief Long asked if there will be alcohol?

Mr. Pearce responded they will apply to serve beer and wine, just waiting for after the CUP Approval.

Supervisor Giunta asked if anyone else from the audience wanted to speak for or against this? Hearing none closed the public hearing at 7:19pm.

#### **RESOLUTION 140-24**

Motion by Supervisor Giunta who moved its adoption:  
Seconded by Councilmen DiPonzio

Resolved, that the Gates Town Board hereby approves an application from Mark Teng for a Conditional Use Permit to Operate JBC Rice Noodles & Ramen Restaurant at 3872 Lyell Rd., in a Neighborhood Business District (NB) with the following Conditions:

**Hours of Operation:**

Sunday- Saturday 11:00am-11:00pm

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin –; Tucciarello – Aye;  
**Motion Carried.**

#### **TO CONSIDER RAISING THE GRADUATED INCOME LIMIT FOR THE LIMITED SENIOR AND DISABILITY EXEMPTIONS FOR THE TOWN**

Supervisor Giunta stated the town has been looking into the exemptions level for seniors and people with disabilities with limited income and potentially raising the level. Last year the county raised it, and the town is currently at \$37,400 and looking to perhaps increase to \$46,626. The Town is looking at several different options. If the exemption levels are increased, the state will also be looking at including IRA's. It could qualify more people to be able to enjoy this benefit. If the Town did increase this level, it would only affect the Town Tax portion. Each entity would need to adopt into this for it to change their levels.

This is a public hearing if anyone from the audience wanted to speak for or against this?

Carol Stone from the Assessor's office added in the past only social security, pensions, annuities, and any interest, capital gains, everything except IRA's

Attorney Schum, you have the choice to include and IRA ass income for purposes of calculating weather they qualify or not, so it's another option the state has given to municipalities including the county.

Supervisor Giunta added, currently there are over a thousand people enjoying this benefit from 5% to 50%.

Diane Barker, 76 Kaye Park Terrace, most people with an IRA have another source of income, she has lived in Gates all her life and knows the income level for the low-income exception has been this way for ages and prices are high. She is trying to stay positive and wants to stay in Gates and asks for whatever the town can do she would appreciate it and is for this.

Darlene Holmes, 480 Howard Rd., has a friend on limited income and each year needs to reapply for it, but wants to know how is it different from making sure the people with the enhanced star are under the limit?

Mrs. Stone, Assessor clerk stated that it's two different exemptions. The enhanced star (which only applies to the school tax bill), once you apply for it, is an automatic renewal and the state checks. For the Limited Income-Senior, each year the tax papers need to be brought in. She gave an example if someone won \$5000 at the casino, you have to claim that, which lowers your percentage, but the following year, not having that winning the exemption level goes up.

Attorney Schum clarified that with the enhanced star the state looks into your income to see if the resident qualifies. So, the Star program is at the state level and the Limited is local level.

Supervisor Giunta feels this should be tabled for more information and to discuss further. He thanked the ladies from the Assessor's office for attending the meeting and answering questions.

#### **RESOLUTION 141-24**

Motion by Councilman Tucciarello who moved its adoption:  
Seconded by Councilmen Loughlin

Resolved, that the Gates Town Board hereby Closed the Public Hearing and TABLED the consideration of raising the graduated income limit for the limited senior and disability exemptions for the town

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin –; Tucciarello – Aye;  
**Motion Carried.**

**TO CONSIDER THE ENACTMENT OF INTRODUCTORY LOCAL LAW #6-2024.  
THE PROPOSED LOCAL LAW PROPOSES TO ENACT A 12-MONTH  
MORATORIUM ON AGRICULTURAL DEVELOPMENTS WITHIN THE TOWN OF  
GATES SO AS TO CONSIDER SUCH AMENDMENTS TO THE TOWN OF GATES  
CODES AS MAY BE APPROPRIATE FOR FUTURE AGRICULTURAL  
DEVELOPMENTS WITHIN THE TOWN**

Attorney Schum explained there is a state agency called, NYS Agriculture and Markets, which oversees and tries to protect the continues agricultural production within the state and presently in the Town of Gates has been in some protracted litigation concerning what amounts to the only designated agricultural district within the town that was created through the county legislature some year ago and the problem that has persisted, is there really hasn't been any consideration how that agricultural development within the town impacts adjoining properties, whether residential, public use, or otherwise and the state agency has been protective of those regulations to the extent that in any way regulate or tend to diminish the ability for anyone to continue agricultural operations within the state of NY.

The purpose of this local law is to allow the Town Board to take a look at its existing codes which in many cases has not addressed this issue in any great detail and to make such amendments to the code that may be appropriate to allow or consideration of continued agricultural development within the Town of Gates and how it may impact or maybe lessen the impact on adjoining properties. It's an opportunity for input from the community.

Kurt Rappazzo, Director of Public Works addressed the length of the moratorium. Typically, moratoriums are three to six-month time frame, but in this case asking for a year, he's not a farmer and doesn't know what a farmer needs. He feels he does know what residents need or

want but wants to find a happy balance. Talking to the residents and understand what they need and know how to protect them. We need to make sure to meet what the state is looking for and address their concerns. It's going to take time and research.

Attorney Schum added this is not any easy project to go through the all codes and make accommodations for all uses. There may be some major overall adjustments to certain sections of the codes and will require input from all the participants.

Supervisor Giunta asked if anyone from the audience wanted to speak on this?

Scott Bubel, 36 Landau asked if this is for commercial agriculture or backyard gardens?

Attorney Schum by it very nature, the state looks at agriculture that has an income producing factor to it, not putting a garden in the backyard situation, but at the same time there is no dollar and cents level within the states regulations that requires a certain amount.

John Mazza, 284 Meadowdale Dr. asked if there is an estimated amount of acreage set aside for this?

Supervisor Giunta this is part of the stuff that will be looked at. We want to make sure to do this right and will look at other towns.

Supervisor Giunta asked if anyone else from the audience wanted to speak on this?  
Hearing none closed the public hearing at 7:39pm.

### **7:30PM      REGULAR TOWN BOARD MEETING**

Supervisor Cosmo Giunta called the meeting to order at 7:39PM. He began with a moment of silent prayer and Pledge of Allegiance, led by Councilman DiPonzio.

He asked the board members if they an opportunity to review the Public Hearing and regular Town Board Meeting minutes from August 5, 2024, and if any revisions were needed. Hearing that there were not, stated that they will be published as drafted and available on the website and in the Town Clerk's office.

### **AUDIENCE PARTICIPATION**

Supervisor Giunta asked if there was anyone for audience participation? He explained each person will have five (5) minutes to present.

Don Ioannone, 4099 Lyell Rd. asked why the Town of Gates Cornerstone is not be delivered to the residents in the apartments?

Supervisor Giunta, the town is already looking into it. It's been a bit difficult getting all the residents' listings. It will require contacting the apartment owners. There have been copies put in the corridors of the apartment buildings.

Supervisor Giunta asked if there was anyone else for audience participation  
Hearing none closed Audience participation. 7:42pm.

**OLD BUSINESS**

**CONSIDERING LOCAL LAW #5-2024 AMENDING  
§ 133-8 TO REGULATE PARKING OF MOTOR VEHICLES  
IN THE GATES TOWN CODE**

Supervisor Giunta this has been on the agenda, but wants to continue to table for further information.

**NEW BUSINESS**

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

**CINEMARK TINSELTOWN USA, 2291 BUFFALO RD.; DUNKIN DONUTS (#344162)  
1482 BUFFALO RD.; DOLOMITE GROUP, 1075 BUFFALO RD.; MC DUG OUT, 1370  
BUFFALO RD.; BURGER KING, 1300 CHILI AVE.; GATES-CHILI FEDERAL  
CREDIT UNION, 2870 BUFFALO RD.; WINES BY DESIGN, 3392 BUFFALO RD.;  
KFC (TWO LOCATIONS) 2222 LYELL AVE., AND 1345 CHILI AVE.;  
GERBER COLLISION & GLASS, 1931 LYELL AVE.**

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 142-24**

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; Cinemark Tinseltown USA, 2291 Buffalo Rd.; Dunkin Donuts (#344162) 1482 Buffalo Rd.; Dolomite, 1075 Buffalo Rd.; MC Dug Out, 1370 Buffalo Rd.; Burger King, 1300 Chili Ave.; Gates Chili Federal Credit Union, 2870 Buffalo Rd.; Wines by Design, 3392 Buffalo Rd.; KFC (**Two Locations**), 2222 Lyell Rd. and 1345 Chili Ave.; Gerber Collision & Glass, 1931 Lyell Ave.

VOTE: Giunta – Aye; Cordero – Aye; Aye; DiPonzio – Aye; Loughlin – Tucciarello – Aye;  
**Motion Carried.**

**APPOINTING DENISE CAMBISI AS AN ALTERNATE MEMBER  
TO THE GATES PLANNING BOARD FOR  
A TWO (2) YEAR TERM TO EXPIRE SEPTEMBER 30, 2026**

Supervisor Giunta, Denise had been a prior member of the planning board before she moved out of Gate, but has since returned and is interested in returning to the planning board as an alternate.

**RESOLUTION 143-24**

Motion by Supervisor Giunta who moved its adoption:  
Seconded by: Councilman DiPonzio

Resolved, that the Gates Town Board hereby Appoints Denise Cambisi as an Alternate member of the Planning Board for a 2-year term. Term to expire September 30, 2026.

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye;  
**Motion Carried.**

**APPOINTING ABRAMO BIANCHI TO FILL THE REMAINING UNEXPIRED TERM  
 OF CHAIRMAN OF THE RECREATION AND PARKS COMMISSION.  
 TERM TO EXPIRE DECEMBER 31, 2024**

**RESOLUTION 144-24**

Motion by Councilman DiPonzio who moved its adoption:  
 Seconded by: Councilman Cordero

Resolved, that the Gates Town Board hereby Appoints Abramo Bianchi to fill the remaining unexpired term of Chairman of the Recreation and Parks Commission. Term to expire December 31<sup>st</sup>, 2024.

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye;  
**Motion Carried.**

**ADOPTING THE REVISIONS OF THE DUTIES AND RULES OF CONDUCT  
 POLICY HANDBOOK FOR THE GATES POLICE DEPARTMENT.**

Supervisor Giunta added the last time it was adopted was in 1999 and knows Chief Long has been working on this and is good to go.

**RESOLUTION 145-24**

Motion by Councilman Cordero who moved its adoption:  
 Seconded by: Councilman DiPonzio

Resolved, that the Gates Town Board hereby Adopts the revisions of the Duties and Rules of Conduct policy handbook for the Gates Police Department.

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye;  
**Motion Carried.**

**ADOPTING BOTH A SEQR AND RESOLUTION OF SUPPORT FOR THE  
 TOWN OF GATES DR-4755 SEVERE STORMS AND FLOODING: HAZZARD  
 MITIGATION GRANT PROGRAM ELIGIBLE MITIGATION  
 CONSTRUCTION PROJECT: GENERATORS**

Supervisor Giunta explained that the town is looking to apply for a grant to possibly get generators for the town hall, to serve the police department and the residents as a warming center and town operations if the need be.

**RESOLUTION 146-24**

Motion by Councilman Loughlin who moved its adoption:  
 Seconded by: Councilman Tucciarello

WHEREAS, the Town Board of the Town of Gates is applying to The New York State Division of Homeland Security and Emergency Services (DHSES) availability of Federal Emergency Management Agency (FEMA), Hazard Mitigation Grant Program (HMGP) funds under Presidential Declaration: DR-4755 (New York Severe Storm and Flooding) through a sub-application submission approval process; and

WHEREAS, after a Presidential disaster declaration, New York State receives HMGP funds to administer grant funding that supports hazard mitigation planning and long-term mitigation measures that avoid loss of life, reduce damages to property and enhance the State's resiliency for which the Town of Gates is eligible; and

WHEREAS, the Town of Gates wishes to make and supports a sub-application submission to DHSES for a FEMA HMGP Eligible Mitigation Construction Project to purchase Generators and related equipment to protect two critical facility locations including the Police Station, which also houses the Town Hall a Designated Emergency Shelter, as well as installation of a climate adaptive mitigating generator at the Howard Road (NYS Road) utility pump station; and

WHEREAS, the Town has demonstrated that the proposed HMGP project is cost-effective using FEMA's Benefit-Cost Analysis (BCA) achieving a score of 1.0 or greater, that also mitigates climate risk particularly associated with flooding benefiting vulnerable populations and The Town of Gates is committed to providing a 25% nonfederal share award match from municipal general funds; and

WHEREAS, this sub-application project scope for hazard mitigation compliments the NYS Hazard Mitigation Plan (HMP), the Monroe County HMP, the Town Disaster Plan, Gates Police General Order 640-21 Continuity of Operations Plan, as well as their Comprehensive Plan which reflects climate mitigation practices exemplified by the Town's Clean Energy Community designation and Bronze Designation of NYSDEC Climate Smart Community Program; and

WHEREAS, the proposed activity to be conducted pursuant to the grant funds if approved, is the purchase of equipment, and construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area, so it is considered a Type II Action pursuant to the provisions of SEQR.

NOW, THEREFORE, be it RESOLVED by the Town Board of the Town of Gates as follows:

SECTION I. That by the adoption of this resolution the Town Board of the Town of Gates finds, determines, and supports that the securing of grant funds under The New York State Division of Homeland Security and Emergency Services (DHSES) available through Federal Emergency Management Agency (FEMA), Hazard Mitigation Grant Program (HMGP) funds under Presidential Declaration: DR-4755 (New York Severe Storm and Flooding) with a sub-application submission approval process, and the use of such funds for the purchase of generators at critical facility's an eligible mitigation construction project, is a Type II Action, an action which is likely to have no negative impact upon the environment.

SECTION II. That this resolution is and shall be deemed a Negative Declaration of Environmental Significance with respect to the proposed activity which may continue without further review pursuant to the provisions of SEQR.

SECTION III. That the Town Supervisor and/or his designee is hereby authorized to execute any and all paperwork necessary for the sub-application to DHSES through the final grant application process to FEMA.

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye;  
**Motion Carried.**

Attorney Schum recommended that we add 2 additional agenda items for the resolutions of Local Law #6-2024 Moratorium on Agricultural Development that was just discussed in the public hearing earlier.

Supervisor Giunta agreed and added both the Negative Declaration and adoption of Local Law #6-2024

**RESOLUTION AND NEGATIVE DECLARATION**

**Local Law # (6) 5-2024**

(Amended per NYS -Jan 2025 minutes)

**RESOLUTION 147-24**

Motion by Supervisor Giunta who moved its adoption:

Seconded by: Councilman Cordero

**WHEREAS**, the Town Board of the Town of Gates is considering the enactment of Local Law #5-2024; and

**WHEREAS**, before such Local Law can be enacted the effects of the enactment of such Local Law upon the environment must be considered; and

**WHEREAS**, routine Governmental Administration and Management is a designated Type II Action under SEQR;

**NOWTHEREFORE**, be it RESOLVED by the Town Board of the Town of Gates, New York as follows:

SECTION I. That the Board finds and determines that the enactment of Local Law #5-2024 is routine Governmental Administration and Management, and is, accordingly, a Type II Action under SEQR.

SECTION II. That the enactment of Local Law #6-2024 may proceed without further regard to SEQR.

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

**Motion Carried.**

**Introductory Local Law # (6) 5-2024**

**Town of Gates**

(Amended per NYS -Jan 2025 minutes)

**RESOLUTION 148-24**

Motion by Supervisor Giunta who moved its adoption:

Seconded by: Councilman DiPonzio

**WHEREAS**, the Town Board of the Town of Gates did heretofore call for a Public Hearing to consider the enactment of the Introductory Local Law #5-2024 of the year of 2024, which Local Law proposes to adopt a twelve (12) month Moratorium on Agricultural Development within the Town of Gates; and

**WHEREAS**, the Town Board did hold and conduct such Public Hearing at a regularly scheduled meeting thereof held on the 9<sup>th</sup> day of September, 2024, and at which hearing all interested persons were heard concerning the subject matter thereof; and

**WHEREAS**, the Town Board of the Town of Gates has determined that the enactment of such proposed Local Law would be in the best interested of the Town of Gates.

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



**SECTION I.** That by the adoption of this Resolution, the Town Board of the Town of Gates does hereby enact Introductory Local Law #5-2024, which Local Law shall read and provide as follows:

TOWN OF GATES, Monroe County, New York  
Local Law #5 of the year 2024

A Local Law establishing a Temporary Moratorium on Agricultural Development  
Within the Town of Gates

Be it enacted by the Town Board of the  
Town of Gates as follows:

**SECTION 1. TITLE**

This Local Law shall be known as the “Moratorium on Agricultural Developments within the Town of Gates”

**SECTION 2. STATUTORY AUTHORITY; PURPOSE AND INTENT.**

1. That the Town of Gates is a fully developed Town, with a mix of all zoning uses within the Town, and very little open lands remain in agricultural production or area available for agricultural development within the Town.
2. That the existing zoning regulations of the Town are in need or review and, as needed, revision with a view toward assuming that existing agricultural activities, as well as any future agricultural activities are conducted so as to assure that existing and future agricultural activities may continue subject to such reasonable regulations to assure that they are compatible with adjoining residential and non-agricultural zoning uses.

**SECTION 3. MORATORIUM ESTABLISHED**

That the Town of Gates does hereby establish a twelve (12) month Moratorium on Agricultural Development within the Town of Gates as to allow for the Town Board to review and revise existing Town zoning and planning codes to address present and future regulation of agricultural activities within the Town of Gates.

**SECTION 4.**

That all appeals from this Moratorium shall be made to the Town Board of the Town of Gates.

VOTE: Giunta – Aye; Cordero – Aye; DiPonzio – Aye; Loughlin – Aye; Tucciarello – Aye;  
**Motion Carried.**

**NEW BUSINESS OF COUNCIL MEMBERS**

Councilman Loughlin seeing the leader of Keep Gates Clean, Dan Switzer, recognized him and the group who he joined on Saturday (9-7-2024) at the corner of Buffalo Rd and Elmgrove Rd. along with some town employees, collecting about twenty-four (24) bags of liter thrown from vehicles.

He also added, September is Childhood Cancer Awareness Month and the town hall will be lit up in yellow.

Supervisor Giunta, 911 Memorial Ceremony will be held at the Fire House #1 on Chili Ave on Wednesday, September 11, 2024 at 8:30am and bells will ring at 8:46am

Hots with Cops went well, even with a bit of rain

**REPORTS**

**SUPERVISOR’S**

**ACCEPTING THE SUPERVISOR’S  
REPORT FOR THE MONTH OF AUGUST 2024**

**WARRANTS**

**GENERAL**

CLAIMS # A24-0677- A24-0765 \$333,753.52

**HIGHWAY**

CLAIMS # D24-0325 - D24-0368 \$85,168.92

**LIBRARY**

CLAIMS # L24-0209 - L24-0239 \$32,777.51

**TOTAL DISBURSEMENTS \$2,069,212.39**

**TOTAL RECEIPTS \$1,165,897.73**

Supervisor Giunta noted for the record that the warrants for the month of August 2024 have been examined by the Town Board and signed. The Town Board also examined and approved all payroll and in lieu of claim expenses per fund for the month.

**RESOLUTION 149-24**

Motion by Councilman Loughlin who moved its adoption:  
Seconded by Councilman Tucciarello

Resolved, that Gates Town Board hereby accepts the Supervisor’s Report for the month of August 2024 as read; and the warrants for the month of August 2024 as read.

VOTE: Giunta – Aye; Cordero – Aye; Aye; DiPonzio – Aye; Loughlin – Tucciarello – Aye;  
**Motion Carried.**

**ACCEPTING THE TOWN CLERKS REPORT  
FOR THE MONTH OF AUGUST 2024**

The Town Clerk read the report for the month of August 2024 showing the following:

TOTAL REVENUE COLLECTED \$30,997.85

TOTAL REVENUE TO THE SUPERVISOR \$23,947.70

TOTAL NON-LOCAL REVENUE \$7,050.15

**RESOLUTION 150-24**

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 August 2024.

VOTE: Giunta – Aye; Cordero – Aye; Aye; DiPonzio – Aye; Loughlin – Tucciarello – Aye;  
**Motion Carried.**

#### **PERSONAL STATUS REPORT**

The Town Clerk read the Personnel Status Report for the Month of August 2024 and there were no changes to report.

There being no further business to come before the Town Board, Councilman Tucciarello and Councilman Loughlin second to adjourn the meeting. All were in favor; motion carried. Supervisor Giunta adjourned the meeting at 7:52 PM.

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Town Clerk