

November 9, 2022

The Gates Town Board held its Regular Town Board meeting and three (3) Public Hearings on Monday, October 3, 2022 at the Town Hall Meeting Room at 7:00PM. 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
Daniel G Schum	Town Attorney
Mackenzie Meyer	Deputy Town Clerk

**7:00 P.M PUBLIC HEARING**

**TO CONSIDER A CONDITIONAL USE PERMIT FOR RODMAN S. JOHNSON  
TO OPERATE GHOST KITCHENS AMERICA INC.  
AT 2150 CHILI AVE (IN WALMART) A (GB) GENERAL BUSINESS DISTRICT**

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.

Rodman S. Johnson, 490 Hollybrook Rd., Rochester NY. Currently open and have been since last September, somewhere along the line this got skipped and it was brought to his attention that a Conditional Use Permit was needed and is here to be in compliance with the Town. They are Ghost Kitchens and are an Omni food system, and are partnered up with brands nationally and internationally. They have one large kitchen used to produce all their menu items. For example; Nathan's Hot dogs, Cheesecake Factory, Cinnabon.

Supervisor Giunta asked which one do they currently have?

Mr. Johnson replied all of them, they currently have twenty-five (25) brands at this location and their next location will open in about a month or two in Buffalo and are looking at bringing additional brands to thirty to forty (30-40) brands.

Supervisor Giunta, commented this is fantastic and asked about the Hours of Operation and how many employees?

Mr. Johnson replied the hours of operation will be the same as Walmart's hours of operation, if they go twenty-four (24) hours, so will Ghost Kitchens. There are currently ten (10) employees.

Councilman Cordero asked if they are in the front of the store in the previous Dunkin Donuts location?

Mr. Johnson replied, yes, the entire location including seating

Councilman Cordero asked what is served for the in-seating guests?

Mr. Johnson replied, the menu is the same for take-out or sit-in, from coffee, Cinnabon, Wow Boa (an Asian line), Rice Bowls. He is essentially partnered with the different companies, trained by them to produce the same quality standards of product and then trains his staff. The brands do audits and inspections to assure the standard is being upheld.

Supervisor Giunta again asked if anyone from the audience wanted to speak for or against this, hearing none closed the public hearing at 7:07pm.

**RESOLUTION 146-22**

Motion by Councilman DiPonzio who moved its adoption:

Seconded by Councilman Cordero

Resolved, that the Gates Town Board hereby approves an application from Rodman S. Johnson for a Conditional Use Permit to Operate Ghost Kitchens America Inc. at 2150 Chili Ave. (Inside Walmart) in a General Business District (GB) with the following Conditions:

Hours of Operation: Same as Walmart's Store Hours

**VOTE OF THE BOARD**

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

**Motion Carried.**

**TO CONSIDER THE ENACTMENT INTRODUCTORY LOCAL LAW #4-2022  
ENTITLED “A LOCAL LAW TO OVERRIDE THE  
TAX LEVY LIMIT FOR FISCAL YEAR 2023”**

Supervisor Giunta stated that after working on the budget, the town board decided to override the tax cap for 2023. The tax cap which is normally two percent (2%) or under came out to be five-point four percent (5.4%). Reasoning for this is based on the increase of total levy of the town and new pilot agreement, therefore the board felt there was the need to override it. It will be discussed further during the budget portion of the next public hearing

Councilman DiPonzio agreed it will be better explained during the budget portion.

Supervisor Giunta again asked if anyone from the audience wanted to speak for or against this, hearing none closed the public hearing at 7:09pm.

**RESOLUTION 147-22**

**INTRODUCTORY LOCAL LAW #4-2022  
A LOCAL LAW TO OVERRIDE THE TAX LEVY LIMIT FOR FISCAL YEAR 2023**

Motion by Councilman DiPonzio who moved its adoption:

Seconded by Supervisor Giunta

**WHEREAS**, the Town Board of the Town of Gates did hold and conduct a public hearing on November 9<sup>th</sup>, 2022 to consider the enactment of Introductory Local Law #4-2022 Legal Notice of which was given as required by law; and

**WHEREAS**, at such public hearing all interested person were heard concerning the subject matter thereof;

**WHEREAS**, the Town Board is desirous of adopting such Local Law; and

**WHEREAS**, the adoption of Local Laws is a routine Town Administration and Management Function, and as such as a Type II Action under SEQQR;

**NOW, THEREFORE**, 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 finds and determines that the adoption of this Local Law is a Type II Action under SEQR and may proceed without further regards to SEQR.

Section II: That the Town Board of the Town of Gates does hereby enact Local Law #4-2022 to read and provide as follows:

Local Law No 4-2022 of the fiscal year 2023

**“A local law to Override the Tax Levy Limit for Fiscal Year 2023”**

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

*Section 1. AUTHORITY.*

This Local Law is enacted pursuant to the subdivision 5 of N.Y. General Municipal Law §3-c (the “Property Tax Cap Law”), which expressly authorized the Town Board to override the tax levy limit by the adoption of a local law approved by vote of sixty percent (60%) of the Town Board.

*Section 2. PURPOSE.*

The purpose of this local law is to permit the Town Board to override the tax levy limit on the amount of property taxes that may be levied by the Town of Gates pursuant to the Property Tax Cap Law, and to allow the Town to adopt a budget for Fiscal Year 2023 that requires a real property tax levy in excess of the “tax levy limit” as defined by the Property Tax Cap Law. Such override is necessary and in the best interests of the Town.

*Section 3. TAX LEVY LIMIT OVERRIDE.*

The Town Board of the Town of Gates, County of Monroe is hereby authorized to override the Tax Levy Limit established pursuant to N.Y. General Municipal Law §3-c, for the fiscal year 2023, and to adopt a budget for the Fiscal Year 2023 that may require a real property tax levy in excess of the amount otherwise proscribed in General Municipal Law, §3-c.

*Section 4. SEVERABILITY.*

If any clause, sentence, paragraph, subdivision, or party of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or party of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgement or order shall be rendered.

*Section 5. EFFECTIVE DATE.*

This local law shall take effect immediately upon filing with the Secretary of State as provided in §27 of the N.Y. Municipal Home Rule.

**VOTE OF THE BOARD**

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

**Motion Carried.**

**ADOPTING THE 2023 TOWN OF GATES PRELIMINARY BUDGET**

Supervisor Giunta, stated on October 20, 2022 there was a Budget Workshop which went well over three (3) hours going over everything including the tax cap. He thanked the Finance Director, Stephanie Soto for all her hard work and efforts this year in preparing the budget and working with all the department heads, which he also thanked, with compiling numbers and getting a budget that will suit our needs. As stated, they did need to go over the tax cap, but the good news is there will be No increase in the tax rate, it will be kept flat at \$6.11 for the fourth (4<sup>th</sup>) consecutive year. Going over the tax cap was due to inflation, rising costs of utilities, insurances and salaries (cost of living of 3%). Asphalt prices also increased and gas prices. The Annex Room needs a new

roof which is in bad shape this coming year. There are three (3) new Police officers. 2 to replace retirement and 1 additional to increase department staff which we feel is needed for continued public safety in our town. Highway truck and fleet is deteriorating with some are thirty (30) years old and will start to need getting new vehicles. These are the reasons they decided to go over the cap. Total taxable value in the town went up by about one-hundred and ten million (110,000,000) because of the new development in the town like the Amazon building, which is still not opening yet, but the facility as is was assessed at one-hundred million (\$100,000,000). Once it is complete and some of the other projects there will be money to subsidize the costs. He summarized budget numbers, stated that overall budget for Town is \$12,182,748M less anticipated revenue of \$8,574,689M leaving \$12,443,059M to be collected in taxes. Town is adding \$165,000 from reserve funding. This will keep our tax rate flat again and residents should not see increase on the town side. Other agencies are different, like the Ambulance which went up. Home values stayed the same.

Councilman Tucciarello thinks the important notes the Supervisor pointed on like the assessment not moving and the rate staying at \$6.11, means really no change to residents or home owners and the influx is actually from commercial reasons and that means we have some resources we didn't have a few years back to help get some things in shape to deliver services to the people in town. It's a Win-Win

Supervisor Giunta again asked if anyone from the audience wanted to speak for or against this, hearing none closed the public hearing at 7:17pm.

#### **RESOLUTION 148-22**

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

Resolved, that the Gates Town Board hereby Adopts the 2023 Town of Gates Preliminary Budget

#### **VOTE OF THE BOARD**

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

#### **Motion Carried.**

Councilman DiPonzio also thanked Stephanie and the department heads and the Supervisor for working hard together to keep things as manageable as possible for the people through this inflation

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

Supervisor Cosmo Giunta called the meeting to order at 7:30PM. He began with a moment of silent prayer. Pledge of Allegiance followed led by Councilman Tucciarello.

There were no revisions made to the minutes of the Public Hearings and Regular Town Board Meeting held October 3, 2022. Minutes will stand as drafted, published and made available on the website (once it is fixed) and Town Clerk's office.

#### **AUDIENCE PARTICIPATION**

Phil Torti, 380 Hinchey Rd. is here about the leaf collection that's being dumped basically in their backyards. He has emailed prior about this, but wanted to direct the question to the board members are aware of what is going on, on Hinchey Rd?

Supervisor Giunta replied of course they are aware of it.

Mr. Torti, said he wanted them to respond, not the Supervisor.

The councilman all responded yes they are aware of it.

Mr. Torti continued to ask how this decision was made and if other committees were involved like the Zoning, Planning and Conservation boards

Supervisor Giunta responding because it is the town's property there is no need to get anyone else involved and asked why he felt it was needed?

Mr. Torti, replied because of the codes and the dumping and decaying vegetation

Councilman Tucciarello replied that town codes and municipal codes do not pertain to municipalities, schools, cities and governments. They pertain to residents and business. He asked Mr. Torti what his conception of what was happening on Hinchey?

Mr. Torti responded he understands the town is trying to utilize the land, but in putting a concept plan of the future highway department behind the Hinchey house, and the area behind his house as well, which is residential zone. Looking at the map, notice that area by the railroad tracks is zoned light industrial (Supervisor Giunta, corrected and said General Industry) yes, much more appropriate area for any type of plans the town may have. He understands the plan of a park or walking area and if they did do this near the railroad tracks feels his road would be an access point and is aware of that, but just feels this was not well thought out about the leaves.

Supervisor Giunta explained that this decision to put this there was a spur of the moment decision in order to minimize the travel time for the Highway crew to be more efficient using the vacant parcel in the back until a place can be found to house the leaves. For example, ECO Park only take x-amount of leaves and they did find someone who would take the leaves on Manitou Rd. and the rest to the farmers past Ogden area which consumes about half hour in just travel time, each way, so the productivity time of the highway dept. goes down. This was one of the reasons and decision to utilize this area for the leaf season which runs about a month long. The crews have been working seven (7) days a week and with this rate they should be done sooner. He continued to say, he was actually not aware they had started utilizing this area, because he thought they were going to use the other areas first, but there was a miscommunication.

Mr. Torti is worried about the decay in three months

Supervisor Giunta clarified it is just temporary, not three months, once they are done collecting leaves and there is no snow they will transfer to the farms. It's a transfer station and it'll be a month not three

Mr. Torti understands, but in the large issue, with housing a highway department

Attorney Schum, this has nothing to do with the overall long-term planning of the use of that property, this is a temporary use

Mr. Torti understands, he is talking about the overall plan for a Highway department is going to affect the perimeter

Supervisor Giunta, it will, but when it's time, it will be taken to the residents and hold public hearings

Mr. Torti wanted to be sure there would be public involvement

Supervisor Giunta reassured him there would most definitely be public involvement. The Town wants to be good neighbors with possibly added buffers. They will look at different options. They want minimal disturbance to the residents. Trucks would be housed indoors. He also

stated he has spoken with the Highway crew to not drop before 8:00am on weekdays, after 9:00am on Saturdays and no Sundays.

Supervisor Giunta asked if anyone else from the audience wanted to speak, hearing none closed Audience participation

**OLD BUSINESS**

None

**NEW BUSINESS**

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

**LOVING TOUCH CHILD CARE, 395 SPENCERPORT RD.;**  
**LUTHERAN CHURCH OF OUR SAVIOR, 2415 CHILI AVE.;**  
**MARK'S PIZZERIA, 2103 BUFFALO RD.; MC DUG OUT, 1370 BUFFALO 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 149-22**

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; Loving Touch Child Care, 395 Spencerport Rd.; Lutheran Church of Our Savior., 2415 Chili Ave.; Marks Pizzeria, 2103 Buffalo Rd.; MC Dug Out, 1370 Buffalo Rd.

**VOTE OF THE BOARD**

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

**Motion Carried.**

**APPROVING THE INTER-MUNICIPAL BUILDING INSPECTOR SERVICES  
AGREEMENT BETWEEN THE TOWN OF WHEATLAND AND THE TOWN OF  
GATES**

**RESOLUTION 150-22**

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

Resolved, that the Gates Town Board hereby Approves the inter-municipal Building Inspector Services agreement between the Town of Wheatland and Town of Gates.

**VOTE OF THE BOARD**

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

**Motion Carried.**

**APPROVING A PLUMBER'S APPLICATION FOR JEREMIAH HARRIS,  
2900 E. HENRIETTA RD., ROCHESTER, NY AS A LICENSED PLUMBER  
TO WORK IN THE TOWN OF GATES**

**RESOLUTION 151-22**

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

Resolved, that the Gates Town Board hereby Approves a plumber's application for Jeremiah Harris. 2900 E. Henrietta Rd. Rochester, NY as a Licensed Plumber with the Town of Henrietta to work in the Town of Gates.

Resolved, that the Gates Town Board hereby

**VOTE OF THE BOARD**

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

**Motion Carried.**

**SCHEDULING PUBLIC HEARINGS FOR THREE (3) CONDITIONAL USE PERMITS,  
 ALL IN A (NB) NEIGHBORHOOD BUSINESS DISTRICT**

- #1. LORAIN VERAS TO OPERATE TACOS N TEQUILA AT 730 ELMGROVE RD.**
- #2. ELIZABETH AIFAYAD TO OPERATE LEVANTINE'S SYRIAN CAFÉ & CUISINE  
 AT 750 ELMGROVE RD.**
- #3. PADY KAMARA TO OPERATE KAMARAS AFRICAN RESTAURANT INC. AT  
 2003 LYELL AVE.**
- #4 TO ADOPT THE PROPOSED 5-YEAR TOWN COMPREHENSIVE PLAN  
 AND**
- #5 TO REVIEW A TOWN PRPOERTY ASSESSMENT LIST**

**RESOLUTION 152-22**

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

Resolved, that the Gates Town Board hereby schedules **FIVE** (5) Public Hearings on Monday, December 5, 2022 starting at 6:45PM to Consider **THREE** (3) Conditional Use Permits all in a (NB) Neighborhood Business District for;

- #1. Loraine Veras to Operate Tacos N Tequila at 730 Elmgrove Rd.**
- #2. Elizabeth AIFayad to Operate Levantine's Syrian Café & Cuisine at 750 Elmgrove Rd.**
- #3. Pady Kamara to Operate Kamara's African Restaurant Inc. at 2003 Lyell Ave**
- #4 Adopt the proposed 5-year Town Comprehensive Plan,  
 AND**
- #5 to Review a Town Property Assessment List.**

**VOTE OF THE BOARD**

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

**Motion Carried.**

**NEW BUSINESS OF COUNCIL MEMBERS**

Attorney Schum, in the matter of the cleaning services, within the library there is actually two (2) facilities and the cleaning services are up for renewal, the library board advertised for bids, which came in he reviewed them with board members and unfortunately a majority if not all of the bids were deficient in some respect to all of the criteria. The one that was in substantial compliance with the bid specification, the board was going to recommend which was his understanding that, that bid be awarded.

Mike Boedicker, Assistant Library Director commented the Library board would be discussing it at the next board meeting, next Wednesday (11-16-2022) and vote then.

Supervisor Giunta state he did give out a Proclamation for **Small Business Saturday**, which is **Saturday, November 26, 2022**. He asked everyone and residents to try to visit small businesses to support them not just on this Saturday, but throughout the year.

Councilman Tucciarello thanks the Supervisor as a small business owner

Councilman DiPonzio announced Veterans Day celebration will be Friday, at 10:30am in the Town Hall Meeting Room and reception in the Annex Room.

Supervisor Giunta added there will a few children from the elementary schools speaking on what Veterans Day means to them. There will also be a County Wide Veterans Day Parade on Saturday 11/12 at Highland Park. The town will have several vehicles participating as well as Chapter 98 members.

Councilman Loughlin, wishing everyone a Happy Thanksgiving and to be sure to join the Annual Gobble Wobble in the morning, meeting out back at 8:30 am. Asking participants to bring in canned items which will go to the food cupboard.

Supervisor Giunta finished by expressing his condolences to Councilman Cordero for the recent passing of his Mom.

## **REPORTS**

### **SUPERVISOR'S**

#### **ACCEPTING THE SUPERVISOR'S REPORT FOR THE MONTH OF OCTOBER 2022**

### **WARRANTS**

#### **GENERAL**

CLAIMS # A22-0579 – A22-0655	\$162,493.14
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#### **HIGHWAY**

CLAIMS # D22-0436 – D22-0488	\$47,082.94
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#### **LIBRARY**

CLAIMS #L22-0187 – L22-0213	\$28,591.86
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<b>TOTAL DISBURSEMENTS</b>	<b>\$1,464,133.12</b>
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<b>TOTAL RECEIPTS</b>	<b>\$137,913.05</b>
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Supervisor Giunta noted for the record that the warrants for the month of October 2022 have been examined by the Town Board and signed.

### **RESOLUTION 153-22**

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 October 2022 as read; and the warrants for the month of October 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 OCTOBER 2022**

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

TOTAL LOCAL REVENUE COLLECTED	\$17,462.72
TOTAL REVENUE TO THE SUPERVISOR	\$16,000.40
TOTAL NON-LOCAL REVENUE	\$1,462.32

**PERSONAL STATUS REPORT**

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

Additions: (5) FIVE----- (1) Highway (3) Police (Academy) (1) Library Director  
Terminations: (4) FOUR---- (2) Public Safety (1) Library (1) Police  
Net Difference: +1

**RESOLUTION 154-22**

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

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

**VOTE OF THE BOARD**

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

**Motion Carried.**

There being no further business to come before the Town Board, Councilman Loughlin motioned and Councilman DiPonzio second to adjourn the meeting. All were in favor; motion carried. Supervisor Giunta adjourned the meeting at 7:55 PM.

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Deputy Town Clerk