

**AGREEMENT BETWEEN**  
**THE**  
**ORLEANS COUNTY PLANNING BOARD**  
**AND THE**  
**TOWN OF GAINES**



**EXEMPTING CERTAIN MINOR LAND USE ACTIONS**  
**FROM**  
**COUNTY PLANNING BOARD REVIEW**

**MARCH 2009**  
**(DATE OF FIRST REVISION)**

*ENABLING LEGISLATION: NY STATE GENERAL MUNICIPAL LAW, ARTICLE 12-B,  
SECTION 239-M.3.(C) AS AMENDED BY THE LAWS OF 1991*

AGREEMENT EXEMPTING CERTAIN MINOR LAND USE ACTIONS  
FROM COUNTY PLANNING BOARD REVIEW

I. Authority

In accordance with New York State General Municipal Law, Article 12-B, Section 239-m.3.(c) of the Laws of 1991, the Orleans County Planning Board is authorized to voluntarily enter into agreements with towns and villages that certain proposed land use actions are of local, rather than inter-community or County-wide concern, and therefore are not subject to referral to the Orleans County Planning Board as would otherwise be required by Section 239-m.

II. Purpose

It is the intent of this agreement to eliminate the need for local referral, and thus County review and recommendation, of actions which do not have significant inter-community or County-wide impacts as defined herein. By eliminating referral of such minor land use actions, the permitting process is expedited for the applicants, with a corresponding reduction in administration on the part of both the municipality and the County Planning Board. And as County population and development continue to increase, the agreement will afford greater opportunity for the County Planning Board to focus on more consequential referrals, as well as large scale, long-term planning priorities. It is furthermore the desire of the County Planning Board that this agreement be entered uniformly among municipalities to maintain a fair and efficient process. That is, the agreement between the Orleans County Planning Board and Town of Gaines shall be identical to that between the County and any other municipality.

III. Procedures

Upon the Town of Gaines's receipt of a proposal by an applicant, it is the responsibility of the municipal official(s) who is charged with submitting referrals to the County Planning Board to determine if an application is exempt from referral to the County Planning Board. This determination shall be based on those actions specifically listed in Section IV ("Minor Land Use Actions Exempt from Referral to the County Planning Board") of the agreement. If a proposal does not fall within one of the categories listed in Section IV, it shall be submitted to the County Planning Board in the prescribed manner. If it does fall within Section IV, there is no need for further involvement of or notice to the County Planning Board.

**IV. Minor Land Use Actions Exempt from County Planning Board Review**

**1. Projects which require an area variance(s), provided it is not:**

- a. also subject to special use permit, or
- b. also subject to site plan approval, with the exception that site plans as provided in paragraph 4 herein shall be categorically exempt from County Planning Board review, or
- c. for a principal structure on a parcel which adjoins a lot in another town or village in Orleans County.

**2. Projects which require an area variance(s), site plan review and/or special use permit for:**

a. sign(s) or fence(s)

3. Projects requiring a special use permit or site plan approval on real property within 500 ft. of the boundary of a farm operation within an agricultural district as defined by Article 25AA of agriculture and markets law, provided that such projects would not otherwise qualify for submittal to the County Planning Board under Section 239-m. of General Municipal Law.

4. Projects which require site plan review for the following, regardless of whether an area variance(s) or special permit is also required:

a. the construction of one, two, or three-family residence(s), or the construction of their accessory structures, or

b. the partitioning of a parcel into one or more other parcels, or the reconfiguration of an existing parcel, or the combination of separate parcels into one or more parcels

V. Optional Review

Notwithstanding the previous section, nothing shall prevent the municipality from submitting any application to the County Planning Board for its review and recommendation as would be required under Section 239-m of General Municipal Law if this agreement were not enacted.

VI. Effective Date

This agreement shall be effective immediately upon its passage by majority resolutions of **both** the County Planning Board and the Town of Gaines.

VII. Amendment

Any amendment to the agreement becomes effective immediately upon passage of a majority resolution of **both** the County Planning Board and the Town of Gaines. Upon such action, the amended version succeeds previous editions of the agreement.

VIII. Termination

This agreement can be terminated at any time without cause by majority resolution of **either** the County Planning Board or the Town of Gaines. Notice of such termination should be made in writing within ten days of the resolution to the other party which entered into this agreement. Upon termination, the municipality shall resume responsibility for sending all eligible referrals to the County Planning Board as otherwise established in Section 239-m.

Date adopted by the County Planning Board: Brian Kapali 3/25/10  
CHAIRMAN

Date adopted by the Town of Gaines: C.W. Latham, Supervisor 3/9/2010

GAINES TOWN BOARD MEETING  
Gaines, NY March 9, 2010

A Regular Town Board Meeting of the Town of Gaines, County of Orleans and the State of New York was held at the Town Hall, 14087 Ridge Road, Gaines, New York on the 9<sup>th</sup> day of March 2010.

PRESENT:	Bill Lattin	-----	Supervisor
	James Kirby	-----	Councilperson
	Susan Smith	-----	Councilperson
	Lorraine Oakley	-----	Councilperson
	Douglas Heath	-----	Council
	Mary Pettit	-----	Deputy Town Clerk
	Sharon Harding	-----	Deputy Town Clerk

EXCUSED:	David Kast	-----	Councilperson
	Jean Klatt	-----	Town Clerk
	Ron Mannella	-----	Highway Superintendent

OTHERS PRESENT: Connie Mosher, Lorienda Smith, Marilyn Miller, Tibbs Ahlberg, Gerry Culhane, Jon Detar, Henry Smith

Supervisor Lattin called the meeting to order at 7:30PM with the Pledge to the Flag.

RESOLUTION 25 -10  
**APPROVAL OF MINUTES**

On a motion of Councilperson Kirby, seconded by Councilperson Smith, the following resolution was

ADOPTED	Ayes	4	Smith, Oakley, Kirby, Lattin
	Nays	0	

Resolved that the minutes of the February 9, 2010 Regular Town Board meeting and that the minutes of the February 16, 2010 Special Town Board meeting be approved as submitted by the Clerk.

GAINES TOWN BOARD MEETING  
Gaines, NY March 9, 2010

RESOLUTION 26 -10  
APPROVAL OF ABSTRACTS

On a motion from

General Councilperson Oakley and seconded by Councilperson Kirby  
Highway Councilperson Oakley and seconded by Councilperson Kirby  
Water Councilperson Kirby and seconded by Councilperson Oakley

ADOPTED Ayes 4 Smith, Oakley, Kirby, Lattin  
Nays 0

Resolved that the bills on abstract #3 will be paid as presented.

General	Abstract # 1 - # 20	in the amount of \$	29,440.73
Highway	Abstract # 1 - # 12	in the amount of \$	920.53
Water 1	Abstract # 1 - # 5	in the amount of \$	578.96
Water 8	Abstract # 1 - # 1	in the amount of \$	33.50

RESOLUTION 27-10  
APPROVAL OF SUPERVISOR'S MONTHLY REPORT

On a motion of Councilperson Kirby, seconded by Councilperson Oakley, the following resolution was

ADOPTED Ayes 4 Smith, Oakley, Kirby, Lattin  
Nays 0

Resolved that the January 2010 Supervisor's Monthly report is approved as submitted by the Supervisor Lattin.

GAINES TOWN BOARD MEETING  
Gaines, NY March 9, 2010

RESOLUTION NO. 28-10  
LAWN MOWING AGREEMENT

RESOLUTION NO. 28-10 LAWN MOWING AGREEMENT

Resolution duly adopted at a Regular Meeting of the Town Board of the Town of Gaines, Orleans County, New York, held on the 9th day of March, 2010 at 7:30 p.m. at the Gaines Town Hall, 14087 Ridge Road, Albion, New York, at which the following were:

PRESENT: C.W. Lattin, Supervisor  
James R. Kirby, Councilman  
Lorraine Oakley, Councilman  
Susan Smith, Councilman

ABSENT: David Kast, Councilman (excused)

Councilman Kirby moved the adoption of the following Resolution,  
Councilman Oakley seconded the motion:

"RESOLVED, that the Supervisor of the Town of Gaines is hereby authorized to execute a lawn mowing agreement, in the same form as is attached hereto, with Richard J. Nenni for the purpose of mowing 7 parcels of land under the control of the Town Board identified as the South Kenyonville Road Cemetery, the Lattin Road and West Transit Church Road Cemetery, the Union Cemetery at Five Corners, the Gaines Cemetery behind the Congregational Church, the West Gaines Cemetery, the Otter Creek Cemetery, and the Town Highway Garage on Ridge Road for the 2010 mowing season commencing on or about April 1, 2010 to November 1, 2010.

Upon being put to a vote, the following voted "Aye" in favor of the adoption of the foregoing resolution: Smith, Oakley, Kirby, Lattin

The following voted "No" in opposition thereto:

The resolution was approved.

Dated: March 9, 2010

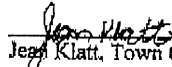
Jean Klatt, Town Clerk

CERTIFICATION

STATE OF NEW YORK;  
COUNTY OF ORLEANS:ss.:

I, JEAN KLATT, Town Clerk of the Town of Gaines, County of Orleans, and State of New York, DO HEREBY CERTIFY that I have compared the foregoing resolution duly adopted by the Town Board of the Town of Gaines, on the 9th day of March, 2010, with the original now on file in my office, and the same is a correct and true copy of said resolution and of the whole thereof.

Dated: March 9, 2010  
Town of Gaines

  
Jean Klatt, Town Clerk

(SEAL)

GAINES TOWN BOARD MEETING  
Gaines, NY March 9, 2010

RESOLUTION 29-10  
**ORLEANS WATER SHARED SERVICES PROJECT**

Orleans County has asked that the Town of Gaines serve as co-applicant on the Orleans County Grant Submission to the New York State Department of State Local Government Efficiency Program to fund a study examining cost and service impacts of providing water services on a countywide basis.

The Board discussed the advantages and disadvantages to joining the study and having our water lines under County control. It will cost the Town \$400 to join; however, the costs will increase if other Townships decline to join the study and that the price would already be higher since the Town of Murray has signed with Monroe Water Authority. It was also mentioned that the Town could shop around privately rather than participate in the study. Members of the board felt uncomfortable voting to take part in the study at this time.

On a motion of Councilperson Oakley, seconded by Councilperson Smith, the following resolution was

ADOPTED Ayes 4 Smith, Oakley, Kirby, Lattin  
Nays 0

Resolved that any decision on the matter be tabled for the time being.

RESOLUTION 30-10  
**TRUCK SALE**

Bids for the 1999 Dodge Pick-up truck were opened at 7:50 PM by Councilperson Kirby. There were three bids 1<sup>st</sup>: Craig D Lape for \$926; 2<sup>nd</sup>: Roland Grelon for \$1,200; and David Starkweather for \$1,201.

On a motion of Councilperson Kirby, seconded by Councilperson Oakley, the following resolution was

ADOPTED Ayes 4 Smith, Oakley, Kirby, Lattin  
Nays 0

Resolved that the 1999 Dodge Pick-up truck be sold to David Starkweather for \$1,201.

GAINES TOWN BOARD MEETING  
Gaines, NY March 9, 2010

RESOLUTION 31-10  
SPITZER-WIND ENERGY

On a motion of Councilperson Smith, seconded by Councilperson Oakley, the following resolution was

ADOPTED Ayes 3 Smith, Oakley, Lattin  
Nays 0  
Abstained Kirby due to his membership on the Wind Energy Committee

Resolved that the Town hire Dan Spitzer to wrap up Wind Energy. Councilperson Smith will contact him.

PRIVILEGE OF THE FLOOR/ PUBLIC CONCERNS

Lorienda Smith mentioned she remembers the Town of Albion and Gaines met to discuss consolidation before and that she feels the Town spends too much on studies. It was mentioned by the board that the consolidation discussion before was not just for water and that studies are paid for by grants.

RESOLUTION 32-10  
MIGRANT HOUSING IN RESIDENTIAL DISTRICTS

Councilperson Smith brought to the boards' attention the issue of migrant housing and a concern about where this type of housing is allowed. There was a discussion on whether migrant housing should be permitted only in agricultural districts or both residential and agricultural districts.

On a motion of Councilperson Smith, seconded by Councilperson Oakley, the following resolution was

ADOPTED Ayes 4 Smith, Oakley, Kirby, Lattin  
Nays 0

Resolved that there be an amendment to Article 7.707-Farm Housing, and that the provision allowing migrant housing out of the agricultural district be removed from local law #2 and that farm housing only be allowed in agricultural districts not residential.



**GAINES TOWN BOARD MEETING**  
Gaines, NY March 9, 2010

Councilperson Smith passed out to the public a form with a tax formula on how taxes are done.

Henry Smith thanked Supervisor Lattin for meeting with him and Judy.

Attorney Heath was informed that Councilperson Smith and Councilperson Oakley motioned a vote on migrant housing in agricultural districts. Attorney Heath mentioned other alternatives include amending the zoning map to say Gaines will have an agricultural district, an agricultural/residential district, and a residential district.

Attorney Heath recommended to the board that they sign his legal services agreement for water district 10. The contract was approved September of 2009, but Supervisor DeCarlo did not sign and therefore Supervisor Lattin now needs to. It was signed by Supervisor Lattin.

**RESOLUTION 33-10**  
**BOND RESOLUTION FOR DISTRICT 10**

On a motion of Councilperson Kirby, seconded by Councilperson Oakley, the following resolution was

**ADOPTED** Ayes 4 Smith, Oakley, Kirby, Lattin  
Nays 0

Resolved that the Town would adopt a bond resolution to authorize the Town \$840,968 to construct water district 10. The bond would be paid back in a term of 2.7% over 30 years. \$612,000 of the project is grant money directly from Rural Development in order to fill in gaps. We should pay from local shares first, followed by grant money and then Rural Development.

GAINES TOWN BOARD MEETING  
Gaines, NY March 9, 2010

**RESOLUTION 34-10  
AGREEMENT BETWEEN THE ORLEANS COUNTY PLANNING BOARD AND  
THE TOWN OF GAINES**

Tibbs Ahlberg handed to the board an amendment agreement already in place that has had revisions and needs to be signed by Supervisor Lattin. The revisions include: the addition of 1B and changes to 2B and 4A for clarification. If there is a minor issue people are to go to the Town Planning Board and if the issue is bigger, includes site plan approval, or needs a special permit people need to go to the County.

On a motion of Councilperson Oakley, seconded by Councilperson Kirby, the following resolution was

ADOPTED Ayes 4 Smith, Oakley, Kirby, Lattin  
Nays 0

Resolved that Bill sign the agreement

Tibbs also let the Town know that there has been no further action with the Motorcycle Club.

Lastly, Tibbs informed the board that the Zoning and Planning Boards are in the process of arranging a joint Public Hearing for April 5<sup>th</sup> 2010 and that matters on both Ontario Fruit and Intergrow are going to the County.

On a motion of Councilperson Oakley, seconded by Councilperson Kirby, the following resolution was

ADOPTED Ayes 4 Smith, Oakley, Kirby, Lattin  
Nays 0

Resolved that the board would go into an executive session at 8:37 in order to discuss a legal matter.

GAINES TOWN BOARD MEETING  
Gaines, NY March 9, 2010

On a motion of Councilperson Kirby, seconded by Councilperson Oakley, the following resolution was

ADOPTED Ayes 4 Smith, Oakley, Kirby, Lattin  
Nays 0

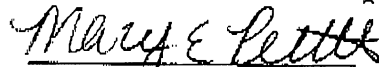
Resolved that the board would come out of an executive session and resume the normal Town Board Meeting at 9:27 PM

On a motion of Councilperson Oakley, seconded by Councilperson Smith, the following resolution was

ADOPTED Ayes 4 Smith, Oakley, Kirby, Lattin  
Nays 0

Resolved that the Town Board meeting would be in recess until Monday March 15, 2010 at 7:30 PM to allow Attorney Heath to complete research. The March 9<sup>th</sup>, 2010 board meeting went into recess at 9:28 PM.

Respectfully Submitted,



Mary Pettit

Gaines Deputy Town Clerk



*Brian Napoli, Chairman*

**COUNTY OF ORLEANS  
PLANNING BOARD**

*Tibbs Ahlberg, Vice-Chairman*

14016 Route 31 West  
Albion, New York 14411-9382  
(585) 589-3198

(Orleans County Planning Board – Gaines Town Council)  
**Resolution No. CPB0310-02**

**Resolution to Revise Agreement Exempting  
Certain Minor Actions from County Planning Board Review**

WHEREAS, the Gaines Town Council entered into an Agreement with the Orleans County Planning Board on May 11, 1999 for the purpose of Exempting Certain Minor Land Use Actions from County Planning Board Review, and

WHEREAS, the Orleans County Planning Board has requested amendments to said Agreement to provide further exemptions from County Planning Board Review, including site plan review for the construction of homes on individual lots as well as all subdivision of real property; and

WHEREAS, the Gaines Town Council adopted said revised Agreement on March 9, 2010; now, therefore be it

RESOLVED, that the Orleans County Planning Board similarly adopts said revised Agreement, rendering it effective immediately.

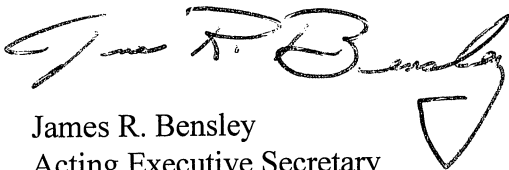
County Planning Board Member who made the Motion to Adopt: Paul Hendel  
County Planning Board Member who seconded the Motion to Adopt: Gary Daum

Vote: 14 ayes - Brian Napoli, Tibbs Ahlberg, Dan Gleason, Dennis Ignaszak, Kirk Mathes, Dan Strong, Kevin Johnson, Phil D'Agostino, Marty Busch, Joe Sidonio, Larry Petrie, Kirk Myhill, Gary Daum, Paul Hendel

0 abstentions

0 nays

Adopted March 25, 2010 at the Regular County Planning Board Meeting, Albion, New York.

  
James R. Bensley  
Acting Executive Secretary