

September 7, 2021

The Gates Town Board held (2) two Public Hearings and its Regular Town Board meeting on August 2, 2021 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 7:12PM.

Town Attorney, Dan Schum verified the Legal Notice was properly published in the official newspaper as required by law.

**CONSIDERING A CONDITIONAL USE PERMIT FOR ZOI CHRISTANIS  
TO OPERATE OUTDOOR SEATING AT PANORAMA RESTAURANT,  
730 ELMGROVE RD., IN A [NB] NEIGHBORHOOD BUSINESS DISTRICT**

Zoi Christanis, 31 Hubbard Dr., looking to do an Outdoor dinning area in front of the windows of the dinning area of the Family Restaurant. Is looking at putting in a nice concrete base with a pergola floor, (**using a rendering to show**) existing area as is now, examples from web-site to show the tool kits used to do the pergola, as well as a photo showing what the intended product will look like when completed. She also included and survey map of the area.

Supervisor Giunta asked how big will the area be and how many tables will be expected?

Ms. Christanis replied the area will be about 33x15 with about (6) six tables of (4) four.

Councilman Tucciarello, will parking need to be removed?

Ms. Christanis, no

Supervisor Giunta asked if the existing concrete will be removed?

Ms. Christanis, replied, yes, it is old and needs to be replaced anyway

Councilman Cordero, will concrete pillars be added and will there be a grill added (from the photo it looks like it)?

Ms. Christanis, replied there will be concrete pillars added, but there is No outdoor grill, the photo is just to show the flooring. Cooking will be done in the kitchen.

Supervisor Giunta asked if this will be a “weather Permitted” use around the year?

Ms. Christanis, assuming yes, like in the winter it will be closed, so whenever yes, weather permits.

Councilman Cordero asked if she’ll add outdoor heaters?

Ms. Christanis, if any, it would be gas fire-pit table, where the flame is lower and would be monitored.

Supervisor Giunta, will there be any live music or a band or just strictly dinning?

Ms. Christanis, no live music, just breakfast, lunch and dinner. There are people who prefer to eat outside, they feel safer sitting outside.

Councilman Loughlin, will this include the bar as well or primarily the restaurant?

Ms. Christanis, it'll be primarily for the restaurant, they typically close the restaurant between 8:00 & 9:00pm on the dinning room side, so doesn't see being open on the bar side any later than 9:00-9:30pm

Supervisor Giunta asked if people from the bar would be allowed to sit in the new out-door area?

Ms. Christanis, she wouldn't tell someone who would want to sit out there, they couldn't, but there is an existing patio outside the bar side, so they could just go there

Attorney Schum, does the liquor license permit outdoor service

Ms. Christanis, in the steps she needs to follow in getting the liquor license, the Town's approval is required to be able to go forward. If a customer wants a beer or glass of wine with their meal outside she would need this in place first.

Supervisor Giunta asked if any more comments or questions and opened up to the audience. Hearing none, closed the public hearing

**RESOLUTION 149-21** Motion by Councilman Tucciarello who moved its adoption:

Resolved, that the Gates Town Board hereby approves a Conditional Use Permits for Zoi Christanis to Operate Outdoor Seating, as well as Serving Alcohol at Panorama Restaurant at 730 Elmgrove Rd. in a (NB) Neighborhood Business District.

Seconded by Councilman Loughlin

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

**Motion Carried.**

**CONSIDERING A CONDITIONAL USE PERMIT FOR CYNTHIA ROSSO  
TO OPERATE, MC DUGOUT, AT 1370 BUFFALO RD,  
IN A [NB] NEIGHBORHOOD BUSINESS DISTRICT**

Cynthia Rosso, 281 Red Hickory Dr. Looking to open a neighborhood family friendly, sports bar and grill.

Supervisor Giunta asked what hours of operation and types of food items?

Mike Rosso, with hours of operation, (7) seven-days a week, 11:00AM-2:00AM. Food with basics like burgers, fries, then weekends serving steaks, once they get a better cook, expand they'll expand the menu.

Supervisor Giunta asked if either have been in the restaurant business in the past.

Mr. Rosso, replied, not the restaurant business, but has an auto-repair shop

Councilman Tucciarello asked if they own the building?

Mrs. Rosso, this was formerly The HUB, a sports bar, which is not operating and they will be closing on it next week

Supervisor Giunta asked if they will be applying for their liquor license and how many employees are they planning on and when will it open?

Mrs. Rosso replied they already have the liquor license and they will have about (6-8) six to eight employees and October 1<sup>st</sup>

Supervisor Giunta asked if any more comments or questions and opened up to the audience.

Christina Finocchio, 336 Crestwood Blvd, asked if they will have bands play. The past tenant had a lot of issues with bands, bikers and sex in the parking lot. She wishes the new owners the best, and hopes it's not the same situation as prior.

Mr. Rosso replied if so, it would be a (2) two-piece band, and they have no intention on it being a loud and crazy situation. It's just a fun family sports bar and grill. Come eat and enjoy a game.

Supervisor Giunta asked if any more comments or questions, hearing none, closed the public hearing.

**RESOLUTION 150-21** Motion by Councilman DiPonzio moved its adoption:

Resolved, that the Gates Town Board hereby approves a Conditional Use Permit for Cynthia Rosso to Operate MC Dug Out at 1370 Buffalo Rd. in a (NB) Neighborhood Business District.

**Hours of Operation: Monday-Sunday 11:00AM-2:00AM**

Seconded by Councilman Cordero

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

**Motion Carried.**

Mr. Vince Finnochio asked what a Conditional Use Permit means.

Supervisor Giunta explained a CUP is renewable every year if granted by the Town Board. It adds certain restrictions that need to be followed that were set forth by the board. A permit can get pulled if conditions and are not being met, which then results is the business not being valid.

Attorney Schum added, when the CUP is up for renewal each year, additional conditions can be added or if there are any violations can be denied.

## **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 and Pledge of Allegiance, led by Councilman Steve Tucciarello.

There were no corrections or additions made to the minutes of August 2, 2021. Minutes stand as published and will be available on the website and Town Clerk's office.

### **AUDIENCE PARTICIPATION**

Supervisor Giunta asked if anyone had anything to share?

Missy Encina, 165 Colwick Rd. is a little disappointed with Gates, she was driving down Howard Rd on Saturday (September 4, 2021) night around 8:00PM, got to Lyell and about (25-30) twenty five to thirty 4-wheelers and dirt bikes driving down Lyell Ave., blocking the intersection, not letting anyone get by. Her light turned green, she saw an opening and preceded to go through and one on them was on her side motioning No with his finger, she did the same back to him, while someone else latched on to her sideview mirror, while (2) two others are kicking and punching her car. She was scared, being by herself and it was dark, she pulled into the Little Cesare's parking lot, trying to call 911, they broke he mirror, smashed the back lights, banging on the windows trying to get in all while she was screaming and her dog barking. Other people witnessed who also called the police and have photos they have shared with her. After 20-minutes an Officer came and after going back and forth was not happy with the response or attitude. She is frustrated and disappointed and would like to know what is going on lately?

Supervisor Giunta apologized for the trauma she went through and the response from the officer. This was the first he's heard of this and asked if the Chief, who was present to come up and address this.

Police Chief VanBrederode, unfortunately it's been on the news each night about these ATV riders and dirt bike riders going through the streets of the City of Rochester, Greece, Irondequoit and now Gates, which this was the first occurrence here. This is a big problem and it gets a bit sticky on how to approach them. In Roll-Call they discuss different strategies of how to handle this type of situations. The county legislator passed a law that fines them \$1000.00 if caught. It's a county wide problem, not just the town of Gates. They have no respect for the Police officers.

He offered to sit down and speak with Ms. Encina about the officer's conduct.

The Chief reiterated this is a community effort and takes all the community to come together. It's taken very serious here in the Town of Gates. He offered to bring the report to her.

Councilman Loughlin asked if it makes it more difficult on the officers if the pursue the ATV or anything like it, with possible crashes and someone getting hurt, like going through a Wegmans parking lot or through traffic.

Chief, they did discuss at today's roll-call on strategies on how to handle, trying different technics so they don't run. They post videos of this behavior on You tube, it's absolutely out of control this behavior. He is sorry Ms. Encina went through this, especially in the town of Gates, but they are working on it.

Don Iaonnone, 4099 Lyell Rd., representing Zoning Board of Appeals. In February 2021, passed a resolution for 1269 Chili Ave. To this day they have yet to come into compliance. He has attended several Planning Board Meetings and brought this issue up and also knows the business owner came before the last planning board meeting, but doesn't know if they were approved or not for what he's asking now, but doesn't know how they could be approved for anything if they are not in compliance with the decision the Zoning Board made in February. The owner has had

many excuses, but Mr. Iaonnone feels excuses only go so far....get the job done. The code enforcer needs to make sure it's done.

## **PROCLAMATION**

Supervisor Giunta, read and presented a Proclamation from the Town of Gates to C.U.R.E. Childhood Cancer Association and the Chairman Joe DiFabio.

He also introduced three-year old Landon, who just finished his final treatment as well as his parents, Jessica and Scott and sister Alena. They are a local Gates Family battling childhood cancer.

Mr. DiFabio, go to [curekidscancer.com](http://curekidscancer.com) for more information on the association, events and donating.

## **OLD BUSINESS**

### **CONSIDER 898 BUFFALO RD. ASSOCIATES, LLC TO RE-ZONE 898 BUFFALO RD FROM SINGLE-FAMILY R-1-8 AND BN-R TO (PUD) PLANNED UNIT DEVELOPEMENT**

**RESOLUTION 151-21** Motion by Councilman Cordero who moved its adoption:

Resolved, that the Gates Town Board hereby **Reopens** the Public Hearing in consideration of 898 Buffalo Rd Associates, LLC to Re-Zone 898 Buffalo Rd from Single Family R-1-8 and BN-R to (PUD) Planned Unit Development

Seconded by Councilman DiPonzio

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

### **Motion Carried.**

Supervisor Giunta, we have made sure everything is posted correctly. A sign was posted on Site, as well as the letters to the neighboring residents 300-feet from, the web-site and at the Town Hall. The public hearing is now open for new comments or concerns that may have not been already heard.

Evelyn Gargan, 149 Varian Lane, is questioning this being considered to rezone as PUD and looking at the town map, there is already PUD zones already, why is this property looking at being considered PUD rezoning and not a multi-family

Supervisor Giunta, believes it's because they are trying to incorporate a mixed use and to keep the Doud Post building and repurpose it

Ms. Gargan, it's already zoned business right now, it's non-residential business, she believes. Her concern is because of the residential homes around that area. Multi-family, as far as the town code goes, fits more for the residential atmosphere around there than PUB. Like with multi-family, they are limited to the height of the building, like 2 ½-stories (35-feet high) were PUD can go 3-story building and so forth. It'll stick out like a sore-thumb. Multi-family would fit in the atmosphere around there better, be better as residential

Supervisor Giunta, it's a valid concern, but doesn't know exactly why they choose PUD, but it's their preference.

Ms. Gargan, but the Town has the right to deny

Supervisor Giunta, yes, the Town does have the right to deny or approve, but to be honest doesn't think it can get acted on at this meeting because of the SEQR process

Ms. Gargan would like the Board members to look at the map, 90% of Gates is multi-family

Supervisor Giunta, in our comprehensive plan, we need to have different zones within the town. We are in the process of going through and have had some rezones to keep in compliance. A lot of things have changed through the years in our town, that are no longer conducive in the area. In this situation, it's something the applicant wanted to do, they felt this was the best choice for them. Some zones do change based on contractors and the Planning Board will ultimately decide, but want your input. He continued to ask Ms. Gargan if going PUD, is height is main concern?

Ms. Gargan, wants to know what can go there? She understands any changes require be presented to the board, but yes that open pandoras box, being PUD more so than Multi-family where it's more restricted. Again, reading the code, multi-family, states it's more conducive to what's around them. The final plan has not been approved yet, so if they come with one plan and then change to a four-story building they can do it.

Kurt Rappazzo, Director of Public Works, 1605 Buffalo Rd, PUD is a planning tool, that allows developers more creativity than standard zones will allow, but by any means does it allow a developer to do anything it wants. As a matter of fact, it gives this board more authority to set exact controls for that piece of parcel and that development. This board decides if they don't want the building higher than (50) fifty feet, they can set that.

Supervisor Giunta thanked Mr. Rappazzo for the clarification.

Attorney Dan Schum, they have chosen to rebuild the Doud Post building instead of bulldozing it down. To be repurposed as possible a small retail type use

Mr. Kurt Rappazzo, the other benefit being a PUD, it allows the mixed of uses throughout the entire site. Currently it's split zoned, only to be commercial in the front and residential in the back, but going this route gives them more flexibility

Betsy Brugg, Attorney with Woods Oviatt Gilman, the PUD is a planning tool, the developer starts by looking at the property and develop the project based on the characteristics of the property, then look at the code. This is a very unusual shaped parcel in a unique location on the canal, on the city line, a portion that is RG&E, and there are neighbors, and being sensitive to them, moved the project. Trying to come up with the optimal project using the existing building, recognizing this is going to be a mixed-use project. The Town simply does not have simply a Mixed-Use Zoning District that the project fits squarely into. There are a number of tools that are available to that allow flexibility and creativity in designing a development, the Town of Gates happens to provide for the PUD, as the avenue to achieve that type of optimal development, utilizing creativity, provided through the PUD as a mechanism, other municipalities have different tools. There is a variety of different ways, but PUD itself is not a zoning district, once rezoned to PUD, they are locked into plan that the Town approves, unlike going to a multi-family or commercial, where then you can build many different things and come up with many other plans. So, they were really trying to use PUD as way to achieve the optimal development of the property that is most protective of the neighbors and really achieves the optimal use for the Doud Post building and the unusual configuration of property, taking advantage of the canal, and fortunately the PUD works as the planning tool and does leave the Town Board with absolute total control over the project. Once it gets approved by the Board, any changes would need to be brought to the board for approval.

Supervisor Giunta, thanked Ms. Brugg for the explanation. He then asked if anyone else wanted to speak, hearing none closed the Public Hearing portion and stated the board cannot act on this application as they still haven't receive SEQR determination which the Planning Board is the lead agency on this project.

## **NEW BUSINESS**

### **CONSIDERING RENEWALS OF THE CONDITIONAL USE PERMITS FOR THE FOLLOWING:**

**DUNKIN DONUTS (#344162), 1482 BUFFALO RD.;**  
**DOLOMITE, 1075 BUFFALO RD.;**  
**BURGER KING #666, 1300 CHILI AVE.;**  
**KFC (TWO LOCATIONS), 2222 LYELL AVE AND 1345 CHILI AVE**  
**GATES CHILI FEDERAL CREDIT UNION, 2870 BUFFALO RD.;**  
**TINSELTOWN USA, 2291 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 152-21** Motion by Councilman Loughlin who moved its adoption:

Resolved, that the Gates Town Board hereby approves the renewal of the Conditional Use Permits on mass for the following: Dunkin Donuts, 1175 Buffalo Rd.; Dolomite, 1075 Buffalo Rd.; Burger King #666., 1300 Chili Ave.; KFC. (TWO Locations) 2222 Lyell Rd. and KFC, 1345 Chili Ave.; Gates Chili Federal Credit Union, 2870 Buffalo Rd.; Tinseltown USA, 2291 Buffalo Rd.;

Seconded by Councilman Tucciarello

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

**Motion Carried.**

### **ADOPTING A RESOLUTION THAT THE TOWN BOARD OF THE TOWN OF GATES DOES AUTHORIZE THE EMPLOYMENT OF GOLDBERG SEGALLA TO UNDERTAKE THE DEFENSE OF THE TOWN OF GATES IN THE WORKERS COMPENSATION CLAIM**

**RESOLUTION 153-21** Motion by Councilman Tucciarello who moved its adoption:

Resolved, that the Gates Town Board hereby Adopts a Resolution that the Town Board of the Town of Gates does authorize the employment of Goldberg Segalla to undertake the defense of the Town of Gates in the Workers Compensation Claim.

Seconded by Councilman DiPonzio

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

**Motion Carried**

### **ADOPTING A RESOLUTION THAT THE TOWN OF GATES IS WILLING TO ENTER INTO SUCH LEASE AGREEMENT WITH THE COUNTY OF MONROE UPON THE TERMS AND CONDITIONS THERIN CONTAINED IN OPERATING A WIRELESS FACILITY TOWER ON A CERTAIN PORTION OF THE TOWN OF GATES PROPERTY**

**RESOLUTION 154-21** Motion by Councilman Cordero who moved its adoption:

Resolved, that the Gates Town Board hereby Adopts a Resolution that the Town of Gates is willing to enter into such Lease Agreement with the County of Monroe upon the terms and conditions therein contained in Operating a Wireless Facility Tower on a certain portion of the Town of Gates Property

Seconded by Councilman DiPonzio

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

**Motion Carried**

**SCHEDULE PUBLIC HEARING FOR TOWN GATE LLC TO REZONE PROPERTY  
AT 1010, 1020, 1032 AND 1036 SPENCERPORT RD FROM (R-1-11) RESIDENTIAL  
DISTRICT TO (MR) MULTI-RESIDENT DISTRICT AND  
TO CONSIDER ADOPTING A LOCAL LAW ELECTING TO OPT-OUT OF  
ALLOWING CANNABIS RETAIL DISPENSARIES AND ON-SITE CANNABIS  
CONSUMPTION SITES WITHIN THE TOWN OF GATES**

**RESOLUTION 155-21** Motion by Councilman DiPonzio who moved its adoption:

Resolved, that the Gates Town Board hereby schedules two Public Hearings for Monday, October 4, 2021 starting at 7:00PM to consider Town Gate LLC, to rezone property at 1010, 1020, 1032 and 1036 Spencerport Rd from (R-1-11) Residential District to (MR) Multi-Resident District, and consider adopting a Local Law electing to Opt-Out of allowing Cannabis Retail Dispensaries and On-Site Cannabis Consumption Sites within the Town of Gates

Seconded by Councilman Cordero

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

**Motion Carried**

**AUTHORIZING AN INTER-MUNICIPAL AGREEMENT BETWEEN GATES CHILI  
CENTRAL SCHOOL DISTRICT AND THE TOWN OF GATES ALLOWING SUCH  
VEHICULAR REFUELING AT THE “DEPOT” LOCATED AT  
2 SPARTAN WAY, ROCHESTER, NY 14624**

**RESOLUTION 156-21** Motion by Supervisor Giunta who moved its adoption:

Resolved, that the Gates Town Board hereby. Authorizes an Inter-Municipal Agreement between Gates Chili Central School District and the Town of Gates allowing such vehicular refueling at the “Depot” located at 4 Spartan Way, Rochester, NY 14624

Seconded by Councilman DiPonzio

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

**Motion Carried**



**ACCEPTING THE BID OF HOME PRIDE BUILDERS & DEVELOPERS, INC. TO  
CONSTRUCT AN OPEN STRUCTURE PAVILION AT WEGMAN ROAD PARK**

**RESOLUTION 157-21**      Motion by Councilman DiPonzio who moved its adoption:

Resolved, that the Gates Town Board hereby, accepts the bid of Home Pride Builders & Developers, Inc. to construct an open structure pavilion at Wegman Road Park.

Seconded by Councilman Cordero

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

**Motion Carried**

Councilman DiPonzio also mentioned this was the most reasonable offer, from all the bids, especially at these times

**ACCEPTING A LATERAL POLICE OFFICER TRANSFER,  
DAKOTA VANBREDERODE TO THE GATES POLICE DEPARTMENT**

Police Chief James VanBrederode, Officer Pearl retired June 30 and have had a vacancy since. Due to the defunding of the Rochester Police Department, that effectively shut down the police academy for 2021 so no recruit classes, which has left all the towns scrambling for filling positions and have been filling positions through lateral position transfers because of the inability to put in a new recruit from the police academy. In following the Greece Police and Webster did advertise this position on social media and other transfers from police departments and received about (6) six applications from Ontario County, City of Rochester and our Sheriff's Office. Based on those interviews have asked to appoint Dakota VanBrederode to this position to fill the vacancy and also anticipate 2/3 more vacancies in 2022, which will put us back in the position of more lateral transfers because of the police academy situation.

**RESOLUTION 158-21**      Motion by Councilman Cordero moved its adoption:

Resolved, that the Gates Town Board hereby accepts a lateral Police Officer transfer, Dakota VanBrederode to the Gates Police Department

Seconded by Councilman Tucciarello

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

**Motion Carried**

**NEW BUSINESS OF COUNCIL MEMBERS**

**REPORTS**

**SUPERVISOR'S**

**ACCEPTING THE SUPERVISOR'S  
REPORT FOR THE MONTH OF AUGUST, 2021**

**WARRANTS**

**GENERAL**

CLAIMS # A21-0533– A21-0635      \$177,606.42

**HIGHWAY**

CLAIMS # D21-0349 – D21-0406      \$267,294.64

**LIBRARY**

CLAIMS #L21-0158 – L21-0182      \$26,136.07

<b>TOTAL DISBURSEMENTS</b>	<b>\$1,531,548.48</b>
<b>TOTAL RECEIPTS</b>	<b>\$1,146,915.59</b>

Supervisor Giunta noted for the record that the warrants for the month of August 2021 have been examined by the Town Board and paid.

**RESOLUTION 159-21**      Motion by Councilman Cordero who moved its adoption:

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

Seconded by Councilman DiPonzio

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

**Motion Carried.**

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

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

TOTAL REVENUE COLLECTED	\$36,642.43
TOTAL REVENUE TO THE SUPERVISOR	\$28,791.51
TOTAL NON-LOCAL REVENUE	\$7,850.92

**RESOLUTION 160-21**      Motion by Councilman Loughlin who moved its adoption:

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

Seconded by Councilman Cordero

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

**Motion Carried.**

**PERSONAL STATUS REPORT**

Personnel Status Report for the month of August 2021.  
Additions 0, Terminations 0, Net Change 0

There being no further business to come before the Town Board, Supervisor Giunta motioned and Councilman Cordero second to adjourn the meeting. All were in favor; motion carried. Supervisor Giunta adjourned the meeting at 8:17 PM.

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Town Clerk