Oct 5, 2026

The Gates Town Board held three (3) Public Hearings and its Regular Town Board meeting on Monday, October 5, 2026 at the Town Hall Meeting Room starting at 7:00PM. Those attending the meeting were as follows:

Cosmo A. Giunta	Supervisor
Christopher B. DiPonzio	Councilman
Lee A. Cordero	Councilman
Steve Tucciarello	Councilman
Andrew M. Loughlin	Councilman
John DiCaro	Town Attorney
Sarah Lobene	Town Clerk

7:00 PM PUBLIC HEARINGS

The Town Attorney, John DiCaro verified that the Legal Notices were properly published as required by law.

TO CONSIDER <u>TWO (2)</u> CONDITIONAL USE PERMITS FOR ZACH COLE (MIRABITO HOLDINGS, INC) TO OPERATE MIRABITO CONVENIENCE STORE #233, LOCATED AT 2061 CHILI AVE., IN A GENERAL INDUSTRIAL (GI) DISTRICT #1. FUEL SERVICE FACILITY AND #2. FAST-FOOD SERVICE

Supervisor Giunta asked if the applicant was present?

Brian Manga, district manager for one of the chains, representing Mr. Cole. Stated Mirabito Holdings acquired Quicklee's a few months ago and are running it similarly. They lease the space for Dunkin Donuts and the convenience store side really doesn't have fast food (possibly down the road) except for Grenada slush puppy machine and beverage bend and the typical convenient store products. There are (4) four MPV's which have (8) eight gas pumps and a car wash attached to the side.

Supervisor Giunta asked if they purchased next door?

Mr. Manga, replied no they didn't, they were negotiating for it, but nothing yet.

Supervisor Giunta asked the hours of operation and roughly how many employees?

Mr. Manga answered the hours are 24/7 with (9-10) nine-ten employees at this point going into winter they scale back a bit, then crank it up in the summer with about (16) sixteen. There's not a lot of overnight business

Councilman Cordero asked if Mirabito acquired all the Quicklee's?

Mr. Manga answered in the first batch, they acquired (9) nine and in the latest batch (5) five and on the docket for take on (5 or 6) five or six more, but not sure how that negotiation went. He came from Quicklee's, which has kept (7) seven or (8) eight stores, most are travel centers, but there's a good chance they will acquire more.

Supervisor Giunta opened it to the public and asked if anyone from the audience wanted to speak for or against this application?

Don Ioannonoe, 4099 Lyell Rd. said he thinks it's a good organization and they should remain.

Supervisor Giunta asked if anyone else from the audience wanted to speak on this application Hearing None, he closed the Public Hearing.

RESOLUTION 167-26

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

Resolved, that the Gates Town Board hereby Approves TWO (2) Conditional Use Permit applications for Zach Cole (Mirabito Holdings Inc.) to operate Mirabito Convivence Store #233 located 2061 Chili Ave. in a General Industrial District (GI) #1. Fuel Service Facility AND #2. Fast-Food Service with the following Conditions: Hours of Operation: **24/7**

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

Councilman Cordero confirmed it was TWO Conditional Use Permits?

Supervisor Giunta, Yes, it is two separate permits. (1) One for the Fuel Station and (1) One for the Fast-Food Service.

ENACTMENT INTRODUCTORY LOCAL LAW 2-2026 TO OVERRIDE THE TAX CAP LEVY LIMIT FOR FISCAL YEAR 2027

Supervisor Giunta explained right now it's more precautionary and that many towns are now passing this in just in case they have to exceed the cap. He stated the Budget Workshop is scheduled for October 19th at 6:30, but reiterated that this is in preparation in case the town has to go over the tax cap. He also explained it's getting more difficult for towns to stay within a 2% tax cap and the town is doing everything it can to stay below it but with the way things have been escalating he's not sure the town can. This is an option and preparation for exceeding it as budget has to be passed in November.

He asked if any board member had any further discussion and then opened it up to the the audience wanted to speak for or against this application?

Hearing None, closed the Public Hearing.

RESOLUTION 168-26

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

WHEREAS, the Town Board of the Town of Gates did hold and conduct a public hearing on October 5th, 2026 to consider the enactment of Introductory Local Law #2-2026 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 SEQR;

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 #2-2026 to read and provide as follows:

Local Law No 2-2026 of the fiscal year 2027

"**A Local Law to Override the Tax Levy Limit for Fiscal Year 2027"**

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 2027 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 2026, and to adopt a budget for the Fiscal Year 2027 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 filling with the Secretary of State as provided in §27 of the N.Y. Municipal Home Rule.

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

7:30PM REGULAR TOWN BOARD MEETING

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

He asked the board members, if they had an opportunity to review the Public Hearings and Regular Town Board Meeting Minutes from Tuesday, September 8, 2026 and being that there are no corrections, the minutes will be posted as drafted.

RESOLUTION 169-26

Motion by Councilman Cordero who moved its adoption:
Seconded by: Councilman DiPonzio
Resolved, that the Gates Town Board hereby Accepts the Minutes of the Public Hearings and Regular Town Board Meeting of Tuesday, September 8, 2026.

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

AUDIENCE PARTICIPATION

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

Karen Cervini, 126 Matilda St. read a statement that the surrounding residents of the Fox Run area agree with concerning road repair. She also presented a petition signed by the neighbors. They feel this is unacceptable and that the Town is responsible for maintaining the road and it's being ignored. It has changed the traffic flow on Rossmore and Matilda streets as people are trying to avoid Fox Run. They are also concern with all the children riding their bikes in the area. She also presented photos for the town board to see and added the older people in the area walk all the time, everywhere, to the bank and Aldi's and just walk.
She has spoken with Monroe County DOT and NY State DOT and they say it is not listed as a private road on their maps. She added that previous administration maintained it and doesn't understand why it stopped.

Supervisor Giunta responded, he is not ignoring this situation, but it's beyond the town's control. They are looking for the proper owners, being it is not a Town road, just like Cornelia Dr. which the Town also does not maintain and he can't speak on previous administrations, but is aware now that it is a private road and is not a town road. It's the same situation going into Home Depot, with people complaining, but Benderson owns that as well. It was never deeded to the Town. The town attorney has been looking into this, but doesn't understand where she has gotten her information. They've looked at the deeds, it is not a town road and it's not that he doesn't want to take care of it, they are working to do it legally, there's liability issues. He has met with the condo owners, who was present. There are other factors. They have met with Benderson, and Tin Tin Ren and currently trying to get in touch with Landsman who are the proper owners.

Attorney DiCaro stated he had spoken with Mr. Bansbach who's the attorney for Fox Run as well as with an attorney for Benderson, he has reached out to Tin Tin Ren the owner of the other adjoining Howard Common Plaza, to see if they would discuss the possibility of some sort of cost sharing agreement to keep the road maintained, however the bottom line is, it isn't a town road and as the supervisor indicated, if some previous administration in fact did any maintenance, it wasn't something they were really authorized to do and the town can't do that. He spoke with them hoping that they can reach an agreement and the town would help out in an emergency, one time, repair if they can all reach an agreement with the understanding that it doesn't create any kind of ongoing obligation for the Town, because the town can't accept that obligation because it's not the town 's obligation. He's optimistic because at least the attorney for Fox Run indicated it was an idea that he could support and the attorney for Benderson indicated he was involved. The only party he hasn't received an answer from is the owner of Howard Commons yet, but hopefully will. He's going to keep working on it until he can get everyone in a room and do it. Landsman is the owner and has spoken with their attorney as well and they're

indicating they want to make a deal with someone because they believed the road was transferred out when they sold their interest in the adjoining properties, but it wasn't, so in the end they do have some responsibility as well and expects they're going to have to contribute in some way to whatever solution that can be reached and the residents may think the town has the ability to sort of make them responsible, but they really don't.

Mrs. Cervini wants it to be handled the same way, if she didn't maintain her property, the Town would come in, do whatever needed to be done and then she'd get charged, so she doesn't understand.

Supervisor Giunta replied, the Town gives an opportunity for whomever it is, to be fixed and that's what the Town is doing, giving them an opportunity to fix it.

Mrs. Cervini, but it's been three (3) years, it's been an ongoing issue.

Debra Shaw, 60 Fox Run added, putting that road aside, looking at the apartments with probably 400/500 people and the people in the condos all trying to use Cornelia Dr., but can't. She can't go to work or the grocery store without delays and has spoken to the business owners in the Plaza and their landlord has told them that, that's theirs and they can park there, but the whole road is impeded. They park on it like it's an overflow parking. She has had to get out of her car and literally go to the door of the business and aske for them to move and not obstruct the road. She understands the town is working on it, but they need a way to get in and out of their homes. She requested a FOIL and it states Cornelia is a town road.

Supervisor Giunta suggested they go through the end of Fox Run and use Matilda, he also added Cornelia in not a town road, it is a private road.

Ms. Shaw asked if it belongs to the plaza? Who does the repairs?

Supervisor Giunta confirmed it does not belong to the town and any repairs is done the Cornelia Apartments. He added this is the first time he is hearing about the issues on Cornelia. He was talked to about Fox Run

Ms. Shaw said she has called and sent two (2) emails about not being able to get out because of the trucks parked there and a dumpster.

Supervisor Giunta doesn't recall Cornelia, just aware of Fox Run, but will go back and look

Attorney DiCaro assumes the Cornelia Apartments has an attorney and that's who should be contacted.

Ms. Shaw doesn't know, she pays taxes and just wants to be able to get out of her house

Attorney DiCaro giving an example; if his next-door neighbor was using his property, he wouldn't call Town of Gates, he would contact that neighbor and would get a lawyer and deal with what the neighbor was doing on his property and that's unfortunately part of the problem she has, is that perhaps she needs to have her attorney or the communitive apartment complex have their attorney contact the party who's using properties inappropriately?

Ms. Shaw asked for clarification and that the State is incorrect in saying that, that road can't be impeded, it's listed as an ingress, egress road and under the town code it cannot be blocked or obstructed.

Attorney DiCaro doesn't know, but if she wants to give him a name of somebody she spoke with at the State DOT, he'll be happy to talk with him or her, but doesn't know what that conversation was, but can suggest to her that it's if Cornelia Apartments owns the road they have rights to deal with it and they should

Ms. Shaw stated from the FOIL request she did, showed that all of that property when he wanted to break it up and sell it had to go through the Town of Gates for Approval to be sure it was all accounted for and asked if that was correct information she was given?

Attorney DiCaro assumes its true approvals of some sort were needed, but doesn't know when that was and doesn't want anyone to think the Town is acting with a lack of concern because that's not the case. They are just trying to talk to the appropriate principles who are responsible for this, there's only so much the town can do. The town isn't free to just simply tell somebody do something with their property, but Cornelia Dr apartments is certainly free to take whatever action it thinks appropriate.

Ms. Shaw stated that it was said Fox Run can't block off the road because of Emergency vehicles be able to get around or it would be a liability.

Supervisor Giunta believes Fox Run was told they could use a crash gate if needed to get back in there, but not blocking it off

Ms. Shaw is not trying to be unreasonable she just wants to be able to leave her house and not be 20 minutes late to work or anywhere she needs to go.

Discussion continued with the same issue and both the Supervisor and Attorney will further look into the owners and who has the right to enforce and address the issues.

Attorney DiCaro added, as the Town Attorney can't allow the Town Officials to expose themselves to a liability and the truth of the matter is it's not the only remedy, there is also private action that is possible. He has spoken with some of the plaza owners and they want resolution as well and hopes the Howard Commons owners come along as well and hopes it doesn't take long, but doesn't control the others

He then asked if anyone else from the audience wanted to speak? Hearing none, closed Audience Participation

OLD BUSINESS

NEW BUSINESS

CONSIDER RENEWALS OF CONDITIONAL USE PERMITS FOR THE FOLLOWING: ABSOLUTE SCREEN PRINTING, 505 SPENCERPORT RD., SUITE 3; BYRNE DAIRY, 2295 SPENCERPORT RD.; GATES MANUFACTURED HOUSING COMMUNITY, 1531 BUFFALO RD.; PURE IMAGINATION CAFÉ, 2997 BUFFALO RD.; SSG ROCHESTER GLOBAL SELF-STORAGE, 2255 BUFFALO RD.; SUMMIT K-9 TRAINING, 1555 BROOKS AVE.; THE COTERIE, 777 SPENCERPORT RD.; WESTGATE FASHION PARK, 2170 CHILI AVE.; WAGS DOG CLUB, 7 MARWAY DR.; SPEEDWAY (4-LOCATIONS), 465 SPENCERPORT RD., 1511 BUFALO RD., 719 ELMGROVE RD., 2328 CHILI 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 170-26

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

Resolved, that the Gates Town Board hereby approves Renewals of Conditional Use Permits for the following: Absolute Screen Printing, 505 Spencerport Rd., Suite 3; Byrne Dairy, 2295 Spencerport Rd.; Gates Manufactured Housing Community, 1531 Buffalo Rd.; Imagination Café, 2997 Buffalo Rd.; SSG Rochester Global Self-Storage, 2255 Buffalo Rd.; Summit K-9 Training, 1555 Brooks Ave.; The Coterie, 777 Spencerport Rd.; Westgate Fashion, 2170 Chili Ave.; Wag Dog Club, 7 Marway Dr.; Speedway, (4-Locations) 465 Spencerport Rd, 1511 Buffalo Rd, 719 Elmgrove Rd, 2328 Chili Ave

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

SCHEDULING THREE (3) PUBLIC HEARINGS TO CONSIDER

#1. A CONDITIONAL USE PERMIT FOR CHRISTIAN BRUNELLE (BYRNE DAIRY-SONBYRNE SALES) TO OPERATE BYRNE DAIRY, LOCATED AT 1485 BUFFALO RD. IN A GENERAL BUSINESS DISTRICT.
AND
#2. A CONDITIONAL USE PERMIT FOR MICHAEL MARTIN (STARBUCKS CORP.) TO OPERATE STARBUCKS COFFEE, LOCATED AT 2 SPENCERPORT RD. IN A GENERAL BUSINESS DISTRICT.
AND
#3. FOR THE 2027 TOWN OF GATES PRELIMINARY BUDGET

RESOLUTION 171-26

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

Resolved, that the Gates Town Board hereby Schedules THREE (3) Public Hearings to be held on **Wednesday**, November 4, 2026 starting at 6:45pm. to consider:

#1. Consider a Conditional Use Permit for Christian Brunelle (Byrne Dairy-Sonbyrne Sales, Inc) to Operate Byrne Dairy located at 1485 Buffalo Rd. in a General Business (GB) District.

#2. Consider a Conditional Use Permit for Michael Martin (Starbucks Corp.) to Operate Starbucks Coffee located at 2 Spencerport Rd in a General Business (GB) District.
AND
#3. For the 2027 Town of Gates Preliminary Budget

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

AUTHORIZING THE AMENDMENT OF CONTRACT #D009742 FOR THE 2025-2026 SNOW & ICE AGREEMENT BETWEEN NYS DOT AND TOWN OF GATES

RESOLUTION 172-26

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

WHEREAS, the Town Board of the Town of Gates did heretofore execute a certain lump sum Snow and Ice Agreement with the State of New York being Contract #D009742; and

WHEREAS, due to the winter severity of the snow and ice season during the calendar year 2025-2026 the partial thereto proposed that Amendment B to the Snow and Ice Contract be executed to reflect a total estimated expenditure of $657,447.94; and

WHEREAS, that additional funding shall be provided by the NYS DOT to meet the expected expenditure; and

NOW, THEREFORE, be it resolved by the Town Board of the Town of Gates, Monroe County, New York, as follows:

Section 1. That the Supervisor, be and he hereby is authorized to execute Amendment B to the Contract by and between the Town of Gates and the New York State Department of Transportation amending the estimated expenditures and funding to be received by the Town of Gates.

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

AUTHORIZING THE GATES TOWN COURT TO APPLY FOR THE JUSTICE COURT ASSISTANCE PROGRAM 2026-2027 GRANT CYCLE UP TO $30,000.

RESOLUTION 173-26

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

Resolved, that the Gates Town Board hereby Authorizes the Gates Town Court to apply for the Justice Court Assistance Program 2026-27 grant cycle up to $30,000.

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

ENTERING AN EXECUTIVE SESSION FOR A PERSONNEL MATTER

RESOLUTION 174-26

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

Resolved, that the Gates Town Board hereby Entered an executive session for a Personnel matter. 8:22pm-8:42pm

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

EXITING AN EXECUTIVE SESSION FOR A PERSONNEL MATTER

RESOLUTION 175-26

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

Decision was voted by the board and reached of a confidential personnel matter.

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

NEW BUSINESS OF COUNCIL MEMBERS

Councilman DiPonzio, the Town has been Awarded a Grant for Wegman Rd Park.

Supervisor Giunta reminded everyone the Annual Trunk or Treat will be held on Sunday, October 25th at TSE on Elmgrove Rd. 10:00am-Noon.

Councilman Loughlin mentioned the Library Board of Trustees has two (2) membership spots available if anyone is interested

REPORTS,

ACCEPTING THE SUPERVISOR'S REPORT FOR THE MONTH OF SEPTEMBER 2026

WARRANTS

GENERAL	
CLAIMS # A26-0773 – A26-0851	$273,168.51
HIGHWAY	
CLAIMS # D26-0343 - D26-0384	$235,750.44
LIBRARY	
CLAIMS # L26-0329 – L26-0367	$40,021.20
TOTAL DISBURSEMENTS	**$1,762,228.70**
TOTAL RECEIPTS	**$519,258.36**

Supervisor Giunta noted for the record, that the warrants for the month of September 2026 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 176-26

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 September 2026 as read; and the warrants for the month of September 2026 as read.

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

ACCEPTING THE TOWN CLERKS REPORT FOR THE MONTH OF SEPTEMBER 2026

The Deputy Town Clerk read the report for the month of September 2026 showing the following:

TOTAL REVENUE COLLECTED	$36,087.37
TOTAL REVENUE TO THE SUPERVISOR	$32,427.21
TOTAL NON-LOCAL REVENUE	$3,660.16

RESOLUTION 177-26

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

Resolved, that Gates Town Board hereby accepts the Town Clerk's report for the month of September 2026.

PERSONAL STATUS REPORT

The Deputy Town Clerk presented the Personnel Status Report for the Month of September 2026.

Additions:	1 (Public Safety)
Terminations:	0
Net Change:	1

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 8:50 PM.

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Town Clerk