

**KENDALL TOWN BOARD**  
**Public Hearing**  
**Meeting**

Tuesday, August 15, 2017 7:00 p.m.  
Kendall Town Hall – 1873 Kendall Road, Kendall, New York 14476

Supervisor Cammarata called the meeting to order at 7:00 p.m., and led the Pledge of Allegiance.

**ROLL CALL**

Councilwoman Flow	present
Councilman Martin	present
Councilman Newell	present
Councilwoman Szozda	present
Supervisor Cammarata	present

Also present, Attorney Meier, Clerk Richardson, Deputy CEO Strong, Planning Chairman Kludt, Al and Bev Lofthouse, Don and Mary Mann, Dave and Sandy Strassenburg, Highway Superintendent Kruger, Zoning Board of Appeals Chairman Bolton, Janet Bolton

**OPEN PUBLIC HEARING TO CONSIDER LOCAL LAW 3 OF 2017**

**A LOCAL LAW ADOPTING SOLAR REGULATIONS**

Purpose: To regulate solar energy generation facilities

**SUPERVISOR/TOWN BOARD OVERVIEW AND REMARKS REGARDING THE PROPOSED LAW**

None

**PUBLIC INPUT**

None

Supervisor Cammarata closed the Hearing at 7:03 p.m.

Supervisor Cammarata opened the regular meeting at 7:03 p.m.

**SUPERVISOR'S REMARKS**

- Still waiting for Justice audit to be returned
- Waiting for the town of Carlton's approval of the approved Assessor Agreement
- Waiting for several answers from the USDA to questions posed regarding several water districts

**CORRESPONDENCE**

- SUNNKING – certificate of donation
- Finger Lakes Regional Office of Governor's Office – extension of mobile command center availability to lakefront property owners

Acceptance of the following minutes was motioned for by Councilman Martin, seconded by Councilwoman Flow:

Town Board Meeting July 18, 2017; Aye: Cammarata, Flow, Szozda, Martin; Abstain: Newell

## **PUBLIC COMMENT**

None

## **REPORTS OF COMMITTEES, BOARDS AND DEPARTMENT HEADS**

### **Standing Committees**

Public Safety/Emergency Services & Occupational Safety – Martin  
Buildings & Grounds – Martin  
Highway – Martin  
No reports

Community Relations - Flow  
Culture & Recreation – Flow  
Information Services – Flow  
Homegrown Days this week.  
Bowhunting and hunting classes are scheduled.  
The code enforcement department requires a new computer.

Human Resources and Ethics – Szozda  
Employee Benefits – Szozda  
Some new requirements are in place for Tiers 5 and 6 NYS Retirement. Employees can check its website.

Planning, Zoning & Agriculture – Newell  
No reports

Finance, Taxes & Special Districts – Cammarata  
No reports

### **Boards**

Planning Board – A. Kludt, Chair  
Solar code work is complete.  
A change to the code regarding charter boat businesses has been proposed.  
Dollar General is expecting to break ground in September.  
Bald Eagle Marina has submitted a Special Use request to run a campground on its premises.  
Councilman Newell added that Mr. Tsyupa, the owner of Bald Eagle Marina, also runs a breakwall construction and repair business. It appears that he plans to run that business from the marina property. Chairman Kludt said none of the plans or submissions to the Code Enforcement Department or the Planning Board have included that.

Zoning Board – P. Bolton, Chair  
Two area variances were approved.

### **Department Heads**

Assessor – G. Massey  
No report

Code Enforcement – P. Hennekey  
Deputy CEO provided the following updates:

Dollar General is in the application submission process. The NYSERDA grant program which paid for plan reviews for such projects has been suspended, so no funding is available. T.Y. Lin International, an engineering firm, has provided a quote for required engineering of this project on behalf of the Town, for which Dollar General is willing to pay. The cost would be billed to the Town, and the Town would bill Dollar General for reimbursement. Deputy Strong provided copies of the quote for service, and copies of the proposed contracts – with T.Y. Lin International and with Dollar General. A stipulation of final Certificate of Occupancy will be that all bills are paid. This allows site plan development (drawings, review of compliance to energy codes) to occur on schedule. As of now the closing on the property has not occurred. Dollar General is willing to put \$2500 in escrow. A discussion ensued, and the Board was polled for decision. Supervisor Cammarata opined not moving forward until post-closing. Councilman Newell suggested requesting an authorization from the current owner (Steffen) to go ahead with preliminary stages, so as not to cause delay, but not expending engineering funds until after closing. Councilwomen Flow and Szozda suggested waiting until after the property is owned by Dollar General, as closing is imminent. The Attorney for the Town suggested the Board sign an agreement subject to closing, or arrange escrow and proceed with the preliminary review, so as not to delay the project. Councilman Newell stated that this process of hiring third party experts when necessary and having the applicant liable for the costs is now standard practice for municipalities. Town pays the invoice, but the money is recouped from the developer through contract. The Supervisor asked the Attorney to craft a resolution for consideration later in this meeting.

#### Highway - W. Kruger

Supervisor Cammarata congratulated Supt. Kruger on being awarded a Service award from the Orleans County Chamber of Commerce for his service under the crises of three storms.

Chip sealing, mowing and paving are all underway.

There is a new District Head for the region's Highway Superintendents' Association.

The lakefront paperwork process is laborious. FEMA assessment of damage continues.

Permits will be required after the water recedes, and paperwork for that is underway.

Historian – H. Banker – written report submitted

Recreation – M. Werth – written report submitted

Town Clerk – A. Richardson – written report submitted

Town Justices – D. Drennan, D. Gaudioso – written reports submitted

Supervisor – A. Cammarata – written report submitted

Attorney Meier suggested dispensing with a full reading of the bodies of the laws passed tonight.

## **RESOLUTIONS**

Newell made the following motion:

## **RESOLUTION 76-0817 ADOPTING LOCAL LAW 2 OF 2017**

WHEREAS, the Town Board of the Town of Kendall having duly called and held a Public Hearing on the 18<sup>th</sup> day of July, 2017 on the enactment of Local Law No. 2 of 2017 of the Town of Kendall, entitled A Local Law Amending Zoning Regulations within the Waterfront Development District,

NOW, THEREFORE, be it RESOLVED that Local Law No. 2 of 2017 of the Town of Kendall is hereby enacted as follows and effective upon its filing with the New York State Department of State:

### **A Local Law Amending Zoning Regulations within the Waterfront Development District**

#### **SECTION 1.**

This Local Law shall be known as a Local Law Amending Zoning Regulations within the Waterfront Development District.

#### **SECTION 2.**

The purpose of this Local Law is to amend the Zoning Ordinance of the Town of Kendall by including Charter Boat Services as permitted uses in the Waterfront Development District.

#### **SECTION 3.**

- (a) Section D of Chapter 265-29 of the Town of Kendall Zoning Ordinance is hereby amended by:
  - a. the deletion of subsection (4), Charter boat service, as a use permitted by special use permit; and
  - b. the renumbering of subsection (6) to subsection (5).
- (b) Subsection (1) of Section B of Chapter 265-29 of the Town of Kendall Zoning Ordinance is hereby amended by:
  - a. the addition of subsection (e) Charter boat services, as a permitted use.

#### **SECTION 4.**

- (a) This local law shall take effect immediately upon filing in the Office of the Secretary of State.
- (b) If any part or section of this local law shall be held to be invalid, the remaining provisions thereof shall not fail but shall remain in full force and effect.
- (c) All local laws, ordinances, rules or regulations, or parts or portions thereof that conflict or are contrary to any portion of this local law are hereby repealed.

No one seconded the motion.

DISCUSSION: Clerk Richardson informed the Board that in SECTION 3 (a) a. , the desired intention was to delete subsection 5 (five), not 4.

Councilman Newell amended his motion to include this change. Councilwoman Flow seconded the amended motion. A vote resulted in unanimous ayes. Supervisor Cammarata asked Attorney Meier to correct and file the Law.

So now, the corrected Law reads:

**A Local Law Amending Zoning Regulations within the Waterfront Development District**

**SECTION 1.**

This Local Law shall be known as a Local Law Amending Zoning Regulations within the Waterfront Development District.

**SECTION 2.**

The purpose of this Local Law is to amend the Zoning Ordinance of the Town of Kendall by including Charter Boat Services as permitted uses in the Waterfront Development District.

**SECTION 3.**

- (c) Section D of Chapter 265-29 of the Town of Kendall Zoning Ordinance is hereby amended by:
  - a. the deletion of subsection (5), Charter Boat Service, as a use permitted by Special Use Permit; and
  - b. the renumbering of subsection (6) to subsection (5).
- (d) Subsection (1) of Section B of Chapter 265-29 of the Town of Kendall Zoning Ordinance is hereby amended by:
  - a. the addition of subsection (e) Charter Boat Services, as a permitted use.

**SECTION 4.**

- (d) This local law shall take effect immediately upon filing in the Office of the Secretary of State.
- (e) If any part or section of this local law shall be held to be invalid, the remaining provisions thereof shall not fail but shall remain in full force and effect.
- (f) All local laws, ordinances, rules or regulations, or parts or portions thereof that conflict or are contrary to any portion of this local law are hereby repealed.

Flow made the following motion, seconded by Szozda:

**RESOLUTION 77-0817 AUTHORIZING SUPERVISOR TO SIGN AGREEMENT WITH THE TOWN OF HAMLIN FOR CONSTRUCTION OF IMPROVEMENTS WITHIN WATER DISTRICT SEVEN**

WHEREAS, the Town of Kendall has established Water District 7 to provide for the construction and administration of certain water improvements in the Town, and

WHEREAS, the Town of Hamlin is willing to furnish labor for the construction of such improvements in Water District 7 on terms agreeable to both parties, now therefore be it

RESOLVED, that the Supervisor is hereby authorized to sign an agreement with The Town of Hamlin for the construction in Water District 7, subject to review and approval by the Attorney for the Town as to form and content.

Supervisor called for a vote, resulting in all ayes.

Szozda made the following motion, seconded by Newell:

### **RESOLUTION 78-0817 ADOPTING LOCAL LAW 3 OF 2017**

WHEREAS, the Town Board of the Town of Kendall having duly called and held a Public Hearing on the 15<sup>th</sup> day of August, 2017 on the enactment of Local Law No. 3 of 2017 of the Town of Kendall, entitled A Local Law Adopting Solar Energy Regulations,

NOW, THEREFORE, be it RESOLVED that Local Law No. 3 of 2017 of the Town of Kendall is hereby enacted as follows and effective upon its filing with the New York State Department of State:

#### **A Local Law Adopting Solar Energy Regulations**

##### **SECTION 1: PURPOSE**

A. Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce a municipality's energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid when excess solar power is generated.

B. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is a priority and is a necessary component of the current and long-term sustainability agenda.

C. This Article aims to promote the accommodation of solar energy systems and equipment and the provision for adequate sunlight and convenience of access necessary therefore, and to balance the potential impact on neighbors when solar collectors may be installed near their property while preserving the rights of property owners to install solar energy systems without excess regulation. In particular, this legislation is intended to apply to; ground mounted or pole mounted solar energy system installations.

D. None of the regulations in this Chapter shall be construed, interpreted or imposed by the reviewing board or official in such a way as to unreasonably restrict/restrain those farms or farming operations located in a State-certified agricultural district approved pursuant to NYS Agriculture Markets Law.

##### **SECTION 2: DEFINITIONS**

**ALTERNATIVE ENERGY SYSTEMS:** Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure.

**BUILDING-INTERGRATED PHOTOVOLTAIC (BIPV):** The incorporation of photovoltaic (PV) material into a building's envelope. Technologies include PV shingles or tiles, PV laminates, and PV glass. Examples of placement include vertical facades, semi-transparent skylights, awnings, fixed awnings, and roofs.

**COLLECTIVE SOLAR:** Installations of Solar Energy Systems that are owned collectively through a homeowner's association, "adopt-a-solar-panel" programs, or other similar arrangements.

**COMMERCIAL SOLAR SYSTEM:** A major system or solar farm with a rated capacity of 200kW or more and used solely to capture solar energy and convert it to electrical energy to transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity, but also may be for onsite use.

**GLARE:** A continuous source of excessive brightness, relative to diffused lighting. This is not a direct reflection of the sun, but rather a reflection of the bright sky around the sun. Glare is significantly less intense than glint.

**GLINT:** Flash of light that may be produced as a direct reflection of the sun on a solar collection system.

**GROUND-MOUNTED SOLAR COLLECTION SYSTEM:** A solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure.

**HISTORIC DISTRICT OR HISTORIC STRUCTURE:** Any district or structure marked with a local, state, or federal landmark status or historic designation.

**MAJOR SOLAR COLLECTION SYSTEM or SOLAR FARM:** An area of land or other area used or improved by a Solar Energy System with the total surface area of all solar collectors exceeding 2,000 square feet. Electricity generated by the System may be sold by transfer, but also may be for on-site use. Solar farm facilities consist of one or more freestanding GROUND-MOUNTED or ROOF-MOUNTED solar collector devices, SOLAR ENERGY EQUIPMENT and other accessory structures and buildings, including light reflectors, concentrators, heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

**MINOR OR ACCESSORY SOLAR COLLECTION SYSTEM:** A solar photovoltaic cell, panel, array, solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat, secondary to the use of the premises for other lawful purposes, with the total surface area of all solar collectors on the lot of 2,000 square feet or less. Minor solar collection systems may consist of building-integrated photovoltaics, ground-mounted or roof-mounted solar collector devices.

**ROOF-MOUNTED SOLAR COLLECTION SYSTEM:** A solar panel located on a roof of a permitted principle use or accessory structure.

**SOLAR ACCESS:** Space that is open to the sun and clear of overhangs or shade. Structures constructed or placed on private property will not infringe on the rights of adjacent properties.

**SOLAR ENERGY EQUIPMENT/SYSTEMS:** Energy storage devices, material, hardware, or electrical equipment and conduit associated with the production of electrical energy.

**SOLAR PANEL OR COLLECTOR:** A device capable of collecting and converting solar energy into electrical energy.

### SECTION 3: APPLICABILITY

- A. The requirements of this section shall apply to all solar energy systems installed or modified after the effective date of this ordinance, excluding general maintenance and repair.

B. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations and industry standards as referenced in all applicable building codes and the Town of Kendall Code.

C. Nothing contained in this provision shall be construed to prohibit “Collective Solar” installations or the sale of excess power through a “net billing” or “net metering” arrangement in accordance with New York State Public Service Law § 66-j or similar New York State or federal law or regulation.

D. All engineering and legal costs incurred by the Town of Kendall shall be reimbursed by the applicant.

#### SECTION 4: MINOR SOLAR COLLECTION SYSTEMS

A. Roof-mounted solar collectors are permitted structures in all zoning districts in the Town of Kendall, subject to the following requirements:

- (1) A building permit has been obtained for the solar collectors.
- (2) Panels facing the front yard, or the backyard in the case of waterfront lots, must be mounted at the same angle as the roof’s surface with a maximum distance of 18 inches between the roof and highest point of the system. In the event of a flat roof, planning board review is necessary.
- (3) Solar panels affixed to a flat roof shall be placed below the line of sight from a public right of way.
- (4) In order to ensure firefighter and other emergency responder safety, except in the case of accessory buildings fewer than 1,000 square feet in area, there shall be a minimum perimeter area around the edge of the roof and structurally supported pathways to provide space on the roof for walking around all rooftop solar systems.
- (5) Roof mounted solar collectors shall not obstruct solar access to adjacent properties.

B. Ground-mounted solar collectors are permitted in all zoning districts except any waterfront district, subject to the following requirements:

- (1) The location of the solar collectors meets all applicable setback requirements of the zone in which they are located.
- (2) The height of the solar collectors and any mounts shall not exceed the height restrictions of the zone when oriented at maximum tilt and shall not exceed 15 feet tall with a setback no less than 15 feet.
- (3) The total surface area of all solar collectors on the lot shall not exceed 2,000 square feet and, when combined with all other buildings and structures on the lot, shall not exceed fifty-percent (50%) lot coverage.
- (4) A building permit has been obtained for the solar collectors.
- (5) Solar collectors and other facilities shall be designed and located in order to prevent reflective glare or glint toward any inhabited buildings on adjacent properties and roads.
- (6) Ground-mounted and freestanding solar collectors shall not obstruct solar access to adjacent properties.
- (7) A lot must have a minimum size of 20,000 square feet in order for a ground-mounted solar collection system to be permitted.

C. Building-Integrated Photovoltaic (BIPV) Systems: BIPV systems are permitted in all zoning districts and shall be shown on the plans submitted for the building permit application for new construction and renovation for the building containing the system.

D. Where site plan approval is required elsewhere in the regulations of the Town of Kendall for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of proposed solar collectors.

E. All solar collector installations must be in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards, and prior to operation the electrical connections must be inspected by an approved electrical inspector or agency, as determined by the Town of Kendall. In addition, any connection to the public utility grid must be inspected and approved by the appropriate public utility.

F. When solar storage batteries are included as part of the solar collector system, they must be installed consistent with the requirements of the New York State Building Code when in use, and when no longer in use, shall be disposed of in accordance with the laws and regulations of Orleans County and other applicable laws and regulations.

G. If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities no later than 90 days after the end of the twelve-month period.

## SECTION 5: MAJOR SOLAR COLLECTION SYSTEMS OR SOLAR FARMS

A. Major solar collection system or solar farms are permitted through the issuance of a special use permit and site plan review within all districts, except any of the Waterfront Districts, on lots with a minimum size of no less than five acres. Where applicable, and unless more restrictive regulations also apply, the requirements of the previous section of this ordinance shall apply to solar collectors and installations of major solar collection systems or solar farms and must meet the criteria set forth below and obtain all other necessary approvals:

B. Areas of potential sensitivity:

- (1) One-hundred-year flood hazard area as demarcated on the FEMA Flood Maps.
- (2) Historic and/or culturally significant resources as designated either at the local, state, or federal level.
- (3) Within 150 feet of a New York State wetland.
- (4) Land in an Agricultural District and/or Prime Farmland.
  - (a) Applicants shall, to the extent practicable, site major solar systems on lands considered to be marginal. If the marginal land is not practicable, the burden of proof shall fall on the applicant.
- (5) Any other area determined during site plan review by the Town of Kendall Planning Board.

C. A major system or solar farm may be permitted in any district, except Waterfront Districts, in the Town of Kendall when authorized by site plan review and special use permit from the Planning Board subject to the following terms and conditions.

- (1) The total coverage of all buildings and structures on a lot, including the total surface area of all solar collectors, shall not exceed fifty percent 50%.
- (2) Height and setback restrictions.
  - (a) The maximum height for ground-mounted solar collectors, located on the ground or attached to a framework located on the ground shall not exceed 15 feet in height above the ground.
  - (b) The minimum setback from property lines shall be 150 feet.
  - (c) A landscaped buffer shall be provided around all solar energy equipment and solar collectors to provide screening from adjacent residential properties and roads. The nature and extent of the buffer shall be determined by the Town of Kendall Planning Board.
- (3) Design standards.
  - (a) Removal of trees and other existing vegetation should be minimized or offset with planting elsewhere on the property.
  - (b) Removal of any prime agricultural soil from the subject parcel is prohibited.

- (c) Proposed major solar systems shall not negatively impact the viability of prime agricultural soils on-site.
- (d) Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction.
- (e) All on-site utility and transmission lines shall, to the extent feasible, be placed underground.
- (f) Solar collectors and other facilities shall be designed and located in order to prevent reflective glare and/or glint toward any inhabited buildings on adjacent properties and roads.
- (g) All Solar energy equipment and solar collectors, including any structure for batteries or storage cells, shall be enclosed by a minimum six-foot-high fence with a self-locking gate and provided with landscape screening. The nature and extent of the screening shall be determined by the Town of Kendall Planning Board.
- (h) Major solar collection systems or solar farms shall not obstruct solar access to adjacent properties.
- (i) Major Solar Systems are subject to additional regulations as stated in subparagraph (a-f) of SECTION 5 of this Ordinance.

(4) Signs.

- (a) A sign not to exceed eight square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number.
- (b) A clearly visible warning sign concerning voltage must be placed at the base of all pad mounted transformers and substations not to exceed four square feet.

(5) Abandonment and Decommissioning.

(a) Applicability and Purpose. This section governing abandonment and decommissioning shall apply to large scale ground mounted solar systems. It is the purpose of this section to provide for the safety, health, protection and general welfare of person and property in the Town of Kendall by requiring abandoned commercial solar systems to be removed pursuant to a decommissioning plan. The anticipated useful life of such systems, as well as the volatility of the recently emerging solar industry where multiple solar companies have filed for bankruptcy, closed or been acquired creates an environment for systems to be abandoned, thereby creating a negative visual impact on the Town. Abandoned commercial systems may become unsafe by reason of their energy producing capabilities and serve as an attractive nuisance.

(b) Abandonment: A commercial solar system shall be deemed abandoned if the system fails to generate and transmit electricity at a rate of more than ten percent of its rated capacity over a continuous period of one year. A commercial solar system also shall be deemed abandoned if the following site plan approval initial construction of the system has commenced and is not completed within twelve months of issuance of the first Building Permit for the Project.

(c) Removal required: A commercial solar system which has been abandoned shall be decommissioned and removed. The commercial solar system owner shall be held responsible to physically remove all components of the system within one year of abandonment. Removal of the commercial solar system shall be in accordance with a decommissioning plan approved by the Town of Kendall Planning Board.

(d) Decommissioning and removal of a commercial solar system shall consist of:

1. Physical removal of all above and below ground equipment, structures and foundations, including but not limited to all solar arrays, buildings, security barriers, fences, electric transmission lines and components, roadways and other physical modifications to the site.

2. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.

3. Restoration of the ground surface and soil.

4. Stabilization and re-vegetation of the site with native seed mixes and/or plant species (excluding invasive species) to minimize erosion.

(e) Decommissioning and removal by the Town. If the commercial solar power system owner fails to decommission and remove an abandoned facility in accordance with the

requirements of this Section the Town may enter upon the property to decommission and remove the system.

1. Procedure. Upon a determination by the Building Inspector that a commercial power system has been abandoned, the Building Inspector shall notify the system owner by certified mail:

(a) in the case of a facility under construction, to fully complete construction and installation of the facility within 180 days, or

(b) in the case of a fully constructed facility that is operating at a rate of less than 10 percent of its rated capacity, to restore operation of the facility to no less than 80 percent of its rated capacity within 180 days, or

the Town will deem the system abandoned, and commence action to revoke the special use permit and require removal of the system. Being so notified, if the system owner fails to perform as directed by the Building Inspector within the 180 day period, the Building Inspector shall notify the system owner by certified mail that the solar power system has been deemed abandoned and the Town intends to revoke the special use permit within 60 days of mailing said notice. The notice shall also state that the owner may appeal the Building Inspector's determination of abandonment to the Planning Board and request a Hearing on the matter. Said appeal and request for Hearing must be made and received by the Town within 20 days of mailing notice. Failure by the permittee to submit an appeal and request for Hearing within the 20 day period will result in the special use permit deemed revoked as stated herein. In the event the permittee appeals the determination of the Building Inspector and requests a hearing, the Planning Board shall schedule and conduct said hearing within 60 days of receiving the appeal and request. In the event a Hearing is held, the Planning Board shall determine whether the solar power system has been abandoned, whether to continue the special use permit with conditions as may be appropriate to the facts and circumstances presented to the Board, or whether to revoke the permit and order removal of the solar power system. Upon determination by the Building Inspector or Planning Board that a special use permit has been revoked the decommissioning plan must be implemented and the system removed within one year of having been deemed abandoned or the Town may cause the removal at the owner's expense. If the owner fails to fully implement the decommissioning plan within one year of abandonment, the Town may collect the required surety and use said funds to implement the decommissioning plan.

(f) Removal by the Town and reimbursement of Town expenses.

Any costs and expenses incurred by the Town or its representatives to decommission and remove a commercial solar power system, including legal costs and expenses, shall be reimbursed from the financial surety posted by the system owner.

## SECTION 6: SPECIAL USE PERMIT REQUIREMENTS

- A. Verification of utility notification. Any foreseeable infrastructure upgrades shall be documented and submitted. Off-grid systems are exempt from this requirement.
- B. Name, address, and contact information of the applicant, property owner(s), and agent submitting the project.
- C. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
- D. Site Plan: Site plan approval is required.
- E. Blueprints signed by a Professional Engineer or Registered Architect of the solar installation showing the layout of the system.
- F. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and invertors that are to be installed.

G. Property Operation and Maintenance Plan: A property operation and maintenance plan is required, describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, landscaping, control under solar panels, etc.

H. A plan must be in place as to how emergency crews will be able to access the site in event of emergency.

I. A Decommissioning Plan shall be presented, and address those items listed above and include:

1. An estimate of the anticipated operational life of the system.
2. A schedule showing the time frame over which decommissioning will occur and for completion of site restoration work.
3. A Bond(s) backed by the State of New York to ensure that financial resources will be available to fully decommission the site.

J. Financial surety. Prior to the issuance of a Building Permit and every three years thereafter the commercial solar system owner shall file with the Town evidence of financial security to provide for the full cost of decommissioning and removal of the solar system in the event the system is not removed by the system owner. Evidence of financial security shall be in effect throughout the life of the system and shall be in the form of a New York State backed bond. The Town shall be entitled to draw on the bond in the event that the commercial solar power system owner is unable or unwilling to commence decommissioning activities within the time periods specified herein. In the event ownership is transferred to another party, the new owner shall file evidence of financial security with the Town at the time of transfer, and every three years thereafter, as provided herein.

1. Amount. The amount of the surety shall be determined by the Town's Engineer based upon a current estimate of decommissioning and removal costs as provided in the decommissioning plan and subsequent annual reports. The amount of the surety may be adjusted by the Town upon receipt of an annual report containing an updated cost estimate for decommissioning and removal.

2. Annual report. The commercial solar system shall on a yearly basis provide the Town Building Inspector a report showing the rated capacity of the system, and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve month period. The report shall also identify any change in ownership of the solar power system and/or the land upon which the system is located. The annual report shall be submitted no later 45 days after the end of the calendar year. Every third year, to coincide with the filing of evidence of financial security, the annual report shall also include a recalculation of the estimated full cost of decommissioning and removal of the commercial solar system. The Town may require an adjustment in the amount of the surety to reflect any changes in the estimated cost of decommissioning and removal.

K. The term of the Special Use Permit shall remain valid for a period of 5 years from the time the permit is issued.

## SECTION 7: SOLAR IN HISTORIC DISTRICTS OR ON HISTORIC STRUCTURES

A. Notwithstanding the foregoing, Roof-mounted solar collection systems, ground-mounted solar collection systems, and BIPV systems are permitted by special use permit in historic districts and on historic structures, subject to compliance this law and the following additional criteria:

1. Solar panels shall not alter a historic site's character defining features, or be placed within view of a public right of way.
2. All modifications to a historic site must be entirely reversible, allowing alterations to be removed or undone to reveal the original appearance of the site.

3. Exposed solar energy equipment must be consistent with the color scheme of the underlying structure.
- (i) Solar panels shall be placed flush to the roof's surface to reduce their visual impact.
  - (ii) BIPV shall take into account existing design elements which complement the styles and materials of the building.

#### **SECTION 4.**

- (a) This local law shall take effect immediately upon filing in the Office of the Secretary of State.
- (b) If any part or section of this local law shall be held to be invalid, the remaining provisions thereof shall not fail but shall remain in full force and effect.
- (c) All local laws, ordinances, rules or regulations, or parts or portions thereof that conflict or are contrary to any portion of this local law are hereby repealed.

The Clerk offered to finish correcting spacing, spelling and punctuation errors before finalizing the filing.

Supervisor Cammarata called for a vote, resulting in all ayes, and directed the Attorney for the Town to file the law as presented in the agenda.

Martin made the following motion, seconded by Newell:

#### **RESOLUTION 79-0817 BUDGET TRANSFERS**

Be it hereby resolved to make the following budget transfers:

Transfer \$150.00 from General Account A1440.40, Engineer Contractual to General Account A1220.43, Bookkeeper Contractual, and

Transfer \$301.00 from General Account A1620.20, Buildings Equipment to General Account A7550.40, Celebrations, and

Transfer \$225.00 from General Account A1910.40, Unallocated Insurance to General Account A1220.41, Contractual- Supervisor.

Supervisor Cammarata called for a vote, resulting in all ayes.

Newell made the following motion, seconded by Martin:

#### **RESOLUTION 80-0817 TOWN OF KENDALL ANIMAL CONTROL CONTRACT 2017**

Be it hereby resolved that the Kendall Town Board authorizes Supervisor Cammarata to sign the 2017 Town of Kendall Animal Control Contract with the County of Orleans, pending the Attorney for the Town's review.

Supervisor Cammarata called for a vote, resulting in all ayes.

Flow made the following motion, seconded by Szozda:

**RESOLUTION 81-0817 ACCEPTING MORTON UNION CEMETERY**

WHEREAS, there has been established in the town a cemetery known as The Morton Union Cemetery, which Association maintains a cemetery on Kenmor Road in Kendall, Orleans County, New York, and owns that real property in said Town, and

WHEREAS, Morton Union Cemetery Association, Inc. has under its care certain funds for perpetual care, permanent maintenance, special trust and general funds deposited in Key Bank, and

WHEREAS, the Association has been and still is unable to procure sufficient income from above investments, members of the Association and from the representatives of the deceased persons interred in the cemetery , and

WHEREAS, the Cemetery Association has requested that the Town of Kendall, pursuant to Section 1506 (j) of the Not-for –Profit Corporation Law, accept the conveyance of the cemetery premises and the transfer of the assets from the Cemetery Association, so then now be it hereby

RESOLVED, that the town of Kendall accept the conveyance of the cemetery premises and the transfer of the assets from the Morton Union Cemetery Association. Such conveyance shall be subject to all agreements as to lots sold and all trust restrictions and conditions upon the title or use of the real property and assets, subject to the Town of Kendall’s established Policies and Procedures regarding its cemeteries.

Supervisor Cammarata called for a vote, resulting in all ayes.

Councilwoman Flow thanked the Cemetery Trustees for their cooperation and organization of records. Councilman Newell asked if the final steps of funds transfer are pending. Answer affirmative. Supervisor Cammarata instructed Councilman Martin to apply for available grant funding for this cemetery as soon as possible.

Attorney Meier suggested wording for Resolution 82:

**RESOLUTION 82-0817 AUTHORIZING SUPERVISOR TO SIGN AN AGREEMENT WITH TY LIN INTERNATIONAL REGARDING THE DOLLAR GENERAL PROJECT**

*Resolved, to authorize the Supervisor to sign an agreement with T Y Lin International, dated 08-10-17, for review of the Dollar General project, not to exceed \$2,500, on receipt of escrow deposit from developer in the amount of \$2,500.*

Supervisor Cammarata wanted to add, “if additional escrow is needed, developer will submit payment prior to closing.”

The new proposed wording by Attorney Meier is:

*Resolved, to authorize the Supervisor to sign an agreement with T Y Lin International, dated 08-10-17, for review of the Dollar General project, not to exceed \$2,500, on receipt of escrow deposit from*

developer in the amount of \$2,500. If additional services are required, beyond \$2,500, the developer will deposit such additional funds in escrow as needed, prior to occurrence of additional cost.

After Deputy CEO's input, Attorney Meier proposed:

***“Resolved, to authorize the Supervisor to sign an agreement with T Y Lin International, dated 08-10-17, for review of the Dollar General project, not to exceed \$2,500, and an agreement with the developer, dated 08-15-17, upon receipt of escrow deposit from developer in the amount of \$2,500. If additional services are required, beyond \$2,500, the developer will deposit such additional funds in escrow as needed, prior to occurrence of additional contract costs.”***

Councilwoman Flow seconded. Then Councilwoman Szozda and Supervisor made the motion to accept the third wording of the resolution. The Supervisor called for a vote, resulting in all ayes.

Szozda proposed paying the claims as presented, seconded by Martin; all ayes:

**PAYMENT OF CLAIMS**

General Fund	Abstract 8	\$ 17,577.80	Vouchers 507-553
Highway Fund	Abstract 8	\$ 63,490.05	Vouchers 510,512,554-581
Light District One	Abstract 8	\$ 394.41	Voucher 542
Light District Two	Abstract 8	\$ 235.41	Voucher 542
Light District Three	Abstract 8	\$ 123.74	Voucher 542
Water District Six	Abstract 8	<u>\$ 46.30</u>	Vouchers 541,553
		\$ 81,867.71	

**OLD BUSINESS**

Defibrillators – availability and training – defibrillator in Town Hall is installed. Classes will be scheduled for October.

Kendall's Finest – Placards are still being made.

Clean Energy Community Grant – Grant application was submitted timely.

LED Streetlights – Non-disclosure statement was completed.

Energy Code Training – two reviews have been completed.

Morton Union Cemetery – conveyance accomplished. Transfer of funds and custodian still pending.

**NEW BUSINESS**

Supervisors' Wall – the current Supervisor and the Historian have removed the past Supervisors' pictures, in preparation of moving them and adding to them in a bigger display, possibly in the Court Room.

Partial Payments for County and Town Real Property Taxes (see attached resolution template for consideration from Attorney Jeffrey Martin). This can take effect for 2018 collection, if passed in September. Clerk Richardson will compile input as to costs associated with this option.

With further business being necessary, Supervisor Cammarata called for a RECESS until September 5, 2017, at 7:00 p.m. Meeting closed at 8:08 p.m.

Respectfully Submitted,  
Amy K, Richardson  
Kendall Town Clerk