

**KENDALL TOWN BOARD
TOWN BOARD MEETING
KENDALL TOWN HALL-1873 Kendall Road, Kendall, New York
Thursday, January 17, 2008 7:30 P.M.**

PUBLIC PRESENT:

K. Lillibridge, Gary Smith, Al Lofthouse, Bev Lofthouse, Harry Butler, Dot Butler, Marianne Wilson, Yorke Knapp, Joette Knapp, Steven Seaman, Gary Williams, Vince Flow, Barb Flow, Paul Gray, Roger Klimek, Clark Lindsay, Donald Pritchard, Joyce Henry, Nadine Hanlon, Chuck Patt, Gert Hauck, Pat Kohlmeier, Jim Freemesser, Paul Balcerzak

Supervisor Gillman called the meeting to order at 7:32 pm, and led the Pledge of Allegiance.

ROLL CALL

Councilman Gaesser	present
Councilman Joseph	present
Councilman Schuth	present
Councilwoman Szozda	present
Supervisor Gillman	present

SUPERVISOR'S REMARKS

- thanked Councilman Joseph for his work on updating the Town of Kendall website.
- that additional volunteers are needed to plan for Kendall's Bicentennial.

APPROVAL OF MINUTES

Councilman Gaesser made motion to approve the minutes of the Regular Town Board Meeting - December 13, 2007, and the Recessed Town Board Meeting – December 27, 2007, seconded by Councilman Schuth. A vote was taken, without common response, and Councilman Joseph commented that he would not vote on December 27th's meeting because he did not attend it. Councilwoman Szozda stated she would abstain on both sets of minutes, due to her not attending those meetings. Supervisor Gillman stated that he would also abstain from voting on either set of minutes, although he was in attendance at both meetings. Councilman Gaesser then reminded the Board that the motion would not be carried without three votes. Councilman Gaesser then made an amended motion to approve the minutes from the December 13, 2007 meeting, which was seconded by Councilman Schuth. A roll call vote was requested by Councilman Gaesser, with the following results:

Councilman Gaesser	AYE
Councilman Joseph	AYE
Councilman Schuth	AYE
Councilwoman Szozda	ABSTAIN
Supervisor Gillman	ABSTAIN

No declaration of the motion was made, but the motion was carried with three affirmative votes.

Councilman Gaesser made a motion to accept the minutes of the December 27, 2007 meeting, seconded by Councilman Schuth. Councilman Gaesser requested a roll call vote, which was done, with the following results:

Councilman Gaesser	AYE
Councilman Joseph	ABSTAIN
Councilman Schuth	AYE
Councilwoman Szozda	ABSTAIN
Supervisor Gillman	ABSTAIN

Clerk Richardson informed Supervisor Gillman that Board approval of Town Board Meeting minutes is not required. Supervisor Gillman stated for the record that the minutes are not approved. Councilman Gaesser expressed his concern that the minutes are not official, and questioned whether they would be available to the public. Supervisor Gillman suggested that these minutes should have been approved in 2007, but was reminded by Councilman Gaesser that

this is the first regular meeting held since December 27, and therefore the first opportunity to accept the minutes.

Nadine Hanlon, a former Town Clerk, rose and stated that minutes do not need Board approval, and will stand as is, as a permanent record and available to the public through F.O.I.L. Councilman Gaesser suggested legal counsel be sought. Supervisor Gillman said this issue will be revisited at a later date.

REPORTS OF COMMITTEES, BOARDS AND DEPARTMENT HEADS

Standing Committees

Public Safety/Emergency Services & Occupational Safety – B. Joseph, Chair – no report
Highway – D. Gaesser, Chair – no report
Buildings, & Grounds – B. Joseph, Chair – no report
Planning, Zoning & Agriculture - D. Schuth, Chair - meeting times for Planning and Zoning Boards have been established
Community Relations – D. Schuth, Chair – various fundraisers are in process, the Bicentennial Committee has been active, and seeks additional participation
Human Resources and Ethics – L. Szozda, Chair – no report
Finance, Taxes & Special Districts – J. Gillman, Chair – no report
Information Services – B. Joseph, Chair – website is being updated
Employee Benefits – J. Gillman, Chair – Councilwoman Szozda has been notifying Preferred Care Gold recipients regarding their 2008 payments. No dental coverage is provided by the Town.
Culture & Recreation –D. Gaesser, Chair – meeting held with Mrs. Flow; this is a busy period for the Recreation Department due to registrations
Orleans County Representative – K. Rush – Mr. Rush not present

Boards

Planning Board – P. Gray, Chair – no meetings held yet this year; Wind Energy will take priority; Mr. Gray invited the Board to attend the upcoming meeting
Zoning Board - K. Banker – no report

Department Heads

Assessor – S. Seaman – written report submitted
Code Enforcement – vacant; report submitted by Larry Gurrslin, who has been acting as Kendall's interim Code Enforcement Officer; Mr. Gurrslin has completed several inspections, and a variance request is in process
Highway - W. Kruger – written report submitted
Historian - J. Knapp – no report
Recreation - Barb Flow – written report submitted
Town Clerk – A. Richardson – no report
Town Justice - R. Ernenwein & C. Lape – no report

CORRESPONDENCE

Letter from Ottaviano and Sansone, LLP ; Court Order signed by Orleans County Judge Punch regarding Lemcke property; Supervisor Gillman wants more information, and is tabling this issue until next meeting.

PUBLIC PARTICIPATION

Roger Klimek, Lakeland Beach – asked why Councilman Gaesser, who was defeated in last November's election, is still serving on the Town Board. Councilman Gaesser explained that there was a vacancy on the Town Board before the end of the year, and Mr. Gaesser was appointed to fill that vacancy. Mr. Klimek asked if that was legal. Supervisor Gillman responded that he was unable to answer that question. Mr. Klimek asked if anyone knew the answer. Councilman Joseph

responded that the appointment was legal under Town Law. Councilman Schuth added that this appointment was done by the Town Board, according to usual procedure to fill vacancies. Mr. Klimek stated that he felt the appointment showed disregard to the voters' wishes, and expressed his objection.

Mr. Klimek then asked about the status of the Eagle Creek Marina project, since December 31st was a significant date for that project. Supervisor Gillman said that issue would be addressed later in the meeting.

Mr. Klimek also stated that he had contacted Assessor Seaman for information on what he termed his "assessment", for example the Town and County tax rates from previous years, and actual dollar amounts paid from previous years. He felt the answers from the Assessor took too long to obtain. Assessor Seaman pointed out that the information Mr. Klimek was seeking is not assessment information, but tax information, readily available through Tax Collector Richardson's office, and on the tax bills.

Clark Lindsay, Lakeland Beach – referring to Councilman Schuth's statement regarding Mr. Gaesser's appointment, Mr. Lindsay expressed his objection to Mr. Gaesser's appointment by former Board members. Councilman Schuth stated that the Town Officers appointed Councilman Gaesser with prudent thought and confidence in his abilities to fulfill this position. Mr. Lindsay reiterated his disgruntlement with this Board decision.

Gary Williams, Petersmith Road – interjected that this appointment took place after the Attorney for the Town had left that meeting, and further expressed his displeasure that the Town is currently without an Attorney. Supervisor Gillman explained that the Town does have Attorney Sansone, who is willing to act as interim Attorney until the Town Board appoints an attorney.

Clark Lindsay – once again expressed his discontent with the appointment of Councilman Gaesser, and would like to see the issue brought up with the Attorney for the Town.

Paul Balcerzak, Kendall Road – asked if the Town Board considered other candidates for the vacant position. Councilman Schuth responded that the only resolution presented to fill this position named Mr. Gaesser. Mr. Balcerzak asked why no one else was considered, and commented that the Board should have been bothered by this move. Councilman Schuth responded that there was a vacancy, that the Town Board made a prudent decision to fill that vacancy with a qualified, hardworking, and willing candidate. Mr. Balcerzak expressed his concern as to how this "looks", and that he questions the integrity of this action. He wants to see this Board work together to promote the best interests of Kendall.

Nadine Hanlon, Center Road – asked why the vacant position had not been advertised, as had previous vacancies, and why there was a sense of urgency to fill the vacancy immediately. Supervisor Gillman said he had no answer. Councilman Schuth responded that as a voting member of the Board which appointed Mr. Gaesser, he was looking for stability, and continuity. Mr. Gaesser had been visible and active throughout his term, and would lend the needed foundation to the incoming Board. Councilman Schuth assured those present that the decision was in the best interests of the community, considering Mr. Gaesser's knowledge and familiarity as to the workings of the Town of Kendall. Mrs. Hanlon expressed her opinion that the Board should have allowed the public a voice before the decision was finalized. Councilman Schuth responded that given the timing, the need to maintain some stability, and the presentation of the resolution, the Kendall Town Board's decision to appoint Mr. Gaesser was sound and correct.

Roger Klimek – asked on what date this appointment was made. Councilman Gaesser responded that it was on December 20, 2007. Mr. Klimek asked if that was an open, public meeting. Clerk Richardson stated it was.

Clark Lindsay – disagreed that the decision was in the best interest of the voters. Councilman Schuth stated that he personally felt it was important to have Dan Gaesser on the Town Board, and Mr. Gaesser was willing to make the commitment necessary. Mr. Lindsay became confrontational,

and Councilwoman Szozda asked Supervisor Gillman to end the discussion. Supervisor Gillman agreed. Mr. Lindsay said he wanted this issue dealt with. Councilman Joseph offered to provide the section of the Law to Mr. Lindsay, which deals with this action. Supervisor Gillman called an end to this dialogue.

Nadine Hanlon – asked if Water District #6 has been established by Resolution, with its legal description as part of said resolution. Supervisor Gillman and Highway Superintendent Kruger spoke about Water District 6, but did not address Mrs. Hanlon’s specific question. Mrs. Hanlon repeated her question, and Supervisor Gillman responded that he is not sure, but will find out and provide her with the legal description.

Bonnie Gekovsky, West Kendall Road – asked when West Kendall Road would get public water. Supervisor Gillman stated that he will try to get water to as much of Kendall as possible, but cannot be more specific at this time. Supervisor Gillman invited Mrs. Gekovsky to visit his office, and he will provide any information he has.

Mrs. Gekovsky commended Code Enforcement Officer Gurslin for his excellent help and service to her, and hopes the Board will appoint him as permanent Code Enforcement Officer for the Town of Kendall.

Mrs. Gekovsky asked if there is anything in place in Kendall to help direct Veterans toward any benefits available. Assessor Seaman commented that the Veterans’ Administration Office in Albion handles that coordination.

Gary Williams –asked why the residents in potential Water District 6 are already being charged on their tax bills, when work has not begun. Supervisor Gillman said he would check into this matter.

Supervisor Gillman closed Public Participation.

Councilwoman Szozda made a motion to approve the Payment of Claims, as presented, seconded by Councilman Schuth. During discussion, Councilman Gaesser reminded the Board that vouchers 671 in the amount of \$1007.44 and 675 in the amount of \$889.65 were rejected during the audit of these claims. Voucher 675 was against a budget line with inadequate funds to cover this claim, and 671 was completed by the Highway Superintendent against General Fund Budget. Supervisor Gillman interjected that he had approved voucher 671, before auditing. Councilman Gaesser explained that procedures call for the auditing of all vouchers by a Councilmember, and asked if those vouchers had been corrected and resubmitted after auditing. Supervisor Gillman suggested those two vouchers be removed and the balance of the claims be paid. Councilman Gaesser agreed. Supervisor Gillman asked for a vote on the amended motion. All Ayes; motion carried.

PAYMENT OF CLAIMS

General Fund	Abstract 001	\$ 20,811.81	Vouchers 649-675, 690-692,694
Highway Fund	Abstract 001	\$ 25,532.90	Vouchers 661, 676-689,692
Kendall Fire District	Abstract 001	\$ 35,302.00	Voucher 692
Street Lighting District 1	Abstract 001	\$ 493.98	Voucher 650
Street Lighting District 2	Abstract 001	\$ 286.47	Voucher 650
Street Lighting – General	Abstract 001	\$ 162.45	Voucher 650
Water District 2	Abstract 001	\$ 5,050.00	Voucher 693
Water District 6	Abstract 001	<u>\$ 7,007.80</u>	Vouchers 695, 696
		\$ 94,647.41	

Councilman Gaesser, referring to the Purchase and Procurement Policy of the town of Kendall, said that the two vouchers in question were dated in December 2007, and the expenditures claimed on those vouchers rise to the level of Board action. Highway Superintendent Kruger asked to speak on this issue. Mr. Kruger claimed that in December, then Supervisor-elect Gillman gave consent to Mr. Kruger to make those purchases. Councilman Gaesser asked, “before he took office?”, to which Mr. Kruger replied, “before he took office”. Councilman Gaesser asked

Superintendent Kruger if there had been quotes given for a new heating system. Mr. Kruger replied there was. Supervisor Gillman interjected that when he had visited the Highway Department before he took office, he noticed that it was cold, and that the heating system was inadequate. Mr. Kruger said this has been an improvement, and feels it will save money in the long run. Councilman Gaesser asked if there was consideration given to purchasing the infrared system that had been researched last year. Mr. Kruger responded that he did not want to wait, and that he did not have confidence that the improvements would be made in a timely manner, and questioned whether a grant was applied for. Councilman Gaesser responded that the grant application had been submitted. Supervisor Gillman said the issue would be revisited.

RESOLUTIONS

Councilman Gaesser made the following motion:

RESOLUTION 34 -108 – LARRY GURSSLIN, INTERIM CODE ENFORCEMENT OFFICER

Whereas there is currently a vacancy in the office of Code Enforcement Officer, and

Whereas the Town is in need of Code Enforcement duties coverage on a daily basis,

Be it hereby RESOLVED to appoint Larry A .Gursslin, 165 West Avenue, Hilton, New York as Interim Code Enforcement Officer for the Town of Kendall, until such time as a permanent appointment for the office is made for the year 2008.

Mr. Gursslin will be compensated on a pro-rated basis, retroactive to January 1, 2008, paid \$1020.83 monthly.

This motion was seconded by Councilman Schuth. Supervisor Gillman asked for a vote, which resulted in all ayes, and declared the motion carried.

Councilwoman Szozda made the following motion:

RESOLUTION 35 -108 CANALE/BOBZIN – YOUTH RECREATION COMMISSION

BE IT RESOLVED THAT Joseph Canale and Blair Bobzin each be appointed to 3-year terms on the Youth Recreation Commission, such terms expiring December 31, 2010.

This motion was seconded by Councilman Schuth. Supervisor Gillman asked for a vote, which resulted in all ayes, and declared the motion carried.

Councilman Gaesser made the following motion:

RESOLUTION 36 -108 ACCEPTING THE RESIGNATION OF CHARLES RATH FROM THE YOUTH RECREATION COMMISSION

The Town Board of the Town of Kendall especially thanks and acknowledges Charles Rath for four years of exceptional service as a member of the youth recreation commission. Charles continues to coach softball and soccer to the youth in the Town of Kendall.

The Town of Kendall Town Board does hereby commend Charles Rath for a job well done and extends its best wishes for his future endeavors.

This motion was seconded by Councilwoman Szozda. Supervisor Gillman asked for a vote, which resulted in all ayes, and declared the motion carried.

Councilman Schuth made the following motion:

RESOLUTION 37 -108 IN-KIND AGREEMENT FOR 2008 NUTRIFARE PROGRAM

BE IT RESOLVED THAT Supervisor Gillman is authorized to sign the “in-kind” agreement with the Albion First Presbyterian Church for the Nutrifare Program for 2008. This is considered to be a \$750.00 donation by the Town of Kendall with no money changing hands.

This motion was seconded by Councilman Gaesser. Supervisor Gillman asked for a vote, which resulted in all ayes, and declared the motion carried.

Councilman Joseph made the following motion:

RESOLUTION 38 -108 ADJUSTMENTS TO 2007 BUDGET

IT IS HEREBY RESOLVED TO accept adjustments to the 2007 Budget as follows: Increase revenue line item DA 2301 County Snow Removal by \$9,000.00 and increase expense line item DA 5142.1 Snow Removal Personal Services by \$9,000.00 from revenue earned in 2007.

This motion was seconded by Councilman Gaesser. Supervisor Gillman asked for a vote, which resulted in all ayes, and declared the motion carried.

Councilwoman Szozda made the following motion:

RESOLUTION 39 -108 TRANSFER FUNDS

IT IS HEREBY RESOLVED TO transfer \$440.00 from A1990.4 Contingency to A7550.4 Celebrations.

This motion was seconded by Councilman Joseph. Councilman Schuth asked for an explanation of this resolution. Councilman Gaesser responded that this transfer would cover voucher 675 in the amount of \$889.65, which was one of the claims removed from the summary of claims for payment. Supervisor Gillman chose to table this resolution, and removed the motion from the floor. NO ACTION TAKEN.

Councilwoman Szozda made the following motion:

RESOLUTION 40 – 108 AUTHORIZING A CHANGE TO THE PAYMENT PROTOCOL RELATIVE TO COMPLETION OF THE EAGLE CREEK MARINA PROJECT

WHEREAS, inquiry was made for guidance from the Office for Small Cities regarding a request to change the payment protocol from the currently followed payment formula associated with executed Agreement(s) between Small Cities Community Development Block Grant Program and the Town of Kendall; and

WHEREAS, a letter was received by the Town of Kendall from the Office for Small Cities, dated November 1, 2007, that authorized the Town to request CDBG funds on a dollar for dollar basis until the balance of the funds are expended; and

WHEREAS, relying on representations made by the Office for Small Cities that payment on a dollar for dollar basis would not put CDBG funds at greater risk than the already expended private funds (non-CDBG funds) committed to the project, as set forth in the November 1, 2007 letter;

NOW, BE IT RESOLVED that the Town of Kendall Board approves and accepts the new payment protocol on a dollar for dollar basis as it relates to the Eagle Creek Marina Project in the Town of Kendall.

This motion was seconded by Councilman Joseph. Councilman Schuth asked if there had been any opinion from Attorney Sansone, to which Supervisor Gillman replied that this resolution had been provided by Attorney Sansone. Councilman Schuth referred to a letter received from Small Cities in which they stated full agreement and support of the Town's position in holding Mr. Freemesser to the contract, as signed by both parties. Supervisor Gillman asked who signed that letter, and was told, "Mr. Kenneth Flood, dated August 31, 2006." Councilman Schuth stated that he is unaware of any reprieve of that position from Small Cities. Supervisor Gillman said he had been in communication with Mr. Hunsinger, who is "in sync" with this new position. Councilman Gaesser asked if the grant has been extended. Supervisor Gillman said the grant did not require extending until January 31, which would be the end of the thirty day grace period. Supervisor Gillman will be asking for a resolution to request an extension. Councilman Gaesser articulated that a change in protocol is unneeded until: 1) there is assurance that the grant will be extended, 2) there is a submission for a draw which would require the implementation of a new protocol, and 3) a detailed discussion of two and a half years of Board action that have gone into the previous decisions has been held. Supervisor Gillman disagreed. Councilwoman Szozda said that she had attended a December Kendall Town Board meeting at which Attorney Sansone read a letter from Small Cities which she felt stated that the dollar for dollar protocol would be alright. Councilwoman Szozda understood Attorney Sansone to say at the December meeting that reply from Small Cities was the best Kendall would get, and that he would be able to defend the Town in court if necessary if the choice was made to adopt the dollar for dollar protocol. Supervisor Gillman called for a roll call vote, with the following results:

Councilman Gaesser	NO
Councilman Joseph	AYE
Councilman Schuth	NO
Councilwoman Szozda	AYE
Supervisor Gillman	AYE

Supervisor Gillman declared the resolution carried.

Councilman Joseph made the following motion:

RESOLUTION 41 – 108 RESCINDING RESOLUTION 10-108 OF JANUARY 3, 2008

WHEREAS, TOWN LAW PROVIDES for the Town Clerk to hire deputy clerks at the discretion of the Town Clerk, therefore the Town of Kendall Board rescinds Resolution 10-108 as presented on January 3, 2008.

This motion was seconded by Councilwoman Szozda. Councilman Gaesser read the Town Law, and stated that there was nothing wrong with having passed Resolution 10-108; that it was more than required. Supervisor Gillman asked for a vote, which resulted in all ayes, and declared the motion carried.

Supervisor Gillman called for a roll call vote, with the following results:

Councilman Gaesser	ABSTAIN
Councilman Joseph	AYE
Councilman Schuth	NO
Councilwoman Szozda	AYE
Supervisor Gillman	AYE

Supervisor Gillman declared this motion carried, and Resolution 10-108 rescinded.

OLD BUSINESS

Response to Vincent Flow of Norway Road regarding Resolution 25-108 – Councilman Joseph did verify that the Investment Policy adopted was identical to 2007.

Response to Nadine Hanlon of Center Road regarding Town Health Care Policy – not addressed

Code Enforcement – Court Order – Supervisor Gillman has reviewed the Court Order from Orleans County Court Judge Punch, but does not like the wording from the judge, specifically as relates to the junk vehicles. Supervisor Gillman wants to research this issue before making judgment on the Town’s next move.

Councilman Joseph said he would like to see a title search completed, also.

Cemetery Trust – not addressed

Wind Energy – not addressed

Marina Project – not addressed

Justice Court Audit – not addressed

NEW BUSINESS

None brought forward

RECESS

Councilman Gaesser suggested that the meeting be recessed, rather than adjourned, so that a decision regarding Attorney for the Town could be made. Supervisor Gillman agreed. Councilman Gaesser moved for recess until January 24, 2007 at 7:30 p.m., seconded by Councilwoman Szozda; all ayes. Meeting was recessed at 8:53 p.m.

Respectfully Submitted,

Amy Richardson
Kendall Town Clerk