

**TOWN OF KENDALL**  
**TOWN BOARD MEETING**  
Tuesday, March 19, 2013, 7:30 P.M.

Supervisor Gaesser called the meeting to order at 7:30 p.m., and led the Pledge of Allegiance.

**ROLL CALL**

Councilman Pritchard	present
Councilman Joseph	excused
Councilman Schuth	present
Councilwoman Szozda	present
Supervisor Gaesser	present

Also present, Attorney Sansone, Clerk Richardson, Al and Bev Lofthouse, CEO Hennekey, Planning Chair Paul Gray, Planning Board member Andrew Kludt, Mary Ellen Seaman, Kenneth and Janet Root

**SUPERVISOR'S REMARKS**

The Board has been diligently working on the water surveys. Councilman Joseph, who has put in a great deal of time, provided a letter, to be read:

March 19, 2013

Dear Supervisor and Town Board,

On March 1, 2013 a water survey for purpose to identify neighborhoods with the highest potential to qualify for grants and low-interest loans for public water-line expansion was mailed out.

As of March 18, 2013 at 2100 hrs, we have received approximately 186 of the 285 surveys mailed out, approximately 65%. I have attached a sheet with preliminary data, and I need to stress at this time reveals no personal or confidential information.

I have submitted an email to Bill Reemtsen of Stu Brown Associates on how to proceed regarding surveys with a "blank" or "neutral" answer.

Please feel free to call with any questions or concerns.

Sincerely,

Bart B. Joseph, Councilman

Supervisor Gaesser elaborated on the process so far, and the results gathered to this point. Approximately 20% of those received have been opposed or neutral to public water being supplied to them.

An intermunicipal agreement with Gaines for out-of-district users on Transit Road is forthcoming.

An updated out-of-district user policy for the Town of Kendall is in its final stages.

MCWA has been contacted and has no concerns with the policy.

This meeting will be recessed to April 2, 2013 to address these water issues.

**ACCEPTANCE OF MINUTES**

Councilman Pritchard made a motion to accept the following minutes, as presented; seconded by Councilman Schuth; all ayes:

Special Joint Town Board Meeting – March 4, 2013 (consolidation of Morton, Hamlin, Walker Fire Districts)  
Submitted by Hamlin Town Clerk, Kathi Rickman (with minor correction by Clerk Richardson)

Kendall Town Board Meeting – February 19, 2013

## REPORTS OF COMMITTEES, BOARDS AND DEPARTMENT HEADS

### Standing Committees

Public Safety/Emergency Services & Occupational Safety –Joseph, Chair

Buildings, & Grounds –Joseph, Chair

Information Services –Joseph, Chair

The computer in the Deputy Clerk area was repaired this week.

Highway –Gaesser, Chair

No report

Culture & Recreation –Pritchard, Chair

No report

Planning, Zoning & Agriculture –Schuth, Chair

The Zoning Board has an application from the Wegman Group for a variance for a dock and outlet pipe installation along the waterfront of its property. The County Planning Board took no action on this, as it is a local jurisdiction determination. A Public Hearing has been publicized, and all information is available through the Town Clerk's office.

Community Relations –Schuth, Chair

The Community Park Committee is naming an overseer Board, and will likely wish to have a Town Board member on that committee. The Park Committee will have several events planned this summer.

Human Resources and Ethics –Szozda, Chair

Employee Benefits –Szozda

No report

Finance, Taxes & Special Districts –Gaesser, Chair

All town tax levies have been collected.

Single audit will begin next week

Orleans County Representative – Ken Rush

No report

### Boards

Planning Board – P. Gray, Chair

A Special Use permit application for a home-based business has been submitted.

Raymond Wenzel has agreed to act as County Planning Board alternate representative.

Zoning Board – K. Banker, Chair

No report

### Department Heads

Assessor – G. Massey – no report

Code Enforcement – P. Hennekey

Several chimney fires, and a house fire which is under arson investigation have kept the Fire Marshall piece of the job busy. The house remains do not pose an imminent threat to safety, due to the location.

Annual in-service training is underway for both CEO Hennekey, and Deputy Strong.  
The Coastal Erosion Annual Assessment by the Department of State is in process.

Highway - W. Kruger

The tombstones broken at Beechwood Cemetery have been repaired.

Historian – K. Corcoran – no report

Recreation – B. Flow –report submitted

Town Clerk – A. Richardson – report submitted

Town Justice - C. Lape & S. Cliff – reports submitted

Supervisor – D. Gaesser – report submitted

## PUBLIC COMMENT

Al Lofthouse thanked the Board for bringing forth the resolutions regarding the NYS Safe Act.

Mr. Lofthouse questioned an expense on the Abstract and was answered to satisfaction by Supervisor Gaesser.

## RESOLUTIONS

Councilman Pritchard made the following motion, seconded by Councilman Schuth:

### **RESOLUTION 38-0313 RESOLUTION OF THE KENDALL TOWN BOARD OPPOSING THE PROCESS OF ENACTMENT AND CERTAIN PROVISIONS CONTAINED WITHIN THE NEW YORK SECURE AMMUNITION & FIREARMS ENFORCEMENT ACT**

WHEREAS, the right of the people to keep and bear arms is guaranteed as an individual right under the Second Amendment to the United States Constitution; and

WHEREAS, the right of the people to keep and bear arms for defense of life, liberty, and property is regarded as an inalienable right by the people of Town of Kendall; and

WHEREAS, the lawful ownership of firearms is, and has been, a valued tradition in Kendall, and the rights protected by the Second Amendment to the United States Constitution are exercised by many of our residents; and

WHEREAS, the people of Kendall and the State of New York derive economic and environmental benefits from all safe forms of recreation involving firearms, including, but not limited to, hunting and target shooting while utilizing all types of firearms available under the Constitution of the United States; and

WHEREAS, members of the Kendall Town Board, being elected to represent the people of the Town of Kendall, are duly sworn by their oaths of office to uphold the Constitution of the United States; and

WHEREAS, members of the New York State Assembly and the New York State Senate, and our Governor, being elected by the people of New York State, are duly sworn by their oaths of office to uphold the Constitution of the United States; and

WHEREAS, the enactment of the NY SAFE Act (Chapter 1 of the Laws of 2013) has engendered significant controversy over both the process by which it was enacted and certain provisions contained within it; and

WHEREAS, it is our understanding that many State Legislators had less than an hour to read the legislation, which contained approximately twenty-five thousand words, before being forced to vote on it; and

WHEREAS, having reviewed the legislation and time constraints, it is our conclusion that there is no possible way any individual could have read the entire bill and understood its full implications prior to voting on it; and

WHEREAS, our State Legislators most certainly did not have the time to request, and receive, the input of their constituents regarding this matter; and

WHEREAS, seeking and considering such public input is a standard to which we hold ourselves to on the Kendall Town Board; and

WHEREAS, this legislation has 60 sections, of which only three take effect immediately; and

WHEREAS, in our opinion, there was no reason for the Governor to use a message of necessity to bring this bill to vote immediately and bypass the three day maturing process for all legislation; and

WHEREAS, the mishandling of the process in crafting the NY SAFE Act resulted in complex policy changes, many of which have been left up to interpretation, and are confusing even to the State Legislators who voted on them, and the law enforcement officials who are required to enforce and explain them; and

WHEREAS, requiring law-abiding gun owners to verify ownership of certain types of firearms every five years, in addition to registering them on their permits, which now also must be renewed every 5 years, does not increase the safety of the public and is unnecessarily burdensome to the residents of New York State; and

WHEREAS, there will be a significant financial impact due to the permits that will have to be renewed requiring additional manpower and computer systems; and

WHEREAS, this legislation prohibits the sale of firearm magazines with a capacity larger than seven rounds; and

WHEREAS, those firearm magazines with a capacity larger than seven rounds, which are authorized to be retained by existing owners, may only be loaded with seven rounds and eventually must be permanently altered to only accept seven rounds or be disposed of, thus constituting a seizure of legally owned personal property with no provision for compensation; and

WHEREAS, few or no low capacity (7 rounds or less) magazines currently exist for many of the firearms commonly possessed by law-abiding residents of New York State; and

WHEREAS, limiting the number of rounds to seven versus ten is arbitrary and capricious, has no correlation to public safety, unfairly burdens law-abiding gun owners, and puts an undue burden on gun manufacturers to retool their manufacturing plants; and

WHEREAS, the only persons who will comply with the new high-capacity magazine ban are law-abiding citizens, leaving the same high-capacity magazines in the hands of those who choose not to obey the law; and

WHEREAS, requiring documentation of all ammunition sales in New York State, as provided for in this legislation, is a significant unfunded mandate on business; and

WHEREAS, the New York State Combined Ballistic Identification System, which wasted \$44 million in taxpayer money and resulted in zero convictions, illustrates the propensity of government to waste taxpayer resources when legislation is not properly reviewed; and

WHEREAS, Governor Cuomo has proposed spending \$36 million dollars in his 2013-2014 Executive budget for the implementation of the NY SAFE Act at a time when New York State residents are crying out for tax relief; and

WHEREAS, this legislation severely impacts the possession and use of firearms now employed for defense of life, liberty, and property; and

WHEREAS, this legislation severely impacts the possession and use of firearms now employed for forms of recreation including, but not limited to, hunting and target shooting; and

WHEREAS, we find the legislation does little more than negatively impact lawful gun ownership; and

WHEREAS, this legislation fails to offer any solution to gun violence and places increased burdens where they do not belong, squarely on the backs of law-abiding citizens; and

WHEREAS, this legislation effectively turns countless New York State law-abiding gun owners into criminals; and

WHEREAS, the manner in which this legislation was brought forward for vote in the State Legislature is deeply disturbing to the Kendall Town Board; now, therefore be it

RESOLVED, that the Kendall Town Board does hereby oppose, and request the repeal of any legislation, including the sections within the NY SAFE Act (Chapter 1 of the Laws of 2013), which infringe upon the right of the people to keep and bear arms; and be it

FURTHER RESOLVED, that the Kendall Town Board considers such laws to be beyond lawful legislative authority granted to our State representatives; and be it

FURTHER RESOLVED, that the Kendall Town Board requests the members of the New York State Senate and Assembly who represent all, or part of, Orleans County to reply, in writing, with their views on, and actions taken, in support of, or opposition to, the NY SAFE Act; and be it

FURTHER RESOLVED, that a copy of this resolution be sent to President Barack Obama, Vice President Joseph Biden, Governor Andrew Cuomo, Senator Charles Schumer, Senator Kirsten Gillibrand, Congressman Chris Collins, New York State Senator George Maziarz, Assembly Speaker Sheldon Silver, New York State Assembly member Steve Hawley, the New York State Association of Towns, and all other deemed necessary and proper.

Discussion: Councilman Joseph sent the following letter:

March 19, 2013

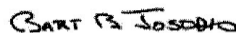
Dear Supervisor and Town Board,

I am unable to attend tonight's Town Board Meeting due to work, please excuse me from the meeting.

However I ask that Supervisor Gaesser, read into the minutes my strong support for the, RESOLUTION BY THE KENDALL TOWN BOARD OPPOSING THE PROCESS OF ENACTMENT AND CERTAIN PROVISIONS CONTAINED WITHIN THE NEW YORK SECURE AMMUNITION & FIREARMS ENFORCEMENT ACT .

Please do not hesitate to call me with any questions or concerns.

Sincerely,



Bart B. Joseph  
Councilman

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

Councilman Pritchard	aye
Councilman Schuth	aye
Councilwoman Szozda	aye
Supervisor Gaesser	aye

Supervisor Gaesser declared the motion carried.

Councilman Schuth made the following motion, seconded by Councilman Pritchard:

**RESOLUTION 39-0313 RESOLUTION CALLING ON THE NEW YORK STATE LEGISLATURE TO ENACT, AND GOVERNOR CUOMO TO SIGN INTO LAW, SUCH LEGISLATION AS SHALL PROTECT THE PRIVACY OF NEW YORK STATE PISTOL LICENSE AND CONCEALED CARRY PERMIT HOLDERS**

WHEREAS, the Second Amendment to the Constitution of the United States clearly states that “the right of the people to keep and bear Arms, shall not be infringed;” and

WHEREAS, Article XII of the Constitution of the State of New York clearly states, “The defense and protection of the state and of the United States is an obligation of all persons within the state;” and

WHEREAS, the right to privacy of citizens, particularly within the confines of their own homes, is a cherished American tradition growing out from the Fourth, Ninth, and Fourteenth Amendments, and a right affirmed by the United State Supreme Court; and

WHEREAS, The Journal News, a liberal newspaper based in Westchester County, did obtain through Freedom of Information Law filings, the names and addresses of pistol permit holders in Westchester and Rockland counties, and has demanded the same in Putnam County, and may seek such information anywhere in the State of New York under the same law; and

WHEREAS, said liberal publication, The Journal News, did then use said pistol permit information to create an interactive map of pistol permit owners’ homes; and

WHEREAS, in addition to jeopardizing the privacy of citizens exercising their Second Amendment rights, this also jeopardizes the safety of those citizens who have elected not to exercise their Constitutional right to keep and bear arms by identifying for criminals which households are less likely to resist an invasion; and

WHEREAS, this information has already been utilized by criminals currently incarcerated at the Rockland County Jail, who have taunted guards there by informing them they now know their home addresses, such information having been gleaned from the interactive maps created by The Journal News; and

WHEREAS, the Honorable Dennis Sant, County Clerk for Putnam County, having received the same Freedom of Information Law request, has refused to comply in order to protect his county’s citizens; and

WHEREAS, the Honorable Michael H. Ranzenhofer of Clarence and several colleagues in the Senate did introduce S.2360 during the 2012 session, and the Honorable Gregory R. Ball of Patterson, in Putnam County, did, while serving in the Assembly, introduce in various years, similar legislation; and

WHEREAS, said legislation was unable to gain passage because the leadership of the New York State Assembly, including Speaker Sheldon Silver, refused to allow it to be acted on in committee; and

WHEREAS, Senator Ball has indicated he will introduce such legislation again this session; and

WHEREAS, it is the right of the citizens of the Town of Kendall to take any reasonable measures necessary to be secure in their homes against criminals and other dangerous trespassers; now, therefore, be it

RESOLVED, that the Kendall Town Board does hereby call upon the New York State Legislature to set as a top legislative priority the passage of legislation amending §400 Subdivision 5 of the Penal Law, to make confidential the personal information of pistol permit holders and applicants; and be it

FURTHER RESOLVED, that the Kendall Town Board calls upon the leadership of the New York State Assembly to cease its blocking of such legislation; and be it

FURTHER RESOLVED, that the Kendall Town Board calls upon its full delegation to the New York State Assembly to vote in the affirmative on any bill as shall increase protection of the identities of pistol permit holders, except as such protections shall be included with legislation that restricts the Second Amendment rights of New Yorkers, and be it

FURTHER RESOLVED, that the Kendall Town Board does hereby call upon the New York State Senate to vote upon, and pass, such legislation immediately; and be it

FURTHER RESOLVED, that the Kendall Town Board calls upon Governor Cuomo to endorse such legislation and sign it into law immediately upon its enactment by the New York State Legislature; and be it

FURTHER RESOLVED, that the Kendall Town Board commends the Honorable Dennis Sant for his execution of his charge, namely protecting the right to privacy of his county's citizens; and be it

FURTHER RESOLVED, that the Town of Kendall shall forward copies of this Resolution to Governor Cuomo, Senate Vice President Pro Tem George D. Maziarz; Member of Assembly Steve Hawley; Speaker of the Assembly Sheldon Silver, Assembly Majority Leader Joseph D. Morelle, Assembly Minority Leader Brian M. Kolb, Orleans County Chapter of SCOPE; NYSAT; and all others deemed necessary and proper.

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

Councilman Pritchard	aye
Councilman Schuth	aye
Councilwoman Szozda	aye
Supervisor Gaesser	aye

Supervisor Gaesser declared the motion carried.

Councilwoman Szozda made the following motion, seconded by Councilman Schuth:

**RESOLUTION 40-0313 REAPPOINTING MARY MARKUSEN TO THE BOARD OF ASSESSMENT REVIEW**

BE IT RESOLVED, to reappoint Mary Markusen, 17218 Roosevelt Highway, to the Board of Assessment Review, for a five-year term, which will expire September 30, 2017.

Supervisor Gaesser called for a vote, which resulted in all ayes, and declared the motion carried.

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**TABLED RESOLUTION**

Supervisor Gaesser made a motion to table the following, pending further review, until April 2<sup>nd</sup> at 7:30 p.m.; motion seconded by Councilman Pritchard; all ayes. RESOLUTION TABLED:

**RESOLUTION 41-0313 Establishing an Out-of-District User Application and Agreement**

BE IT RESOLVED, to adopt the attached Application for Out-of-District User and accompanying Terms and Conditions of Out-of-District User Arrangement, subject to legal review and acceptance.

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Supervisor Gaesser made the following motion, seconded by Councilman Schuth:

**RESOLUTION 42-0213 RECOMMENDING RAYMOND WENZEL AS ALTERNATE ORLEANS COUNTY PLANNING BOARD REPRESENTATIVE**

WHEREAS there is currently a vacancy on the Orleans County Planning Board for an alternate representative from the Town of Kendall, and

WHEREAS, Town of Kendall Planning Board member Raymond Wenzel has agreed to fill this position,

THEREFORE, be it resolved to recommend to the Orleans County Legislature the appointment of Raymond Wenzel as the alternate representative from the Town of Kendall to the Orleans County Planning Board. Such appointment will expire December 31, 2013.

Supervisor Gaesser called for a vote, which resulted in all ayes, and declared the motion carried.

Councilman Pritchard made a motion to accept the Payment of Claims, as presented, seconded by Councilman Schuth; all ayes:

**PAYMENT OF CLAIMS**

General Fund	Abstract 3	\$17,523.09	Vouchers 130-134,136-153,155-166
Highway Fund	Abstract 3	\$30,553.65	Vouchers 130,143,167-202
Water District Five	Abstract 3	\$9,384.37	Voucher 135
Water District Six	Abstract 3	\$52.83	Vouchers 154,165
Light District One	Abstract 3	\$534.54	Voucher 153
Light District Two	Abstract 3	\$313.60	Voucher 153
Light District Three	Abstract 3	<u>\$176.61</u>	Voucher 153
		\$58,538.69	

**OLD BUSINESS**

Water Expansion- Course of Action Plan, Survey Update – done earlier in meeting; will stay on agenda.

Re-zoning RA (residential agriculture) districts with water service to RR (rural residential)

Properties serviced by public water have typically been converted to RR, to encourage density, but a re-zoning brings in differences in allowed uses. There was discussion about benefits versus any disadvantages to the re-zoning. The issue will be thoroughly investigated.

Supervisor Gaesser motioned for recess until April 2, 2013 at 7:30 p.m., seconded by Councilman Pritchard; all in favor. Meeting recessed at 8:24 p.m.

Respectfully Submitted,

Amy K. Richardson  
Kendall Town Clerk