

TOWN OF KENDALL
TOWN BOARD MEETING
Thursday, June 11, 2009 7:30 P.M.

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

ROLL CALL

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

OTHERS PRESENT: Planning Board Chairman Gray, Joyce Henry, Mary Ellen Seaman, Donald Pritchard, Wendy Balka, Al Lofthouse, Bev Lofthouse, Jim Freemesser, nine students from a neighboring high school, Mr. and Mrs. McNally, Mr. and Mrs. Cammarata, several unidentified residents

SUPERVISOR'S REMARKS

Supervisor Gillman reported an increase in vandalism incidents around Town.

CORRESPONDENCE

Orleans County Legislature – Shared Services Summit Meeting, June 29th

ACCEPTANCE OF MINUTES:

Public Hearing and Special Meeting April 30, 2009

REPORTS OF COMMITTEES, BOARDS AND DEPARTMENT HEADS

Standing Committees

Public Safety/Emergency Services & Occupational Safety –Joseph, Chair – MCWA mtg, hydrants replaced at no cost to Town of Kendall

Buildings, & Grounds –Joseph, Chair – lawn-mowing cost on course

Information Services –Joseph, Chair – no report

Highway –Gaesser, Chair – sidewalk restoration underway; truck bids awarded; 1999 freight liner purchased at municipal auction, excellent buy

Culture & Recreation –Gaesser, Chair – soccer and baseball going on; increase in disadvantaged fund donations

Planning, Zoning & Agriculture -Schuth, Chair – zoning meeting regarding fence at lakefront

Community Relations –Schuth, Chair – thank-yous sent to those who participated in Memorial Day service; June 20 – Boy Scout ceremonial flag retirement

Human Resources and Ethics –Szozda, Chair – MVP rate increase; Restore NY grant approval or denial will be known July 9th

Employee Benefits –All – to be removed from future agendas at Supervisor's request

Finance, Taxes & Special Districts –Gillman, Chair – thanks to Councilmen Gaesser and Joseph

Orleans County Representative – Ken Rush – county-wide legislators’ meeting went well; sales tax close to budget estimate; renovations of current jail going well

Boards

Planning Board – Gray, Chair – a wind energy company, Iberdrola, came to a Planning Board meeting, seeking a possible opportunity in Kendall; current plan is not conducive to their plans; 26 possible locations were identified, if the current law were to change; future direction must come from Town Board. Codification can begin at once.

Zoning Board - Rowles, Chair – no report

Department Heads

Assessor – G. Massey – written report submitted

Code Enforcement – L. Gurslin – written report submitted

Highway - W. Kruger – addressed recent vandalism to roads and signs; sidewalk work started, and going well; new truck set to be fitted with accessories; new products discussed at Highway School

Historian – J. Knapp – no report

Recreation – B. Flow – written report submitted

Town Clerk – A. Richardson – no report

Town Justice - R. Ernenwein & C. Lape – Supervisor only received report

PUBLIC PARTICIPATION

Wendy Balka, Lakeland Beach Road – asked about the Code Enforcement Officers’ report on Eagle Creek Marina

Supervisor Gillman read the third paragraph of CEO Gurslin’s monthly report, with the exception of the sentence regarding the fireworks.

Mrs. Balka asked who sets off the fireworks display for the KFD carnival fireworks.

Clerk Richardson answered “Young Explosives”

Mrs. Balka asked the Board the purpose of asking a fireworks applicant to have a license from New York State Department of Labor.

Supervisor Gillman responded it would be necessary to transport the fireworks.

Mrs. Balka stated that the New York State Department of Labor does not authorize discharge of fireworks.

Attorney Leone stated the license is necessary to purchase, transport and possess fireworks. He gave an overview of the town’s application.

Mrs. Balka agreed, but restated her question to ask if the Board was under the incorrect assumption that such license denotes that the licensee is certified to discharge the fireworks, and asked if the Town cares who sets them off, as this is not clearly addressed in the application process.

Supervisor Gillman stated the town cares, and his understanding is that those who set off the fireworks have expertise.

Mrs. Balka asked how expertise is determined.

Councilman Joseph answered that it is determined on a case by case basis.

Supervisor Gillman asked Mrs. Balka if she is opposed to fireworks, and asked why she is asking so many questions.

Mrs. Balka answered that she is not, but is concerned that safety issues be addressed, and asked if there was an updated map and plan supplied by Eagle Creek Marina with its application, and if proper setbacks are in place.

Supervisor Gillman answered that an updated map came in that morning, and asked Mr. Freemesser to answer the question about setbacks. Mr. Freemesser did so, and described where the fireworks are set-off, how far from spectators that area is, and the system in place to protect boaters.

Mrs. Balka referred to NFPA guidelines regarding setbacks.

Councilman Joseph said the Town of Kendall uses the law to make determinations, not NFPA guidelines.

Supervisor Gillman closed public participation. Mrs. Balka asked permission to ask two more questions, which was granted.

Mrs. Balka asked if the display is open to the public. Mr. Freemesser answered it is.

Mrs. Balka asked if under the circumstances of the Marina not being done, is a fireworks display financially prudent.

Supervisor Gillman said that how the fireworks are supported is not going to be discussed.

Mr. Freemesser stated he has been licensed for forty two years. There are two types of licenses issued by the State of New York – one is an owner/possess license, the other is a manufacturer/dealer license. Mr. Freemesser stated he has taught the owner/possess training class. There is no specific license to display fireworks. Mr. Freemesser has the higher level license, which includes manufacturing and dealing, also, so there should be no question as to his qualifications. The show has been provided since 1993, with no reported safety incidents, and has been an enjoyable community event. Mr. Freemesser stated that he also has a Federal license which allows him to transport and display fireworks anywhere in the continental U.S.

Councilman Gaesser asked Mr. Freemesser if he had his federal license with him.

Mr. Freemesser did not.

Councilman Gaesser asked if Mr. Freemesser was aware that his state license' expiration date is June 30th 2009.

Mr. Freemesser said he will automatically have his license reissued by its expiration date, and it will be valid by July 3rd. It was delayed because he forgot to sign his fingerprint card.

Supervisor Gillman closed public participation.

RESOLUTIONS

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

RESOLUTION 61-609 KENDALL FIRE DEPARTMENT FIREWORKS DISPLAY PERMIT

Whereas the Kendall Fire Department has submitted an application for a permit for public display of fireworks to the Kendall Town Clerk and Town Board,

Be it resolved that the Kendall Town Board authorizes the Kendall Town Clerk to issue a Public Display of Fireworks Permit pursuant to 405.00(2) of the Penal Law of the State of New York, to the Kendall Fire Department for Saturday, July 11 at 10:30 p.m.

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

Councilman Gaesser suggested tabling proposed resolution 62-609, due to having multiple issues to research, and needing time to seek legal counsel.

Mr. Freemesser provided additional paperwork.

Councilman Joseph felt much information was lacking on the application, which he listed, and suggested that an application for each requested display date be submitted separately.

Supervisor Gillman directed Mr. Freemesser to complete his paperwork, and submit it to the Town Clerk, and his application will be reviewed by the recessed meeting on the 25th of June. The resolution was tabled.

TABLED

RESOLUTION 62-609 EAGLE CREEK MARINA FIREWORKS DISPLAY PERMIT

Whereas the Eagle Creek Marina has submitted an application for a permit for public display of fireworks to the Kendall Town Clerk and Town Board,

Be it resolved that the Kendall Town Board authorizes the Kendall Town Clerk to issue a Public Display of Fireworks Permit pursuant to 405.00(2) of the Penal Law of the State of New York, to the Eagle Creek Marina for Saturday, July 3rd at 9:45 p.m.

NO VOTE

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

RESOLUTION 63-609 TO UNDERTAKE AND IMPLEMENT A REASSESSMENT OF THE TOWN OF KENDALL IN 2010

WHEREAS Section 305 of the New York State Real Property Tax Law mandates uniform and equitable assessments; and...

WHEREAS computer-assisted mass appraisal systems, technical advice and financial assistance are available by cooperative agreement with the New York State Office of Real Property services and the Orleans County Real Property Tax Service Agency; and

WHEREAS the last town-wide reassessment of our real property took place in 2007; and

WHEREAS the Town Board is convinced that a reassessment is necessary to comply with Section 305 of the New York State Real Property Tax Law ; now

THEREFORE BE IT RESOLVED by the Town Board of Kendall, New York as follows:

Section 1. That the assessor of the Town of Kendall is hereby authorized to undertake and implement a reassessment for the 2010 assessment roll.

Section 2. That the Kendall Town Board does hereby agree, in conjunction with the New York State Office of Real Property Services, and the Orleans County Real Property Tax Services Agency to support the town's assessment staff in this reassessment.

Section 3. That the Kendall Town Board and the Assessor are authorized to enter into any agreements necessary to achieve this purpose. Any agreements resulting in expenditure by the Town of Kendall must first be approved by the Town Board. Any agreement with a private contractor to provide services for this reassessment shall be entered into only upon review by the Attorney for the Town, the Assessor, and a representative from the Office of Real Property Services.

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

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

RESOLUTION 64-609 - ACCEPTANCE OF CODIFICATION CONTRACT

Whereas the Town of Kendall Zoning Regulations need a full review and updating, including the insertion of recently enacted local laws. And

Whereas it is the intent of Zoning Regulations to promote the health, safety, morals, and general welfare of the citizens of the town of Kendall and to establish reasonable and uniform regulations with in the Town of Kendall, and,

Whereas the Town of Kendall Planning and Zoning Boards have reviewed the proposal from General Codes presented to the Kendall Town Board detailing the project cost of \$8425.00, capabilities of General Codes, outlining the expectations of the Planning Board and Town Board, using the following schedules for preliminary completion and payment deadlines:

Payment Schedule:

- 25% of the total project price (\$2106.25) shall be invoiced within 30 days of contract signing (October 2009?).
- 25% of the total project price (\$2106.25) shall be invoiced upon submission of the Organizational Analysis (Sept/Oct 2010?).

- 25% of the total project price (\$2106.25) shall be invoiced upon submission of the Manuscript and Editorial Analysis (Oct/Nov 2011?).
- 25% of the total project price (\$2106.25) shall be invoiced upon delivery of the Codes to the municipality (July/Aug 2012?).

A tentative timeline using the Payment and Performance Schedules above, if signing were in September 2009, is:

- Signing billing: September 2009
- Organizational Analysis and invoice: April/May 2010 (Town's review completed: Aug/Sept 2010)
- Editorial Analysis and Manuscript and invoice: April/May 2011 (Town's review completed: Sept/Oct 2011)
- Code Delivery and invoice: June/July 2012

Now, Therefore it is hereby resolved that the Supervisor be permitted to sign and enter in to contract with General Code for Codification Services to be implemented. Upon completion the Town of Kendall Local Laws and amendments thereto will be assembled into one easy-to-use, loose leaf Code book. The total cost of the project is not to exceed \$8425.00 and following the payment/tentative timeline presented above is scheduled for completion in calendar year 2012.

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

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

RESOLUTION 65-609 ADJUSTMENTS TO 2009 BUDGET – General

Be it hereby resolved to make the following budget adjustments:

Increase Revenue Account A2706 Gifts/Donations for Disadvantaged Recreation by the sum of \$500, from \$500 to \$1000, and

Increase Expenditure Account A7310.42 Youth Programs Disadvantaged by the sum of \$500, from \$500 to \$1000.

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

Councilman Gaesser made the following motion, seconded by Councilman Joseph:

RESOLUTION 66-609 ADJUSTMENTS TO 2009 BUDGET - Highway

Be it hereby resolved to make the following budget adjustments:

Increase Revenue Account DA2665.0 Sale of Equipment by the sum of \$8000, from \$0 to \$8000, and

Increase Expenditure Account DA5130.2 Machinery Equipment by the sum of \$8000, from \$ 105,594 to \$ 113,594.

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

Councilman Joseph made the following motion, seconded by Councilman Gaesser:

RESOLUTION 67-609 CREATING EXPENDITURE ACCOUNT

Be it hereby resolved to create Expenditure Account DA 5410.4 Sidewalks Contractual for the Highway Department, to maintain and repair sidewalks, and

Be it further resolved to transfer \$4000.00 (four thousand dollars) from Account DA911.0 Fund Balance Unreserved to Account DA5410.4 Sidewalks Contractual.

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

Councilman Gaesser moved to pay the claims, as presented, seconded by Councilman Schuth; and its vote resulting in all ayes:

PAYMENT OF CLAIMS

General Fund	Abstract 06	\$ 16,989.37	Vouchers 358,360,361,363-369, 371,373-388,404,414,415, 419-426,
Highway Fund	Abstract 06	\$ 29,727.50	Vouchers 364,
Street Lighting 1	Abstract 06	\$ 312.18	Voucher 366
Street Lighting 2	Abstract 06	\$ 186.71	Voucher 366
Street Lighting 3	Abstract 06	\$ 98.91	Voucher 366
Water District 2	Abstract 06	\$ 11,900.00	Voucher 370
Water District 6	Abstract 06	\$ <u>21,700.80</u>	Vouchers 362,368,372,432-437
		\$ 80,915.47	

OLD BUSINESS

Banner Beach Road Dedication – Attorney Leone said there has been much discussion, and realizes that the majority of residents on this road want dedication. Without 100% agreement from residents, there

are involuntary ways for the Town of Kendall to take over the road. “Taking by use”, and eminent domain are two possibilities. With involuntary taking, there would be compensation issues to consider. There was a discussion regarding the Association’s attorney, protection of the entire town from lawsuits, cost uncertainties, road requirements for public vs. private uses, and the possibility of compromise. Supervisor Gillman asked for public input. Several Banner Beach Road residents spoke in support of dedication, thanked the Board for readdressing this, and expressed the desire to have an answer, one way or another, as soon as possible.

Judge Punch’s decision on the Cemetery Trusts – Attorney Leone said he is working on this. A short discussion of possible uses for this money, if freed, was held.

Hamlin-Kendall Water District unresolved issues – Councilman Joseph has a plan to send a letter to the Supervisor of Hamlin to solicit information, as a start toward resolution of the issue.

NEW BUSINESS

Marina Update – working toward a temporary Certificate of Occupancy, starting alarm system work, sprinkler system changes are being made, electrical inspection is scheduled, railing ordered.

Councilman Gaesser suggested changing July’s meeting date, due to conflict with the carnival.

Councilman Schuth made the following motion, seconded by Councilman Joseph;

RESOLUTION 68-609 RESOLVED, TO CHANGE THE REGULAR JULY TOWN BOARD MEETING TO WEDNESDAY, JULY 8TH AT 7:30 P.M., WITH PROPER NOTICES MADE

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

Supervisor Gillman moved to recess the meeting until July 25th, at 7:30 p.m., seconded by Councilwoman Szozda; all ayes, recessed at 9:42 p.m.

Respectfully Submitted,

Amy K. Richardson
Kendall Town Clerk