

**TOWN OF KENDALL**  
**TOWN BOARD MEETING**  
Tuesday, July 8, 2008 7:30 P.M.

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

Clerk Richardson called roll:

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

OTHERS PRESENT: Attorney Leone, Deputy Code Enforcement Officer Hennekey, Planning Board Chair Paul Gray arrived at 7:25 pm. Mary Ellen Seaman, Joyce Henry, Margie Kingston, Gary Williams, Bonnie Anne Briggs, Harry and Dot Butler, Clark Lindsay, Roger Klimek, CEO Gursplin arrived at 7:45 pm.

***SUPERVISOR'S REMARKS***

- Kendall Post Office has asked to use the Town Hall as a refuge in case of disaster

***ACCEPTANCE OF MINUTES***

Councilman Gaesser moved to accept the following minutes, seconded by Councilman Schuth:

Public Hearing and Town Board Meeting May 8, 2008  
Town Board Meeting June 12, 2008

A vote resulted in all ayes for acceptance.

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

Standing Committees

- Public Safety/Emergency Services & Occupational Safety – B. Joseph, Chair – security system alarm repaired
- Highway – D. Gaesser, Chair – Water District 6 progressing well
- Buildings, & Grounds – B. Joseph, Chair – bookshelves donated, ladies' room door fixed
- Planning, Zoning & Agriculture - D. Schuth, Chair – joint meeting of Zoning, Planning and Town Boards held to discuss proposed Wind Energy Law

Community Relations – D. Schuth, Chair – Kendall Fireman Carnival this weekend, Town of Murray’s Bicentennial Celebration first week in August

Human Resources and Ethics – L. Szozda, Chair – busy sorting and clearing personnel files

Finance, Taxes & Special Districts – J. Gillman, Chair

-Hunt Library Trust Fund interest has been moved to the General Fund, to a 122-day roll-over, which will receive the highest interest Councilman Gaesser asked if it is feasible to consider putting other General Fund money into that type of CD. Supervisor Gillman responded that it is worth looking into. Councilman Gaesser suggested exploring the possibility of staggering such investments, to have monthly roll-over and maximize interest earned.

Information Services – B. Joseph, Chair – no report

Employee Benefits – L. Szozda, Chair – health benefits questioned last month are partly reimbursed by the individual named in the plan

Culture & Recreation –D. Gaesser, Chair – baseball winding down, soccer gearing up, all on budget

Orleans County Representative – K. Rush – not present

#### Boards

Planning Board – Paul Gray, Chair – Wind Energy document nearly finalized for public review

Zoning Board - K. Banker, Chair – no report

#### Department Heads

Assessor – G. Massey – written report submitted

Code Enforcement – L. Gursslin – written report submitted; new permit fee schedule submitted for review – will be discussed at the July workshop

Highway - W. Kruger – written report submitted

Historian - J. Knapp – no report

Recreation – B. Flow – written report submitted

Town Clerk – A. Richardson – no report

Town Justice - R. Ernenwein & C. Lape – no report

### ***PUBLIC PARTICIPATION***

Roger Klimek, Lakeland Beach Road – spoke about the election last November, in which he worked as election inspector, and in which Councilman Gaesser was unelected. Klimek feels that Councilman Gaesser’s appointment after the election was a circumvention of the election process. Mr. Klimek complained about this issue earlier, and feels he has not received adequate response. He co-wrote a letter to the Attorney for the Town of Kendall Michael Leone, asking Mr. Leone for

“prompt response from your office, acknowledging receipt of this request, and an explanation of your intended course of action.” Mr. Klimek feels the appointment was inappropriate, and wants to know if there is recourse of action to be taken.

Supervisor Gillman responded that his roles include supporting the Town of Kendall, and supporting the Town Board, and approaching him is not the proper way to address this concern.

Attorney Leone acknowledged that Mr. Klimek did send a letter to his office with his inquiries. As Attorney for the Town of Kendall, Mr. Leone’s client is the Town Board, and it is not proper for him to respond to general legal questions from the community. Attorney Leone said the Town’s position is that there was nothing illegal about Councilman Gaesser’s appointment. It was lawful.

Mr. Klimek feels that something improper occurred, and blames both the former and current administrations. Supervisor Gillman apologized that he is unable to give Mr. Klimek something of comfort, but cannot respond further.

Clark Lindsay, Lakeland Beach Road – expressed his displeasure at Mr. Gaesser’s appointment after the election, and asked Supervisor Gillman what message it sends to the voters. When Supervisor Gillman responded, Mr. Lindsay interrupted to remind Supervisor Gillman that “much work by many” went into getting people involved in the last election to have it “go the way it was supposed to”. He feels that effort has been in vain, and wants Mr. Gaesser to resign his position as Councilman.

Supervisor Gillman said he was not part of the original situation, and that he is here now for the people, and the Board.

Mr. Lindsay interrupted to say that the Board is here by the will of the people, and that the Board had better start listening. He wants a solid answer by the next meeting.

Mr. Klimek asked Attorney Leone if this appointment was improper.

Attorney Leone stated, “the procedure that was undertaken by the previous Board was that Mr. Gaesser stepped down, and then his position was filled, which constituted a new five-member Board, and then another person stepped down, creating a vacancy. Those four members had the authority, under Town Law, to appoint a replacement to fill out that term, which was Mr. Gaesser. From a purely legal standpoint, Mr. Gaesser’s place here is” Attorney Leone was interrupted by Mr. Klimek, who asked if required registration documentation was sent to Albion in a timely fashion, and if not, would that call into question all decisions made the Board since that date. Attorney Leone responded, “The answer is no, it could not be called into question. I am just telling you, from a legal standpoint, no, it cannot.” Attorney Leone reiterated that Mr. Gaesser’s position on the town Board IS legal.

Mr. Lindsay asked if the paperwork was “put in” on time, and whether that would determine its legality. Attorney Leone said it would not, and spoke regarding Mr. Gaesser’s Oath of Office. (Clerk’s note: Mr. Gaesser executed his Oath of Office immediately upon his appointment.) Attorney Leone stated that he has understanding of the two residents’ upset, but said, “This is not a legal issue. This is a political issue.”

Mr. Lindsay expressed his displeasure with that statement. Supervisor Gillman said this issue is not a Board issue.

Mr. Klimek expressed that he felt this gives an unfortunate example to children in how to circumvent the intent of the election system. Misterys Lindsay and Klimek then left the meeting.

Gary Williams, Petersmith Road – said that Councilman Gaesser is a great councilman. He understands the frustration of Misterys Lindsay and Klimek, but knows

Mr. Gaesser is a good councilman.

Mr. Williams asked if there is a more equitable way to “even out” the cost of building permits, since the preparation work involved by the Town is generally the same, regardless of cost of the project.

Code Enforcement Officer Gurrslin responded that the building permit fees reflect not so much the preparation work, but the follow-up work involved. Some fee considerations are based on number of inspections required. Some consideration is given to the fact that a larger project takes longer to inspect.

Mr. Williams asked if he could have information about what day and what time the vault will be installed on Petersmith Road, because the road will have to be closed during that time. Supervisor Gillman directed Mr. Williams to ask Highway Superintendent Kruger.

Mr. Williams asked whose responsibility it will be to fix the divots put into the road by the Water District 6 project work. Supervisor Gillman responded that it will be done by Kendall’s Highway Department.

Bonnie Anne Briggs, Lakeland Beach Road – asked if and when the permit for Eagle Creek Marina Independence Day Fireworks was obtained. Supervisor Gillman directed Clerk Richardson to answer. Clerk Richardson answered that a fireworks permit was issued. Board approval was given at the regular June Town Board Meeting, on June 12th, and the permit was issued the following day. Ms. Briggs asked if any notification was given to the neighboring homes. Clerk Richardson responded, “no”. Ms. Briggs asked if any other fireworks permits were granted for that evening. Supervisor Gillman said no. Ms. Briggs has had a long-going issue with the fireworks being a potential hazard to her home. She has had little co-operation from the Sheriffs’ Department. She feels there was neither sufficient warning, nor an adequate number of emergency vehicles present, and that the granting of this permit seems to open the door for other neighbors to set off illegal fireworks. She requested that notification be given to the surrounding neighbors in the future.

Ms. Briggs then asked for an update on the status of the Eagle Creek Marina Project. She feels the traffic and speed on Lakeland Beach Road are unacceptable, and she wants the current speed limits enforced, or even lowered. Ms. Briggs is concerned that as the Marina nears completion, the traffic situation will worsen. Also, the dirt haulers back and forth from the Marina cause problems.

Supervisor Gillman acknowledged that illegal fireworks occur.

Code Enforcement Officer Gurrslin gave an overview of the progress at the Marina. Opening time will depend on the owner’s resources.

Supervisor Gillman agreed that 30 mph is too fast, considering the width and condition of the road. Supervisor Gillman said Lakeland Beach Road is private, and its association can set speed limits. Ms. Briggs stated it is her understanding that Lakeland Beach Road is a

Town-maintained road, and has no Association. She wondered who can enforce the current posted speed, or possibly lower it. Supervisor Gillman offered to look into this situation.

Joyce Henry - questioned the status of the effort to dedicate Banner Beach Road to the Town.

Supervisor Gillman replied that this will be discussed at the next Town Board Workshop.

Gary Williams asked if the "Lemcke Property" did sell, and if the sale renders the Court Order to clean the property void. Supervisor Gillman said the Court Order stands, regardless of ownership change.

***PAYMENT OF CLAIMS***

Councilwoman Szozda moved the claims be paid, as presented, seconded by Councilman Gaesser. Supervisor Gillman called for a vote, which resulted in all ayes. Motion carried.

General Fund	Abstract 007	\$ 16,135.33	Vouchers 1089-1097, 1102-1116, 1118-1141, 1158-1160
Highway Fund	Abstract 007	\$ 9,668.53	Vouchers 1095,1096, 1117, 1142-1157, 1161
Street Lighting 1	Abstract 007	\$ 716.34	Vouchers 1093,1103
Street Lighting 2	Abstract 007	\$ 423.85	Vouchers 1093,1103
Street Lighting-Gen.	Abstract 007	\$ 230.11	Vouchers 1093,1103
Water District 6	Abstract 007	<u>\$119,578.32</u>	Vouchers 1098-1101,1159
		\$146,752.48	

Supervisor Gillman moved the following, seconded by Councilwoman Szozda:

**RESOLUTION 111-708 AWARDING BID FOR MASTER METER FOR WATER DISTRICT 6 to Everett J. Prescott for \$9999.00**

Councilwoman Szozda asked if this was the recommendation of the Engineer. Supervisor Gillman answered affirmatively.

Supervisor Gillman called for a vote, which resulted in all ayes. Motion carried.

Councilman Schuth moved the following, seconded by Councilwoman Szozda:

**RESOLUTION 112-708 AUTHORIZING THE SUPERVISOR TO OPEN AN INTEREST-BEARING ACCOUNT TO HOLD ECONOMIC DEVELOPMENT MONIES RECEIVED AS REPAYMENTS FROM EAGLE CREEK MARINA**

Councilman Gaesser asked why a new account is necessary. Could this be combined with the current economic development savings account?

Supervisor Gillman said a new, combined account can be watched more carefully.

Supervisor Gillman called for a vote, which resulted in all ayes. Motion carried.

Councilwoman Szozda moved the following, seconded by Councilman Gaesser:

**RESOLUTION 113-708 TO INCREASE THE PAY FOR SAVE TIME CLEANING SERVICES FROM \$ 40.00 PER REGULAR CLEANING TO \$ 50.00 PER REGULAR CLEANING**

Councilman Gaesser spoke with the owner of Save Time; the reason for this increase is the increase in fuel costs.

Supervisor Gillman called for a vote, which resulted in all ayes. Motion carried.

Councilman Gaesser moved the following, seconded by Councilman Schuth:

**RESOLUTION 114-708 CREATING CEMETERY CONTRACTUAL ACCOUNTS**

Resolved, to create accounts TE-8810.41 Beechwood Contractual, and TE-8810.42 Greenwood Contractual, within the Town of Kendall Expendable Cemetery Fund, to accurately keep account of burial expenses, individually for each cemetery.

Councilman Gaesser explained that this helps assure proper accounting, and alleviates the necessity of transfers, as burial activity varies and cannot be predicted.

Supervisor Gillman called for a vote, which resulted in all ayes. Motion carried.

Councilman Schuth moved the following, seconded by Councilman Gaesser:

**RESOLUTION 115-708 SCHEDULING PUBLIC HEARINGS FOR WIND ENERGY LOCAL LAW**

Whereas the Kendall Town Planning Board has researched, evaluated, created and provided a final draft entitled Amendment to the Town of Kendall Zoning Ordinance Regulating Wind Energy Conversion Systems, Local Law 1 of the Year 2008, which addresses the requirements for zoning controls and the

interests of the residents of the Town of Kendall as outlined within, now therefore, to allow for public input,

The Town Clerk is authorized to place a Legal Notice for two Public Hearings to consider public input to the Kendall Town Board for adoption of these recommendations as Local Law and amend zoning regulations and requirements accordingly. The Public Hearings are set for August 14, 2008 at 7:30 p.m. and August 21, 2008 at 7:30 p.m. at the Kendall Town Hall, 1873 Kendall Road, Kendall, New York. The Town Clerk is to make the text of this draft and additions to Local Law available at the Town Clerk's office for public inspection.

Supervisor Gillman called for a vote, which resulted in all ayes. Motion carried.

There being no other business coming before the Board, Councilman Schuth motioned for adjournment, seconded by Councilman Gaesser. All ayes. Meeting adjourned at 8:25 p.m.

Respectfully Submitted,

Amy K. Richardson  
Kendall Town Clerk