

TOWN OF KENDALL
TOWN BOARD MEETING
Tuesday, September 21, 2010, 7:30 P.M.

Supervisor Gaesser called the meeting to order, and led the Pledge of Allegiance.

ROLL CALL

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

Also present, Attorney Sansone, CEO Gursslin, Deputy CEO Hennekey, Planning Board Chairman Gray, Planning Board member Joyce Henry, and approximately twenty other members of the public.

SUPERVISOR'S REMARKS

Due to the anticipated length of public comments, the agenda will be shortened by foregoing the report sections, and public comment will be completed before official business is conducted.

Supervisor Gaesser gave the account of the steps which have occurred in the process of developing the storage container law being considered. Residents' concerns expressed to the Code Enforcement Officer were brought to the Board, which asked the Planning Board to give its recommendations. A first draft was submitted to the Town Board in April, was reviewed, and changes were incorporated. After those revisions, it was sent for review by the Attorney for the Town, and the Orleans County Planning Board, and the document was modified to incorporate the input from those suggestions. At this point, it was ready to be presented to the public. A Public Hearing was publicized and held. The Town Board has since taken into account the input received that night, as well as that from visits, phone calls, and e-mails from residents, and numerous meetings with Department Heads. The latest revision is on the agenda tonight for consideration. Definitions have been added and clarified, and a four year timeframe for compliance has been added.

Supervisor Gaesser asked for orderly conduct and opened the floor for public comment.

PUBLIC COMMENT

Mr. Fantuzzo – commented that he is unhappy there were not more changes, and he does not like the farm definitions, or that some farmers have exemptions due to NYS Agriculture & Markets regulations. Personal income information should not need to be disclosed to the Code Enforcement Department or the Town Board. He worries this is a step toward loss of freedoms, and accused that “someone has an axe to grind”. A wood hauling trailer should not be considered a storage container. Supervisor Gaesser said if the trailer is registered and used for its intended purpose, it is not addressed in this revision, and is allowed. Mr. Fantuzzo thinks the idea is good, but does not like that there are exceptions made for some and not others.

Nick Schicker – opposed to any law which tells people what they can and cannot do with their own property.

- understands regulations affecting health and safety, but not a need for storage regulations
- expressed that these containers are used because they are less expensive than sheds or barns, and does not want to see government discouraging frugality, or being involved in private citizens' business.

Jackie Mosher – said she has contacted NYS Ag & Mkts, and was told their definition of farm operation should only be used for assessment purposes. Hobby farms should not be discriminated against. Supervisor Gaesser said that those who have such farms can apply to NYS Ag & Markets to be classified as a farm.

Chris Gerkin - suggested differentiating between areas where the containers are visible to neighbors and where they are not. Also suggested that a comprehensive plan be devised to be more general in maintaining an attractive environment in the community. Mr. Gerkin expressed concern with government intervention of personal property rights.

Ken DeRoller – stated that he had performed a “windshield survey” of the Town of Kendall as to these storage containers. He saw 31 total, most of which were in rural-ag areas. He suggested dividing the ordinance into districts, with differing rules for different districts. Councilman Pritchard asked for a breakdown of type of containers. Mr. DeRoller said most were semi-trailers, some were truck boxes dropped to the ground, and one was a bus. One seemed to have a setback issue on Norway Road.

Mark Maynard – does not approve of the farm definition, because he worries that it can lead to neighbors dictating how others should live. No drastic changes should be made to accommodate “new comers” to Kendall. We need the freedom to live as we choose.

Supervisor Gaesser explained that the definition of farm is included in this draft to explain what is exempted by NYS Ag & Mkts Law.

Warren Kruger –interprets the Ag & Mkts Law definition of a farm is to be used for assessment purposes only, and a determination of farm status would need to individualized in being applied to the Local Law.

Nadine Hanlon – believes an additional Public Hearing should have been held because she considers the wording changes from the first draft significant. Farmers who are affected may need to be notified individually.

Supervisor Gaesser stated that conference with both legal counsel and the Orleans County Planning Board resulted in the determination that the scope of the changes were not significant to warrant additional public hearings.

Ken DeRoller - Local Law versus Ordinance discussion with Attorney Sansone.

Warren Kruger – expressed his opinion that the changes are significant enough to hold another public hearing.

Mark Maynard – asked what ramifications there would be to those who cannot meet the requirements of this law. Supervisor Gaesser responded that there would be four years to become compliant, which allows ample time to seek and put alternatives into place.

Alan Fantuzzo – asked for additional open forums before passage.

Ken DeRoller – suggested another public hearing be held.

Supervisor Gaesser stated that at the Public Hearing, it was announced that this would not be acted on in July. Scheduled public workshops and meetings were publicized and held, each with no more than five interested members of the public in attendance.

Councilman Joseph stated that he has personally approached many of those in attendance, and the most common complaint from residents has been “junk yards” and the appearance of some Kendall properties. The resolution of this problem has been ongoing for years. Much effort has been expended by the Town Board to solicit input...through formal notices in the newspaper, a Public Hearing, multiple e-mails to those who wish to be contacted that way, word of mouth, personal calls, visits, and updated information on the town website. The outreach has been extensive. The Board has listened to residents and this attempt is in response to many resident grievances.

Ken DeRoller – Agrees that rules are necessary and appreciates the work done, but wants to see different language and more time taken.

Todd Pienisiak – opposes any regulation on personal property, and does not think this is an important issue.

Joyel Miesner – supports the intent and content of the proposed law, and believes many others do also.

Gary Smith – thought the district divisions were to be addressed, and asked if the law could be brought to a public vote rather than a Board-only vote. Attorney Sansone said he would need to look into this further. Supervisor Gaesser said the district divisions were discussed at length, and it was felt by the Planning Board that it would not solve the issue.

Supervisor Gaesser asked Chairman Gray if he feels the changes are significant enough to warrant a new Public Hearing. Chairman Gray does not believe so. The changes made render the law less restrictive. Definitions are not policy, and are included only to help focus and clarify the intent of the law.

Russell Curtis - does not believe the majority opinion is represented by the attendees of this meeting.

Supervisor Gaesser polled some Department Heads and Board Members as to whether further public hearings are necessary before action is taken on this law. The following responded:

Code Enforcement Officer Gursslin – supports this document, and does not feel another public hearing is necessary.

Deputy Code Enforcement Officer Hennekey – supports the document; feels the intent has been misinterpreted – meant to keep improper uses from occurring, and giving code enforcement a tool to enforce the code; no opinion as to additional public hearing

Planning Chair Gray – feels this law is consistent with the policy set forth in the Master Plan for Kendall
Councilman Schuth – this came about because a lack of enforcement brought concerns from residents to code enforcement department; the appearance of the town matters to most residents and to the tax base; a lot of good work has been done to derive this document; it is improved and now more lenient; no need for further public hearing.

Councilwoman Szozda – has toured the town to see problems and nuisances, and has studied the e-mails from code enforcement; permitting process is needed, but feels this law is too restrictive, too all-inclusive; sees need for further changes to the document and does see a need for further public hearing.

Councilman Pritchard – these subjects are complicated; an arrangement is necessary to keep Kendall from deteriorating. Also, would like to see a “grandfathering” clause added. Much input has been received, and an additional public hearing would not result in new information, and so would be unnecessary at this point.

Councilman Joseph – wants to see this revisited and revised, which may require an additional public hearing.

Supervisor Gaesser expressed being torn on the issue. He thanked Code Enforcement for bringing this subject up, and thanked the Planning Board for all the effort expended on this. Tonight’s meeting has basically been another public hearing. Supervisor Gaesser asked, with sadness, to entertain a motion to table any action on this law.

Councilman Pritchard moved, and Councilwoman Szozda seconded the following:

RESOLUTION 85-0910 TO TABLE ACTION ON A LOCAL LAW AMENDING SECTION 210 AND ADDING SECTION 740 OF TOWN OF KENDALL CODE

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

Councilman Schuth	no
Council woman Szozda	aye
Councilman Pritchard	aye
Councilman Joseph	aye
Supervisor Gaesser	aye

Supervisor Gaesser declared the motion carried and the issue tabled.

Councilman Pritchard motioned to accept the minutes for the Town Board Meeting held on August 17, 2010, seconded by Councilman Schuth; all ayes, minutes accepted.

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

RESOLUTION 82-0910 – SETTING BUDGET MEETINGS AND HEARINGS

Be it resolved to schedule a Town Board meeting in order for the Town Board to receive the 2011 Tentative Budget from the Town Clerk on Tuesday, October 5th, 2010, at 7:30 p.m., and a public hearing on the Preliminary Budget on Thursday, November 4th, 2010 at 7:30 p.m., both at the Kendall Town Hall, 1873 Kendall Road, Kendall, New York. The Kendall Town Clerk is hereby authorized to cause notifications of these meetings to be published in the official town newspaper, and posted on the Town Clerk's notice board and town website.

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

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

RESOLUTION 83-0910 – BUDGET TRANSFER

Be it resolved to transfer one hundred dollars (\$100) from account DA5110.40 Maintenance of Streets, Contractual, to account DA5140.40 Brush & Weeds, Contractual.

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

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

RESOLUTION 84-0910 – TO REAPPOINT MARIETTA SCHUTH TO THE BOARD OF ASSESSMENT REVIEW

Whereas, there will be a vacancy in the Kendall Board of Assessment Review as a result of Marietta Schuth's expired term on September 30, 2010, and,

Whereas, Marietta Schuth has tendered a letter of interest in being reappointed to this position, and,

Whereas, Marietta Schuth has done an admirable job during this term,

Now, therefore, be it RESOLVED to re-appoint Marietta Schuth, 2279 Transit Road, Kent, NY 14477 to the position of Board of Assessment Review with this term of office to expire on September 30, 2015.

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

Councilman Schuth made motion to pay the claims, as presented, seconded by Councilman Joseph; all ayes; motion carried.

PAYMENT OF CLAIMS

General Fund	Abstract 09	\$9807.65	Vouchers 633-644,648-654,656-661,663-665,692-695
Highway Fund	Abstract 09	\$43,065.11	Vouchers 634,666-691,696
Street Lighting 1	Abstract 09	\$383.74	Voucher 657
Street Lighting 2	Abstract 09	\$222.59	Voucher 657
Street Lighting 3	Abstract 09	\$123.94	Voucher 657
Water District 1	Abstract 09	\$4,502.32	Voucher 662
Water District 2	Abstract 09	\$1,290.45	Voucher 662
Water District 3	Abstract 09	\$1,653.45	Voucher 662
Water District 4	Abstract 09	\$3,183.45	Voucher 662
Water District 5	Abstract 09	\$1,070.46	Voucher 662
Water District 6	Abstract 09	\$51.80	Vouchers 639,655
Library	Abstract 09	<u>\$960.87</u>	Vouchers 645-647
		\$66,315.83	

OLD BUSINESS

Potential Water District Petitions – West Kendall Road petition will be looked into

Marina Update – Attorney Sansone said on September 13, the motion for foreclosure by the bank of the Marina and summary judgment was held. As of that date, the Court had not received any paperwork from the Marina. No decision has yet been made; the order has not been signed yet, but will most likely be within the week. When the order is signed, the Town of Kendall will need to act.

Cable Franchise – Councilman Pritchard has researched and believes it may be to Kendall’s advantage to be part of the Orleans County Franchise Agreement, with increased franchise fees, and in the ability to maintain our existing structure, possible public access programming for schools, and free cable service to municipalities. A \$500 legal fee request should be included in the 2011 budget.

With no further business coming before the Board, Councilman Pritchard motioned for adjournment, seconded by Councilman Schuth; all ayes; meeting adjourned at 9:32 pm.

Respectfully Submitted,

Amy K. Richardson
Kendall Town Clerk