

**TOWN OF KENDALL**  
**TOWN BOARD MEETING**  
Tuesday, October 16, 2012, 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	excused
Councilman Joseph	present
Councilman Schuth	present
Councilwoman Szozda	present
Supervisor Gaesser	present

Also present, Attorney Sansone, Clerk Richardson, Deputy CEO Dan Strong, Highway Superintendent Kruger, Planning Board Chairman Paul Gray, Joyce Henry, Al and Bev Lofthouse, Mary Ellen Seaman, Dan Pixley, Dan and Marietta Schuth, Lisa Stenshorn

**SUPERVISOR'S REMARKS**

Supervisor Gaesser remarked that this was the most unusual day at the Town Hall in the six years he has served. Most of the day was spent talking to various news media about the vandalism at the Beechwood Cemetery. Last Friday, Supervisor Gaesser was notified by cemetery custodian, Chuck Patt, that there was damage to the chapel done by vandals. On Sunday morning, extensive damage to tombstones and monuments was discovered. The damage is in the oldest part of the cemetery, with some of the graves dating back to the 1800's. The destruction is extensive and very saddening. Discussion with the Board, Mr. Patt and the Highway Superintendent has led to the decision to add security cameras and solar flood lighting on the cemetery grounds. On the agenda tonight is a resolution to spend up to \$1500 for this purpose. Estimates are being sought to evaluate the damage to the tombstones and monuments. Supervisor Gaesser will inquire as to whether insurance will cover this. He does not believe it will.

Troutburg project – last Wednesday, the Planning Board passed a resolution to refer its recommendation of approval for the project, with conditions, to the Town Board. Each board member has that resolution, and the planning board's document of review and recommendation. Much work will be required.

The NYS Comptroller's Office – Division of Local Government and School Accountability has selected Kendall for an audit. The audit will focus on the evaluation of the Town's internal controls over its financial operations, and will primarily cover the 2011 year. It will begin shortly with an entrance conference. They may wish to meet with any town officials, including individual council members during the audit field work. Along with the e-mail notification came Understanding the Audit Process, in which the description of internal control audits is, "review and test a local government's policies and procedures to make sure that officials obtain, keep and use public resources properly." So, they will be looking at our policies and procedures and how the Board administers those.

Councilman Schuth moved to accept the following minutes, as presented:

Town Board Meeting of September 18, 2012

Special Meeting of October 2, 2012

Motion seconded by Councilman Joseph; all ayes.

## 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

Deputy clerk computer will be updated. This computer is the “work horse” and is due for replacement.

The webpages for the Scarecrow Festival, and the Historian have been updated.

The damage to the Beechwood Cemetery is gut-wrenching. Security will be enhanced.

Semi-annual generator testing will be performed this week.

A circulating pump in the furnace for the Town Hall had to be replaced.

A grant to replace lighting in the Town Hall with energy efficient lighting is being pursued.

Highway –Gaesser, Chair

Sidewalk work on Kenmor Road is progressing well.

Culture & Recreation –Pritchard, Chair

No report

Planning, Zoning & Agriculture -Schuth, Chair

Community Relations –Schuth, Chair

The Scarecrow Festival and Farmers’ Market were well-attended and enjoyable, and have been expanding each year.

The Zoning Board will hold public hearings on two variances.

The Planning Board has a public hearing scheduled regarding a Special Use permit application.

Human Resources and Ethics –Szozda, Chair

Employee Benefits –Szozda

Paperwork has been received to be completed for MVP, and information on two alternate plans has been received.

Finance, Taxes & Special Districts –Gaesser, Chair

Budget – Preliminary prepared for approval, and the budget hearing is scheduled for October 30<sup>th</sup> at 7:00 p.m.

Orleans County Representative – Ken Rush

Not present

### Boards

Planning Board – P. Gray, Chair

Chairman Gray thanked his board members for all their efforts on the review process of the Troutburg development project plans. The work has been extensive and comprehensive. A unanimous recommendation for approval, with conditions, and documentation of the recommendations has been provided to the Town Board. A consistency review of that project is next for the Planning Board.

Supervisor Gaesser, in response to a question asked at the last planning board meeting about being “rushed”, stated that the Wegman Group first approached the town with its idea in August of 2011, and its original application, which went directly to the Planning Board, was received on December 28, 2011. The site review began in January 2012. Special legal counsel was sought, and in March, at Attorney Spitzer’s recommendation, the planned unit development approach was studied and taken. This has been a many months long process.

Chairman Gray said the board was not rushed. There were minor changes made during this process in the plans. At the end, the Wegman Group seeking a variance from the state on road widths (denied) did cause a delay in some of the documentation arriving. Every aspect of health, safety and welfare has been considered.

Supervisor Gaesser thanked the Planning Board for their diligent, excellent work, and said its assistance will still be vital as the Town Board begins its review.

A special use permit application has been received to run a taxidermy business. A public hearing on that will be held on October 23<sup>rd</sup>.

Zoning Board – K. Banker, Chair  
No report

#### Department Heads

Assessor – G. Massey – no report

Code Enforcement – Deputy CEO Dan Strong

There are two variance applications submitted – one for a fence height variance on Lomond Shores, and one for an area variance on Petersmith Road. Closing out open permits, and monitoring the three new-builds has kept the department busy.

Highway - W. Kruger

Suitable cameras for the cemetery surveillance have been located at Dick's Sporting Goods. Some preliminary repair work has been started by the Highway Department. This level of destruction took tremendous effort and is very disturbing. The Orleans County Sheriff is studying footage from a camera which was being used. Several cameras and motion sensor lights will be installed as soon as possible.

Pours on the new sidewalk will be on-going this week. New tree plantings will be done. Salt will arrive in November.

Historian – K. Corcoran  
No report

Recreation – B. Flow - written report submitted

Town Clerk – A. Richardson – written report submitted

Town Justice - C. Lape & V. Maxon – written reports submitted

Supervisor – D. Gaesser – written report submitted

#### CORRESPONDENCE

Supervisor/Legislator Meeting reminder – October 23<sup>rd</sup>, 6:30 p.m.

Letter from Mr. Lynn Mael regarding honoring Mr. Michael Paduchak

Letter from American Red Cross requesting permission to hold a blood drive at the Town Hall in April

Two letters from Mr. and Mrs. Pixley of Norway Hts. re. Troutburg development process

E-mail from Attorney Spitzer in response to the Pixley's letters.

Letter from Mr. and Mrs. Nelson of Lakeshore Road – request to remove their signatures from “ADVISORY PETITION”

Letter from Mr. and Mrs. Weed of Center Road – request to remove their signatures from “ADVISORY PETITION”

Letter from Connie Ulmen of Lakeshore Road - request to remove her signature from “ADVISORY PETITION”

Letter of resignation from Justice Maxon – as of November 1<sup>st</sup>

Water Petition received from 26 Norway Road residents/landowners

## PUBLIC COMMENT

Al Lofthouse asked about the annual increase in cost regarding Resolution 97-1012.

Councilwoman Szozda answered approximately \$5000.

Mr. Lofthouse asked about several vouchers, and Supervisor Gaesser answered his questions.

Daniel Schuth – spoke about the advisory petition presented to the Board at its September meeting. He asked if the referred to councilperson accused of conflict of interest had been identified.

Attorney Sansone said from comments made at the September meeting and from a discussion several months ago, he had been identified as Councilman Schuth. Attorney Sansone could not comment on what was discussed at an executive session.

Mr. Schuth asked Councilwoman Szozda if her comments made before the Board’s vote on Resolution 55-0412 on April 17<sup>th</sup>, 2012 were based on her feeling that Councilman Schuth was guilty of conflict of interest.

Councilwoman Szozda responded, “I believe there was a conflict of interest, yes.”

Mr. Schuth asked if Councilwoman Szozda was familiar with Article 18 of NYS General Municipal Law, describing the four requirements for conflict of interest.

Mrs. Szozda said, “I could not recall it right now. No, I believe that it was a conflict of interest, and if it wasn’t conflict of interest, it could be construed as the perception of conflict of interest.

Mr. Schuth said that “perception” would lead to misinformation; a little lie. Conflict of interest is a misdemeanor under New York State Law, and Mr. Schuth said the situation needs to be cleared up. Mr. Schuth asked specifically what the accusation within the petition is based upon. Mrs. Szozda said she thinks the residents who signed the petition were interested in getting water, and that was the main focus at the time.

Attorney Sansone stated that he had determined and recommended to the Board that there was no conflict of interest. That was determined during an executive session in April, was stated at that meeting, and was publically reiterated several times at the September meeting.

Mr. Schuth would like to see an official clearing of this unfounded accusation of a Board member.

Attorney Sansone said he felt he had made the determination of that clear. He believes there was no conflict of interest, and has explained why.

Mr. Schuth said political games are one thing, but these signatures practically constitute libel, and in addition to holding an accusation against a Board member, the 9<sup>th</sup> Commandment regarding bearing false witness against your neighbor, is also being held up. Mr. Schuth feels it is the duty of the Town Board to make a stronger statement regarding this to those who authored, distributed and signed this petition and to clear this matter.

Dan Pixley asked about increasing security at the other cemeteries. Supervisor Gaesser said that could be looked into, but Beechwood is particularly targeted due its location and reputation.

## **RESOLUTIONS**

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

### **RESOLUTION 94-1012 Accepting Vicki Maxon's Resignation as Town Justice**

Whereas Vicki Maxon, a Kendall Town Justice, has tendered a letter of resignation to the Town Board, and the Town Clerk has received it, effective as of November 1, 2012, therefore

Be it resolved to accept this resignation, with regret.

Discussion: Position should be advertised. Because state training for justices is offered only in November, the Board should act quickly to fill this position, if possible, so that a new justice can serve.

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

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

### **RESOLUTION 95-1012 Resolution to Purchase Security Cameras and Lighting for Beechwood Cemetery.**

WHEREAS, during the weekend of October 12, 2012, the Beechwood Cemetery was targeted again by vandals, who caused damage to dozens of gravestones and monuments, and extensive damage to the Beechwood Chapel, and increased security measures are deemed necessary to protect this property,

Therefore be it Resolved to allow for Highway Superintendent Kruger and Councilman Joseph to purchase and install security cameras and lighting, at a cost not to exceed one thousand five hundred dollars (\$1,500.00).

Be it further Resolved, to allow Supervisor Gaesser to pre-pay this expense, not to exceed one thousand five hundred dollars (\$1,500.00).

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

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

### **RESOLUTION 96-1012 Budget Transfer for the Purchase of Security Cameras and Lighting for Beechwood Cemetery,**

Be it Resolved, to transfer one thousand five hundred dollars (\$1,500.00) from account A-1990.40 Contingent Account, to Account A-8810.41 Beechwood Contractual, thereby increasing the Beechwood Contractual account from one thousand four hundred dollars (\$1,400.00) to two thousand nine hundred dollars (\$2,900.00).

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

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

**RESOLUTION 97-1012 Highway Budget Adjustment**

Whereas, there has been an unanticipated change from a two person plan to a family plan, which resulted in an increase in monthly premium, therefore,

Be it resolved, to increase revenue account DA2302 State Snow Removal from fifteen thousand two hundred twelve dollars (\$15,212) to twenty thousand three hundred twelve dollars (\$20,312), and to increase account Da9060.80 Medical Insurance from thirty two thousand dollars (\$ 32,000) to thirty seven thousand one hundred dollars (\$37,100).

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

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

**RESOLUTION 98-1012 Acceptance of the Planning Board Recommendation Regarding the Cottages at Troutburg Project**

Whereas on August 13<sup>th</sup>, the Kendall Town Board presented the Planning Board the complete application for the Cottages at Troutburg, as presented by the Wegman Group, and

Whereas the Planning Board was charged with reviewing the site plan and returning to the Town Board its recommendations, now therefore,

Be it resolved, that the Town Board receives the Kendall Planning Board recommendations regarding the Cottages at Troutburg project.

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

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

**RESOLUTION 99-1012 ACCEPTANCE OF PRELIMINARY BUDGET**

Be it resolved to accept the 2013 Town of Kendall PRELIMINARY BUDGET, as presented, and to make copies available in the Town Clerk's office, and posted to the town website, for public inspection.

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

Councilman Joseph moved to pay the claims, as presented; seconded by Councilman Schuth; all ayes:

**PAYMENT OF CLAIMS**

General Fund	Abstract 10	\$14,312.89	Vouchers 682-705,707-713,737
Highway Fund	Abstract 10	\$31,362.48	Vouchers 683,692,714-736
Light District One	Abstract 10	\$415.99	Voucher 704
Light District Two	Abstract 10	\$247.18	Voucher 704
Light District Three	Abstract 10	\$135.29	Voucher 704
Water District Six	Abstract 10	<u>\$1,715.83</u>	Vouchers 706,711,713
		\$58,280.25	

## OLD BUSINESS

### Water Expansion- Course of Action Plan

There is a meeting scheduled Wednesday with four municipalities and Gaines' water attorney to discuss the Transit Road district. Some Kendall residents are potential users.

Supervisor Gaesser met with Mike Schaffron to discuss C.A.P. He agreed that getting updated petitions is the first step. Next, identify leaders within those neighborhoods to circulate surveys. Income information would not be necessary in the first survey. It would be a survey of water quality and quantity, number of residents, whether water has to be purchased or brought in, and most importantly, interest in supporting public water being installed for the residents at a projected annual cost of between \$450 and \$650 which pays for maintenance and debt service for construction and consumption. This should be included to ensure that those who sign petitions are willing to go forward when they are aware of the cost. These surveys will identify area of greatest need, and yield estimated numbers to submit to the engineers to begin the grant qualifying process.

Supervisor Gaesser asked Councilwoman Szozda for an update. Councilwoman Szozda said she has not heard from Karen Anderson from West Kendall Road to get an updated petition done.

Councilman Joseph has prepared a draft of the survey for the Board to review tonight. He contacted Stu Brown's office, and has collected information on grant availability. The USRD seems the most likely source. Using the census results of median income, and maximum allowable annual cost per unit, the maximum grant would be \$500,000, which cannot exceed 45% of the total project. The surveys must be signed and back at a nearly 100% response. When water district 7 on Kendall Road was attempted, it did not get past that stage. People are sometimes hesitant to answer the income questions on the survey accurately, and without that information, the grant process halts. The people who pass these petitions and surveys need to be educated before circulating them. Stu Brown would help in that training. It has been suggested that a committee be formed of citizens, and one or two Board members, to assist the Board in getting information out, and getting petitions circulated and surveys completed accurately and returned in a timely fashion. Councilman Joseph thinks this a great idea. Councilwoman Szozda asked if any names have been suggested of people to be on the committee. She feels Tim Quintern would be a good choice from Norway Road. Supervisor Gaesser suggested the Anderson family from West Kendall Road, Blain Young from Lakeshore Road, and Ken Root from Center Road might be good choices. Councilwoman Szozda will head the process of contacting these people and forming the committee. The draft submitted by Councilman Joseph will be finalized and made available through Councilwoman Szozda after the committee has received training.

Codification – code material has been received for review by the Town and the County Planning Boards. After review, there will have to be a Public Hearing and County Planning Board involvement before adoption.

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

Councilman Schuth said the current zoning in some areas is not in alignment with water service expansion. He will begin the research into the process to rectify this.

With no further business being brought forward, Councilman Schuth motioned for recess until October 30, 2012 at 7:00 p.m., seconded by Councilman Joseph; all ayes. Meeting was adjourned at 9:15 p.m.

Respectfully Submitted,

Amy Richardson, Kendall Town Clerk