

TOWN OF KENDALL
PUBLIC HEARINGS – Bond Resolution Water District 6, Wind Energy Local
Law
RECESSED TOWN BOARD MEETING
Thursday, December 20, 2007 7:30 P.M.

PUBLIC PRESENT Bob Nelson, Jr., Scott Hardenbrook, Joyce Henry, Scott Heidemann, Gary Williams, Steve Seaman, Al Lofthouse, Bev Lofthouse, Paul Gray, Tim Christensen, K. Lillibridge, Jeff Vick, Jack Gillman, Mary Crumb, Curt C. Crumb, Dave Rose, Mike Marchetti, Bart Joseph, Dennis Roach

Supervisor Vick called the Proceedings to order at 7:32 p.m. and led the Pledge of Allegiance.

ROLL CALL

Councilman Gaesser	present
Councilman Pritchard	present
Councilman Schuth	present
Councilman Scroger	present
Supervisor Vick	present

Also present – John Sansone, Attorney for the Town of Kendall, and Michael Schaffron, La Bella Engineering

Supervisor Vick called the Public Hearing for the Bond Resolution for Water District 6 to order at 7:32 p.m., and opened the floor to the public.

There was no public participation, and Supervisor Vick closed the public hearing at 7:35.

Supervisor Vick called the Public Hearing for the Proposed Wind Energy Local Law to order at 7:45 p.m.

Supervisor Vick remarked that the draft document of the proposed law has been forwarded to the Attorney for the Town, and to the Town's Engineers, LaBella, Associates. Each has made minor changes in wording and recommendations. Mr. Nelson, Planning Board Chairman, has accepted the Attorney's suggestions, particularly that of specificity regarding the insurance coverage of any Wind Energy Company. The next revision of this draft will reflect these changes. Supervisor Vick asked Attorney Sansone to elucidate the liability issues suggested.

The Town Engineer has suggested that the law address not only clearing the structures to ground surface, but whether to clear sub-surface to a certain depth.

Mr. Mike Schaffron of LaBella Engineering said that the current Building Codes may or may not address every aspect of construction, and agreed to check with his associates on the subject of what specific issues could be excluded from Kendall's building codes, and to get back to the Board with this information. Mr. Schaffron suggested that the necessity of renewing any Special Use Permits every two years may be an impediment to building the facilities. Councilman Pritchard asked Mr. Schaffron what the typical period between renewals of Special Use Permits is. Mr. Schaffron answered that there is generally no specific duration stated. Mr. Nelson responded that since this law is being written to protect the interests of the Town of Kendall, and the process of periodic review is the power to protect those interests.

Mr. Vick continued through all of the engineer's comments, and opened the floor to public comment.

Joyce Henry, Bald Eagle Drive – asked if the Planning Board has considered the number of possible sites, if the law were passed. Supervisor Vick answered that there ARE sites, and even one possible site makes the law necessary. There has to be a law in place before companies can consider potential sites. Currently, at least two landowners have been approached.

Curt Crumb, Countyline Road – said he would like to see one mile setbacks. Supervisor Vick pointed out that if setbacks were to be >2640 feet, siting in Kendall would not be possible. Mr. Crumb responded that he would like to see NO Wind Energy Towers in Kendall.

Councilman Pritchard input that he has visited both Tug Hill Wind Farm, which is quite new, and Fenner Wind Farm, which is somewhat older. Tug Hill's machines were quiet. Fenner's mills exhibited mechanical noise, which may be a factor in set-back decisions.

Mary Crumb, Countyline Road – wondered if day versus night, or seasonal differences in air affect the level of noise. Supervisor Vick responded that Mrs. Crumb's question will be noted, and researched. Mr. Nelson stated that the noise limitations would be addressed in the sound pressure stage. Supervisor Vick interjected that if noise levels rose beyond allowable levels, it would become a Code Enforcement issue, and could be shut down.

Bob Gregory, Norway Road – assuming wind farms became a reality in Kendall, would that reduce property taxes, or create energy savings to the residents of Kendall? Supervisor Vick responded that the amount of money dropped to the school, town, or landowners is an unknown, and the decision on how that would be handled now rests with the incoming Board.

Mr. Gregory expressed concern that having wind farms may be a deterrent to new homes being built.

Supervisor Vick stated that there would likely be no effect on energy rates.

Mr. Gregory also expressed concern that these companies are foreign-owned.

Joyce Henry, Bald Eagle Drive – asked about the status of the State's plan to step in to control these decisions. Supervisor Vick responded that for now, nothing is moving forward regarding this. Our current legislators claim to support home rule.

Councilman Scroger encouraged everyone to visit wind farms personally before forming opinions.

Gary Williams, Petersmith Road – stated that despite the negatives, people should keep in mind that the ultimate purpose of this is harvesting a renewable energy source. People tend to express theoretical approval, but a pervasive hesitance to have them near their own homes.

Joyce Henry – asked how long it takes for Meteorological Towers to generate information as to the practicality of the installation of wind generators. Hamlin Supervisor Roach, in attendance, responded that he believes it will be 1.5 – 2 years.

Curt Crumb – asked if there are currently any Met towers in Kendall. Supervisor Vick responded, “No, but there is a law in place to regulate them.”

Councilman Pritchard stated that where there are wind farms, there are a number of associated jobs, the employees need to live nearby, and there is some economic impact through tourism.

Mary Crumb, Countyline Road – asked if there is any concern about wells being affected by the construction process of the wind mills; Supervisor Vick replied that there is some concern, which would be addressed. Mrs. Crumb asked if there could be damage to power lines, etc. Supervisor Vick replied that the companies would have to provide for passage and repair.

No one else wished to speak.

Supervisor Vick thanked the Town of Hamlin Board members for their attendance and assistance.

Supervisor Vick suggested there be at least two workshops before the second public hearing on Wind Energy, and closed the Public Hearing at 8:50 p.m.

CALL TO RECONVENE

Supervisor called the Town Board Meeting to reconvene at 8:51 p.m.

APPROVAL OF MINUTES

Councilman Scroger made motion to accept the minutes as submitted:

Regular Town Board Meeting and Public Budget Hearing – November 8, 2007

Special Meeting for Code Enforcement Hearing – November 15, 2007,

seconded by Councilman Schuth; all ayes; Supervisor Vick declared the minutes approved.

SUPERVISOR'S REMARKS

A written report was received from Code Enforcement Officer Scott Hardenbrook.

CORRESPONDENCE

CEO Hardenbrook – retirement letter:

December 10, 2007

To: William Vick, Supervisor and the Kendall Town Board

Dear Supervisor Vick and Board Members:

I have been privileged to serve with all of you for the past two years. I have especially appreciated the teamwork and support you have given me in accomplishing the many tasks necessary to fulfill the duties as Code Enforcement Officer. Together, I think we have done a fine job in helping to clean up abandoned and burned buildings and other unsightly properties in the town.

Over the years I have served the town as a member of the Zoning Board for 4 years (1986-1989) and as CEO for 13 years (1990-2002). At your request, I came out of retirement to again serve as CEO for your term of 2006-2007. These 19 years of service for the Town of Kendall have been my honor.

With the change of administration pending, I am announcing my retirement from the office of CEO effective 12/31/2007.

Respectfully Submitted,
Scott B. Hardenbrook

Planning Board Chairman Robert Nelson resignation letter:

December 19, 2007

To: The Town of Kendall Town Board.
1873 Kendall Road
Kendall, New York 14476

Subject: Letter of Resignation from Planning Board.

Gentlemen:

It has been truly a pleasure to serve with the present Town Board. You, as a whole, have always been supportive of the Kendall Planning Board, also just in your decisions for the public welfare and safety while being fiscally responsible to the revenue providing base of this community. I can find no reason of merit for the summary discharge of the leaders of this community by the recent election results, which leads to my trepidation as Chairman of the Planning Board by continuance in this appointed office.

I am cognizant of the tasks before the Town Board shepherding the recently submitted Draft Wind Energy Ordinance through the various required hearings, public, legal and engineering reconciliation's. However I respectfully submit this resignation effective December 31, 2007 thereby allowing others to produce their efforts, the public has spoken.

Respectfully submitted,
Robert L. Nelson, Sr.
Chairman, Kendall Planning Board

PUBLIC PARTICIPATION

Mary Crumb, Countyline Road – Commended Planning Board Chairman Bob Nelson for his research, effort and time spent preparing the proposed Wind Energy Law.

There was no further public participation.

RESOLUTIONS

Mike Schaffron of LaBella gave an overview of the steps taken so far regarding the Water District #6 SEQR requirements, and suggested the SEQR be closed, by resolution, before proceeding.

Supervisor Vick moved the following:

RESOLUTION 132-1207 A RESOLUTION DECLARING A NEGATIVE DECLARATION ON SEQR FOR WATER DISTRICT 6, AND CLOSING SEQR FOR PURPOSES OF MOVING FORWARD WITH CAPITAL PROJECTS FOR WATER DISTRICT 6.

This motion was seconded by Councilman Pritchard. Supervisor Vick called for a roll call vote, with the following results:

Councilman Gaesser	aye
Councilman Pritchard	aye
Councilman Schuth	aye
Councilman Scroger	aye
Supervisor Vick	aye

Supervisor Vick declared the resolution passed.

Councilman Pritchard moved the following:

RESOLUTION 133-1207 A RESOLUTION TO AMEND RESOLUTION 134-1207, BY REMOVING THE WORD “PVC” IN SECTION 1.

This motion was seconded by Councilman Gaesser. Supervisor Vick called for a vote, resulting in all ayes, and declared the revision carried.

Councilman Pritchard moved the following resolution be adopted as amended:

RESOLUTION 134-1207 A RESOLUTION AUTHORIZING THE ISSUANCE OF \$ 120,000 SERIAL BONDS OF THE TOWN OF KENDALL, ORLEANS COUNTY, NEW YORK TO PAY THE COST ASSOCIATED WITH THE CONSTRUCTION OF A WATER DISTRIBUTION SYSTEM TO SERVE WATER DISTRICT NO. 6 IN AND FOR THE TOWN OF KENDALL.

WHEREAS, by proceedings heretofore duly had and taken pursuant to the Town Law, the Town Board of the Town of Kendall, Orleans County, New York, has undertaken to duly establish Kendall Water District No. 6 for said Town; and,

WHEREAS, it is now desired to provide for the financing of the costs of the construction of a water system to serve said Water District, including land or rights in land and original furnishings, equipment, machinery or apparatus incidental thereto; and

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

Section 1: The specific object or purpose to be financed pursuant to this Resolution is the construction of a water distribution system to serve Kendall Water District No. 6 in and for the Town of Kendall, Orleans County, New York, consisting of the installation of ("PVC") watermain pipe as follows: (a) approximately 6340 linear feet along Petersmith Road from (a) the Kendall/Murray Town Line to (b) the intersection of Roosevelt Highway (Rt.18); then east approximately 500 feet along Roosevelt Highway (Rt.18) to a point of termination; then from (b) the intersection of Roosevelt Highway (Rt.18) and Petersmith Road north approximately 5280 feet along Petersmith Road to a point of termination; the installation of individual water services to property lines; the installation of fire hydrants, gate valves and tracer wire ; road and creek crossings; connection to existing water mains, acquisition of land or rights in land and all other furnishing, equipment, machinery or apparatus incidental thereto, substantially in accordance with the map, plan and report heretofore prepared in connection with such improvements and now on file in the Office of the Town Clerk.

Section 2: The maximum estimated cost of such specific object or purpose is \$520,000.00 and the plan for the financing thereof shall be by the issuance of, not exceeding \$120,000.00 serial bonds of said Town hereby authorized to be issued therefore pursuant to the Local Finance Law; provided, however, that the amount of serial bonds ultimately received in connection with said project.

Section 3: It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is forty years, pursuant to subdivision 1 of paragraph a of section 11.00 of the Local Finance Law. It is hereby determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4: The faith and credit of said Town of Kendall, Orleans County, New York, are hereby irrevocably pledged for payment of the principal of and interest on such bonds as the same respectfully become due and payable. There shall be annually apportioned and assessed upon the several lots and parcels of land within the said Water District No.6 which the Town Board shall determine and specify to be especially benefited by the improvements, an amount sufficient to pay the principal of and interest on said bonds as the same become due, but is not paid from such source, all the taxable real property in said Town shall be subject to the levy of ad valorem taxes, without limitation as to rate or amount, sufficient to pay the principal of and interest on said bonds as the same shall become due.

Section 5: Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and sell bond anticipation notes in anticipation of the issuance and sale of serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said supervisor, consistent with the provisions of the Local Finance Law.

Section 6: All other matters except as provided herein relating to serial bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue serial bonds with substantially level or declining debt service, shall be determined by the Supervisor, the chief fiscal officer of such Town. Such bonds shall contain substantially the recital of validity clause provided in Section 52.00 of the Local Finance Law, and shall otherwise be in

such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Supervisor shall determine consistent with the provisions of the Local Finance Law.

Section 7: The validity of such bonds anticipation notes may be contested only if:

- 1) Such obligations are authorized for an object or purposes for which said Town is not authorized to expend money, or;
- 2) The provisions of law which should be complied with at the date of publication of this Resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within 20 days after the date of publication, or;
- 3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 8: This Resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this Resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 9: This Resolution, which takes effect immediately, shall be published in full in the HAMLIN HERALD –Kendall Edition, together with a notice of the Town Clerk in substantially the form provided in Section 81 .00 of the Local Finance Law.

Section 10: This Resolution shall supersede a Bond Resolution adopted by the Town Board dated March 15, 2007

This motion was seconded by Councilman Schuth. Supervisor Vick called for a roll call vote, with the following results:

Councilman Gaesser	aye
Councilman Pritchard	aye
Councilman Schuth	aye
Councilman Scroger	aye
Supervisor Vick	aye

Supervisor Vick declared the motion carried.

Councilman Scroger moved the following resolution be adopted:

RESOLUTION 135-1207 Authorizing Supervisor Vick to contract with LaBella Associates, P.C. to provide professional engineering services for Water district #6

IT IS HEREBY RESOLVED to authorize the Supervisor to contract with LaBella Associates, P.C. to provide:

Phase 4. Preliminary Design @ \$6000,

Phase 5. Contractual Documents and Approvals @ \$19,000,

Phase 6. Contract Bidding @ \$3,750, and

Phase 7. Basic Services during construction as outlined and defined in LaBella Proposal No. P4794 of October 18, 2007 for the advancement of the Capital Project to construct the infrastructure for Water District #6, and further,

THAT this action is as previously committed to by Kendall Town Board Resolution 62-307.

This motion was seconded by Councilman Schuth. Supervisor Vick called for a roll call vote, with the following results:

Councilman Gaesser	aye
Councilman Pritchard	aye
Councilman Schuth	aye
Councilman Scroger	aye
Supervisor Vick	aye

Supervisor Vick declared the resolution passed. Supervisor Vick stated that the Town Board has done everything possible within its timeframe of administration to advance Water District 6.

Supervisor Vick also commented that the Wind Energy Law process has also been advanced as far as it can be this year. He recommended that the process continue in 2008 in a timely manner.

Supervisor Vick moved the following resolution:

RESOLUTION 136-1207 Acknowledging Scott Hardenbrook's Service to the Town of Kendall

Whereas Scott Hardenbrook served as a member of the Town of Kendall Zoning Board for four years during the period 1986 — 1989 and...

Whereas Scott served as the Code Enforcement Officer of the Town of Kendall for thirteen years during the period 1990 — 2002 and...

Whereas, by request, Scott came out of retirement to again serve as Code Enforcement Officer for two years during the period 2006 - 2007, now therefore...

The Town Board of the Town of Kendall does hereby acknowledge and thank Scott Hardenbrook for these nineteen years of service to the taxpayers and community at large of the Town of Kendall for the fine work and care by which he approached and carried out his duties and further...

The Town Board of the Town of Kendall especially thanks and acknowledges Scott Hardenbrook's most recent two years of service for his diligence and efforts in fulfilling the requirements placed upon the office, for his fairness and judgment while doing so and for his extra effort in providing for Local Law #1 of 2007 providing for the upgrade, adoption, administration and enforcement of the Uniform Fire Prevention and Building Code of the Town of Kendall, and further....

For his efforts and high level of cooperation in providing action in cleaning up seven major abandoned, fire demolition, or refuse and debris sites to bring them into code compliance.

The Kendall Town Board does hereby congratulate Scott Hardenbrook upon his retirement, commend him for a job well done and extend our best wishes for his future endeavors.

This resolution is to be certified by the Kendall Town Clerk and provided to Scott Hardenbrook in framed format as a memento of his service.

This motion was seconded by Councilman Gaesser. Supervisor Vick called for a roll call vote, with the following results:

Councilman Gaesser	aye
Councilman Pritchard	aye
Councilman Schuth	aye

Councilman Scroger aye
Supervisor Vick aye

Supervisor Vick declared the motion carried. Code Enforcement Officer Hardenbrook thanked the Board, to the applause of those present.

Supervisor Vick moved the following resolution:

Resolution 137-1207 Acknowledging Robert L. Nelson's service to the Town of Kendall

Whereas Robert L. Nelson served as a member of the Town of Kendall Planning Board for two years during the period 2006-2007 and served as Chairman of the Planning Board for the year 2007.

The Town Board of the Town of Kendall does hereby acknowledge and thank Robert Nelson for these two years of exceptional service to the taxpayers and community at large of the Town of Kendall and for the fine work and care by which he approached and carried out his duties and further...

The Town Board of the Town of Kendall especially thanks and acknowledges Robert Nelson for his diligence, leadership and high level of personal effort, going well beyond the norm in providing for creation and/or passage of Local Laws 1 thru 4 of the year 2006 and Local Laws 1 thru 3 of the year 2007 and further...

Robert Nelson is to be especially commended for the very high level of his personal time devoted to travel, research, drafting and redrafting of the Law and his co-operation with the Town Board in the creation of Local Law #2 of 2007 dealing with Regulation of Meteorological Towers and for these same additional efforts in the creation of the final draft of proposed Local Law #4 of 2007 dealing with Wind Energy Deriving Systems.

Robert L. Nelson, by his exemplary effort, has raised and set the bar for those to follow in providing for the future Planning Department efforts required by the Town of Kendall.

The Town of Kendall Town Board does hereby commend Robert L. Nelson for a job well done and extend our best wishes for his future endeavors.

This resolution is to be certified by the Town Clerk and provided to Robert L. Nelson in framed format as a memento of his service.

This motion was seconded by Councilman Pritchard. Supervisor Vick called for a roll call vote, with the following results:

Councilman Gaesser aye
Councilman Pritchard aye
Councilman Schuth aye
Councilman Scroger aye
Supervisor Vick aye

Supervisor Vick declared the motion carried. Planning Board Chairman Nelson thanked the Board, to the applause of those present.

Councilman Scroger moved the following:

RESOLUTION 138-1207 ACCEPTING WITH REGRET THE RETIREMENT OF CEO HARDENBROOK, AND RESIGNATION OF CHAIRMAN NELSON, BOTH EFFECTIVE DECEMBER 31, 2007.

This motion was seconded by Councilman Schuth. Supervisor Vick called for a vote, resulting in all ayes, and declared the motion carried.

Attorney Sansone announced he had to leave for another meeting, wished everyone a Merry Christmas, and excused himself at 8:57 pm.

UNFINISHED BUSINESS

Code Enforcement Court Order – cannot be moved forward until the new administration takes office.

NEW BUSINESS

Supervisor Vick asked for any other business coming before the Board. Councilman Daniel Gaesser tendered the following letter of resignation from his position as Kendall Town Councilman:

1766 Kendall Road
Kendall, NY 14476

December 20, 2007

Town of Kendall
1873 Kendall Road
Kendall, NY 14476

Attention: Amy Richardson, Town Clerk, Town of Kendall

Dear Amy,

As required by law, I submit to you herewith my formal letter of resignation as a Councilman of the Town of Kendall. Due to what I feel is in the best interest of the entire Town, I respectfully submit my resignation, effective immediately, as of this day, December 20, 2007.

Sincerely,

Daniel S. Gaesser

Councilman Scroger moved the following :

RESOLUTION 139-1207 ACCEPTING THE RESIGNATION OF DANIEL GAESSER FROM HIS POSITION AS KENDALL TOWN COUNCILMAN, WHICH WOULD EXPIRE DECEMBER 31, 2007.

This motion was seconded by Councilman Pritchard. Supervisor Vick called for a vote, resulting in all ayes, and declared the motion carried.

Councilman Scroger moved the following:

RESOLUTION 140-1207 APPOINTING ROBERT GREGORY OF 1721 NORWAY ROAD, KENDALL, NEW YORK TO THE POSITION OF COUNCILMAN FOR THE TOWN OF KENDALL, TO FILL THE VACANCY CREATED BY DANIEL GAESSER'S RESIGNATION, SUCH TERM EXPIRING DECEMBER 31, 2007.

This motion was seconded by Councilman Schuth. Robert Gregory accepted the offer of this position. Supervisor Vick called for a roll call vote, with the following results:

Councilman Pritchard	aye
Councilman Schuth	aye
Councilman Scroger	aye
Supervisor Vick	abstain

Supervisor Vick declared the motion carried, and called Mr. Gregory forward to subscribe his Oath of Office. He did so, read his Oath aloud, as was attested to by Town Clerk Richardson, and took his position as Kendall Town Councilman.

Councilman Charles W. Scroger tendered the following letter of resignation from his position as Kendall Town Councilman:

December 20, 2007

Attention: Amy Richardson, Town Clerk, Town of Kendall

Dear Amy:

As required by law, I am submitting my formal letter of resignation as a Councilman of the Town of Kendall, effective immediately. It is my belief that I can no longer adequately serve this community in this office.

Sincerely,

Charles W. Scroger

Councilman Pritchard moved the following:

RESOLUTION 141-1207 ACCEPTING THE RESIGNATION OF CARLES W. SCROGER FROM HIS POSITION AS KENDALL TOWN COUNCILMAN, WHICH WOULD HAVE EXPIRED DECEMBER 31, 2009.

This motion was seconded by Councilman Schuth. Supervisor Vick called for a roll call vote, with the following results:

Councilman Gregory	aye
Councilman Pritchard	aye
Councilman Schuth	aye
Supervisor Vick	aye

Supervisor Vick declared the motion accepted.

Councilman Pritchard moved the following:

RESOLUTION 142-1207 APPOINTING DANIEL GAESSER OF 1766 KENDALL ROAD, KENDALL, NEW YORK TO THE POSITION OF COUNCILMAN FOR THE TOWN OF KENDALL, TO FILL THE VACANCY CREATED BY CHARLES SCROGER'S RESIGNATION.

Supervisor Vick pointed out that this term would expire December 31, 2008, according to the rules of election/appointment.

The motion was seconded by Councilman Schuth. Daniel Gaesser accepted the offer of this position. Supervisor Vick called for a roll call vote, with the following results:

Councilman Gregory	aye
Councilman Pritchard	aye
Councilman Schuth	aye
Supervisor Vick	abstain

Supervisor Vick declared the motion carried, and called Mr. Gaesser forward to subscribe his Oath of Office. He did so, read his Oath aloud, as was attested to by Town Clerk Richardson, and took his position as Kendall Town Councilman.

RECESS

With there being no further business coming before the Board, a motion for recess until December 27, 2007 at 7:30 p.m. was made by Councilman Pritchard, seconded by Councilman Schuth. Supervisor Vick called for a vote, resulting in all ayes. Supervisor Vick declared the motion carried, and recess was called at 9:11 p.m.

Respectfully Submitted,

Amy K. Richardson
Kendall Town Clerk