

**TOWN OF KENDALL
TOWN BOARD MEETING**
Thursday, February 14, 2008 7:30 P.M.

PUBLIC PRESENT

Al Lofthouse, Bev Lofthouse, K. Lillibridge, Dot Butler, Harry Butler, Gay Smith, Margie Kingston, Joyce Henry, Paul Balcerzak, Donn Pritchard, Stephen Seaman, Bob Nelson, Jr., Ellie Nelson, Kenneth Rush, Rich Goslau, Ron Lasal, Paul Gray, Marianne Wilson, Mary Mann, Don Mann, Gert Hauck, Skip Scroger, Nadine Hanlon

Supervisor Gillman called the meeting to order at 7:35 pm., and led the Pledge of Allegiance.

ROLL CALL

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

SUPERVISOR'S REMARKS

Supervisor Gillman introduced the new Town Attorney (Attorney for the Town, actually – Clerk's note), Michael Leone, to the Board

Supervisor Gillman announced that he would be going to New York City to receive training, and that Deputy Supervisor Butler would serve in his stead while he is away.

ACCEPTANCE OF MINUTES

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

Modified minutes of December 20, 2007 Recessed Town Board Meeting, with suggested changes

A vote resulted in all ayes for acceptance.

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

Organizational Meeting Minutes – January 3, 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 – written report submitted
- Highway – D. Gaesser, Chair – no report
- Buildings, & Grounds – B. Joseph, Chair – written report submitted
- Planning, Zoning & Agriculture - D. Schuth, Chair – applications for the positions on the Planning and Zoning Boards are being reviewed
- Community Relations – D. Schuth, Chair – Kendall Garden Club has offered a flower donation to the Town; There will be a Scout Food Drive the second week in March to benefit the Kendall Food Cupboard
- Human Resources and Ethics – L. Szozda, Chair – Town Policies are being reviewed and will be created or altered, as necessary
- Finance, Taxes & Special Districts – J. Gillman, Chair – Audit scheduled for May 5th
- Information Services – B. Joseph, Chair – An audit of equipment/needs was done last year. The Town Clerk computer, and a back-up system are the top priorities. Each Councilperson now has an e-mail address through the town. The website is continuously changing.
- Employee Benefits – L. Szozda, Chair – medical benefits policy needs revision for specificity
- Culture & Recreation –D. Gaesser, Chair – meeting with Recreation Director, need to establish protocol for use of Opportunity Funds
- Orleans County Representative – K. Rush – County sales tax has been above predictions

Boards

- Planning Board – Paul Gray, Chair – feedback will be forthcoming on the applicants to fill the vacancy on the Planning Board; Wind Energy – one work session has been held; Joint meeting with the Town Board is recommended

- Zoning Board - K. Banker – no report

Department Heads

- Assessor – S. Seaman – written report submitted
- Code Enforcement – Larry Gursslin – written report submitted
- Highway - W. Kruger – written report submitted
- Historian - J. Knapp – no report
- Recreation - Barb Flow – written report submitted
- Town Clerk – A. Richardson – written report submitted
- Town Justice - R. Ernenwein & C. Lape – no report

Michael Schaffron of LaBella Associates, Engineer for the Town of Kendall spoke during the Highway report. Mr. Schaffron explained the increase in projected costs of installing Water District 6. Telemetry equipment requested by the Town of Murray in a pending intermunicipal agreement, and rising material

and construction costs will contribute to the increase in bond indebtedness. Mr. Schaffron provided the Board with a written breakdown of projected costs.

PUBLIC PARTICIPATION

Charles Scroger – Corrected the introduction of Mr. Leone as “Attorney for the Town”, not “Town Attorney”. The law specifies differences. Mr. Scroger asked if there is a requirement from the Town’s insurance company that groups using the Town Hall have their own insurance. There was in the past. Supervisor Gillman responded that it was fine for user groups not to have insurance.

Nadine Hanlon – questioned the necessity of passing the records access policy as presented in the agenda. Mrs. Hanlon stated that this is nothing more than a reiteration of the Freedom of Information Law, which is already in place. Councilman Joseph responded that he feels a policy is necessary, so that Town Officials, other than the Records Management Officer, would be able to easily direct inquirers as to Kendall’s procedure. This policy will not be voted on tonight, due to other questions that have been raised. This will be reviewed with Attorney Leone, and Clerk Richardson before re-presentation.

PAYMENT OF CLAIMS

Councilman Schuth thanked Councilman Gaesser for his assistance in auditing the vouchers for payment, and suggested that the following claims be paid, except for two contested vouchers. This change results in a general fund total of \$ 19, 961.26, resulting in a grand total of \$ 40,166.85. Councilman Gaesser interjected that the vouchers being excluded are voucher 713 and voucher 714, and that voucher 744 had a transposition of account numbers. The amount is correct, but there is an accounting adjustment which needs to be made. A motion to pay the remaining claims was made by Councilman Gaesser, seconded by Councilman Schuth. A vote resulted in all ayes; motion including the aforementioned changes carried.

General Fund	Abstract.002	\$ 23,365.46	Vouchers 697-746,775,783-786
Highway Fund	Abstract 002	\$ 8,340.82	Vouchers 702,711,747-774,776-782
Street Lighting District 1	Abstract 002	\$ 488.91	Voucher 716
Street Lighting District 2	Abstract 002	\$ 283.81	Voucher 716
Street Lighting – General	Abstract 002	\$ 160.81	Voucher 716
Water District 5	Abstract 002	<u>\$ 10,931.24</u>	Voucher 787
		\$ 43,571.05	

RESOLUTIONS

Councilwoman Szozda made the following motion:

RESOLUTION 47-208 LATERAL RESTRICTIONS RESOLUTION

WHEREAS, the Town Board of the Town of Kendall has created the Town of Kendall Water District No. 6 pursuant to Town Law for the express purpose of providing public

water supply to residents along portions of Peter Smith Road and NYS Route 18 (Roosevelt Highway); and

WHEREAS, as part of the land area within the Water District No. 6 is also within Orleans County Agricultural District No. 1; and

WHEREAS, the Town Board has filed a Notice of Intent to Undertake an Action Within an Agricultural District to evaluate the impact of providing a source of public water supply within this area on lands within Agricultural District No. 1; and

WHEREAS, the New York State Department of Agriculture and Markets has expressed concern about the potential adverse impact that said public water supply is likely to have on agriculture within the Agricultural Districts,

NOW THEREFORE BE IT RESOLVED, that the Town Board, in recognition of the concerns that have been raised, hereby resolves to limit connections to the public water supply only to existing non-farm uses and to farm related uses within that portion of Water District No. 6 which is also within the limits of Orleans County Agricultural District No. 1.

This motion was seconded by Councilman Schuth. Supervisor Gillman called for a vote, which resulted in all ayes. Supervisor Gillman declared the motion carried.

Councilman Joseph made the following motion:

RESOLUTION 48 -208 DOCTOR TIM HAGY TO SERVE AS THE EMERGENCY HEALTH CARE PROVIDER (EHCP) FOR THE TOWN OF KENDALL'S PUBLIC ACCESS DEFIBRILLATOR.

WHEREAS, the New York State Department of Health Bureau of Emergency Medical Services POLICY STATEMENT No. 07 – 04 Date: 09/27/2007 Re: Public Access Defibrillation states that the need to

Identify a New York State licensed physician or New York State based hospital knowledgeable and experienced in emergency cardiac care to serve as the Emergency Health Care Provider (EHCP) to participate in a collaborative agreement;

File the Notice of Intent to Provide PAD (DOH 4135) and a signed Collaborative Agreement with the appropriate Regional Emergency Medical Services Council (REMSCO).

BE IT HEREBY RESOLVED, The Board of Kendall hereby orders and directs as follows:

1. Councilman Bart Joseph to develop with the Dr. Tim Hagy EHCP, a written collaborative agreement between the Town of Kendall and Dr. Tim Hagy, which shall include, but not be limited to the following items:
 - a. Written practice protocols for the use of the AED
 - b. Written policies and procedures which include:
 - Training requirements for AED users;
 - A process for the immediate notification of EMS by calling of 911;
 - A process for identification of the location of the AED units;

- A process for routine inspection of the AED unit(s) as well as regular maintenance and which meet or exceed manufacturer's recommendations;
 - Incident documentation requirements, and
 - c. Participation in a regionally approved quality improvement program.
2. File the Notice of Intent to Provide PAD (DOH 4135) and a signed Collaborative Agreement with the Big Lakes Regional Emergency Medical Services Council (REMSCO).

This motion was seconded by Councilwoman Szozda . Supervisor Gillman called for a vote, which resulted in all ayes. Supervisor Gillman declared the motion carried.

Councilman Joseph made the following motion:

RESOLUTION 49-208 A RESOLUTION TO ACCEPT THE COLLABORATIVE AGREEMENT BETWEEN THE TOWN OF KENDALL AND DR. TIM HAGY.

BE IT HEREBY RESOLVED, The Board of Kendall hereby approves the written collaborative agreement between the Town of Kendall and Dr. Tim Hagy, which includes the following items:

- a. Written practice protocols for the use of the AED
- b. Written policies and procedures which include:
 - Training requirements for AED users;
 - A process for the immediate notification of EMS by calling of 911;
 - A process for identification of the location of the AED units;
 - A process for routine inspection of the AED unit(s) as well as regular maintenance and which meet or exceed manufacturer's recommendations;
 - Incident documentation requirements, and
- c. Participation in a regionally approved quality improvement program.

This motion was seconded by Councilwoman Szozda . Supervisor Gillman called for a vote, which resulted in all ayes. Supervisor Gillman declared the motion carried.

Councilman Joseph made the following motion:

RESOLUTION 50-208 ADOPTION OF THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) AS THE BASIS FOR INCIDENT MANAGEMENT IN THE TOWN OF KENDALL.

WHEREAS, response to and recovery from major emergencies and disasters requires integrated professional management and coordination; and

WHEREAS, the National Incident Management System (NIMS), has been identified by Homeland Security Presidential Directive-5 as being the requisite incident management system for all levels of government and all political subdivisions in the United States; and

WHEREAS, NIMS provides a consistent nationwide platform to enable all government, private sector and non-governmental organizations to work together during domestic incidents regardless of cause, size or complexity; and

WHEREAS, the Town of Kendall acknowledges that emergency planning and response to incidents can best be accomplished by employing standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning,

training, and exercising, comprehensive resource management, and pre-determined facilities during emergencies or disasters; and

WHEREAS, use of the Incident Command System (ICS) provides responders with a common terminology and principles for incident command and control, and is an integral part of incident management activities throughout the Town of Kendall; and

WHEREAS, implementation of the NIMS standardized procedures for managing personnel, communications, facilities, and resources will enable the Town of Kendall to be eligible for state and federal funding to enhance local emergency preparedness, agency readiness, first responder safety, and incident management processes;

BE IT HEREBY RESOLVED, The Board of Kendall hereby orders and directs as follows:

1. The Town of Kendall hereby adopts NIMS as the common foundation for incident, coordination and support activities.
2. All town departments, offices and agencies responsible for managing and/or supporting incident response and disaster operations shall incorporate into their planning, training, and operations the NIMS as prescribed by the United States Department of Homeland Security.
3. The Town of Kendall hereby adopts ICS for command and control of all incident response operations. All employees of the Town of Kendall are hereby directed to render such aid and assistance as is required for the implementation of the foregoing policy.

This motion was seconded by Councilman Gaesser. Supervisor Gillman called for a vote, which resulted in all ayes. Supervisor Gillman declared the motion carried.

Councilman Gaesser made the following motion:

RESOLUTION 51-208 REQUEST QUOTES FOR LAWN MOWING SERVICE

Authorization is given to place an ad in the Hamlin Herald to request submission of separate quotes for Lawn Mowing services for the Town of Kendall properties and authorization is given to pay for such ad. The following ad will be published:

Town of Kendall
Request for quotations for Lawn Mowing Service
2008 Season

The Town Board is requesting separate quotations for mowing and lawn care for the 2008 season. Operator must have his own equipment as well as insurance certificate showing coverage. The areas to be mowed are: The Morton Firemen's field on Countyline Road, the Town Hall on Kendall Road, the Greenwood Cemetery on Roosevelt Highway, and the Beechwood Cemetery on West Kendall Road. The grass should be kept to a maximum of 3 to 4 inches; quote should include all necessary hand trimming, weed whacking and bush trimming. The Town of Kendall reserves the right to refuse or reject all quotes. Please respond by April 1, 2008 to the Town Clerk, Town of Kendall, 1873 Kendall Road, Kendall, NY 14476.

This motion was seconded by Councilwoman Szozda. Supervisor Gillman called for a vote, which resulted in all ayes. Supervisor Gillman declared the motion carried.

Councilman Joseph made the following motion:

RESOLUTION 52-208 TO AMEND RESOLUTION 139-1006 – BUILDING USE POLICY.

WHEREAS, The Town Hall is the focal point of Town Government; and

WHEREAS, The people are the government; and

BE IT HEREBY RESOLVED, The Board of Kendall hereby amends Resolution 139-1006, Building Use Policy as follows:

1. Change Item 2 of Rules, Regulations, and Responsibilities for Use of the Town Hall on page 1 to read, “*Persons attending the activity are restricted to necessary public areas of the building. They are not allowed into offices or into the basement.*”
2. Delete the following sentence from paragraph 3, on the Building Use Form, “*I agree to be responsible for the liability and accident insurance coverage of all the participants in this requested use of the Town Hall.*”
3. Change paragraph 4 on the building use form to read, “*If your organization has liability insurance coverage a copy is to be filed with the Town Clerk prior to your event.*”

This motion was seconded by Councilwoman Szozda. Supervisor Gillman called for a vote, which resulted in all ayes. Supervisor Gillman declared the motion carried.

Councilman Joseph withdrew his submission of a policy for public access to records.

Councilman Joseph made the following motion:

RESOLUTION 53–208 TO PAY FIRE DISTRICTS TAX LEVIES

Resolved, to authorize Supervisor to pre-pay the Morton Fire District and Kendall Fire District tax levies.

This motion was seconded by Councilman Schuth . Supervisor Gillman called for a vote, which resulted in all ayes. Supervisor Gillman declared the motion carried.

Councilman Schuth made the following motion:

RESOLUTION 54-208 TRANSFER FUNDS

IT IS HEREBY RESOLVED TO transfer \$440.00 from A1990.4 Contingency to A7550.4 Celebrations.

This motion was seconded by Councilman Gaesser. Supervisor Gillman called for a vote, which resulted in all ayes. Supervisor Gillman declared the motion carried.

Councilwoman Szozda made the following motion:

RESOLUTION 55-208 TRANSFER FUNDS

Account A1220.12 Payroll PS is to be renamed Supervisor Extra Help.

Whereas, clerical and secretarial assistance is needed in order to effectively make reports and distribute and file them in an expedient manner; and

Whereas, these reports are required to be done in a timely manner,

Be it hereby resolved to transfer \$500.00 from A1990.4 Contingency to A1220.12 Supervisor Extra Help.

This motion was seconded by Councilman Joseph. Supervisor Gillman called for a vote, which resulted in all ayes. Supervisor Gillman declared the motion carried.

Councilwoman Szozda made the following motion:

RESOLUTION 56-208 AUTHORIZATION OF COMPLETE INCOME SURVEY

Whereas certain steps are necessary in order to establish a new water district; and

Whereas certain supporting documentation should be collected for a strong application to be able to form this water district,

BE IT HEREBY RESOLVED to authorize a complete income survey for the potential area of service.

This motion was seconded by Councilman Schuth . Supervisor Gillman called for a vote, which resulted in all ayes. Supervisor Gillman declared the motion carried.

Supervisor Gillman made the following motion:

RESOLUTION 57-208 DRAW #11 for EAGLE CREEK MARINA

RESOLVED, that Supervisor Gillman is hereby authorized to approve Draw #11 for Eagle Creek Marina in the amount of \$70,357.95 from the CDBG funds on a dollar for dollar basis, provided that conditions have been met which allow for release of grant funds as authorized by New York State Office for Small Cities.

This motion was seconded by Councilman Joseph. Councilman Schuth inquired as to what the mentioned “ conditions” are. Supervisor Gillman responded that there need to be certain permits in place. Attorney Leone said the amount is an amended amount, taking into account the newest protocol for reimbursement. Councilman Gaesser asked if this was then retroactive, backdating to increase the amount given on previous draws. Attorney Leone stated he did not “believe” it was altering previous draws, but that Small Cities agreed to release this money. Councilman Gaesser asked Attorney Leone if this fully complies with the agreement the Town of Kendall has with Small Cities. Supervisor Gillman stated that Mr. Hunsinger with Small Cities is satisfied with this. Supervisor Gillman then stated that this is indeed to “make up the difference” between what was released in the previous draw, and the dollar for dollar protocol. Councilman Gaesser asked if Supervisor Gillman was referring to Draw 10. Supervisor Gillman said he “probably misspoke”, and that this is a new draw request. Councilman Gaesser asked if there is a letter from Mr. Hunsinger on this issue. Supervisor Gillman responded that he does not have a letter at this point, but that he will, as per a phone call. Councilman Gaesser asked if this was a new submission to reimburse Eagle Creek Marina for expenses. Supervisor Gillman responded affirmatively. Councilman Gaesser asked if the grant date has been extended. Supervisor Gillman said there was a three month extension granted. Councilman Gaesser asked if there was written confirmation that the grant has been extended. Supervisor Gillman responded there is not. Councilman Gaesser asked if the project is compliant. Supervisor Gillman stated that at this time it is. Code Enforcement Officer Gurslin interjected that there has been dialogue between him and Mr. Freemesser, but that the question of compliance may bring a question of liability, which would be better discussed in an executive session of the Board. Mr. Gurslin stressed that to protect the interests of the Town of Kendall, his answer must be given cautiously, and for liability purposes, he suggested an executive session. Attorney Leone did not feel this was a reason to hold executive session. Councilman Gaesser, citing that there is no written documentation regarding the granting of the extension, nor a letter from Mr. Hunsinger, expressed it is therefore premature to make a decision, and made a motion to table this resolution. There was no second to this motion. Councilman Joseph suggested amending the wording of the resolution to reflect that once the paperwork IS in order, the authorization would occur. Councilman Gaesser expressed concern that appropriate procedures are not being followed, and that the lack of notice of this resolution being presented has left improper time to prepare for a informed vote. Councilman Schuth asked if there is documentation which supports the expenditures submitted for reimbursement. Supervisor Gillman agreed to table this until more information has been made available. Councilman Schuth made a motion to table this resolution, seconded by Councilman Gaesser, who requested a roll call vote be taken, which resulted in the following:

Councilman Gaesser	aye
Councilman Joseph	no
Councilman Schuth	aye
Councilwoman Szozda	no
Supervisor Gillman	no

No declaration was made.

Councilwoman Szozda asked if Supervisor Gillman would wait until all paperwork is in order, before releasing funds. Supervisor Gillman responded affirmatively.

Code Enforcement Officer Gursslin requested a recess to confer with Attorney Leone and Supervisor Gillman. No motion was made, but a recess was called by Supervisor Gillman from 9:15 p.m. until 9:24 p.m.

After the recess, Supervisor Gillman stated that he would not release the funds to Eagle Creek Marina until certain conditions having to do with Code Enforcement are met. Councilwoman Szozda asked if the criteria also include having written documentation from Mr. Hunsinger regarding the extension, as well as all compliance issues being complete. Councilman Joseph reiterated her question. Supervisor Gillman said yes. Councilman Gaesser asked if this is money which Mr. Hunsinger stated would be approved if submitted, and if it is for a previous draw. Supervisor Gillman said it is for Draw 11. Councilwoman Szozda asked if there are receipts for that amount. Supervisor Gillman conferred with Attorney Leone. Councilman Schuth asked if these are new expenditures or are these the same expenditures which were submitted for Draw 10, and are now being paid at the new protocol. Supervisor Gillman stated that he assumed they were new expenditures. Supervisor Gillman asked Mr. Freemesser of Eagle Creek Marina for clarification on the submitted expenditures. Mr. Freemesser stated that Draw 11 is a resubmission of the expenditures which were submitted for Draw 10, for the total dollar-for-dollar amount. Mr. Freemesser said that in his conversation with Mr. Hunsinger, this was acceptable. Councilman Gaesser asked Mr. Freemesser if Draw 11 includes elevator expenses. Mr. Freemesser said it does. Mr. Gaesser stated that those expenses were disallowed on Draw 10. Mr. Freemesser said since he was not paid 100%, and the elevator was not completed until now, the expenses would now be allowed under the dollar-for-dollar protocol. Councilman Gaesser asked who would be preparing the necessary documentation to submit this draw. Previously, this was handled in-house, to save Mr. Freemesser the expense of administering the draw requests. Supervisor Gillman responded that that issue has not been considered. Councilman Gaesser asked if the procedure of issuing two-party checks to pay unpaid invoices to vendors and the marina, is still being followed. Supervisor Gillman answered affirmatively. Councilman Gaesser pointed out that this would then require the vendors affected in Draw 10 to reprocess their work. Supervisor Gillman stated that Mr. Hunsinger did approve that. Councilman Gaesser stated that he is not in a position to vote tonight in favor of this resolution without written documentation in place.

The original motion, made by Supervisor Gillman, to authorize himself to approve Draw 11 was seconded by Councilman Joseph, but with a stipulation that all letters must be in place, and all conditions must have been met. Supervisor Gillman agreed. (Clerk's note: no subsequent wording change for RESOLUTION 57-208 has

been submitted) Supervisor Gillman requested a roll call vote, with the following results:

Councilman Gaesser	no
Councilman Joseph	yes
Councilman Schuth	no
Councilwoman Szozda	yes
Supervisor Gillman	yes

Supervisor Gillman declared the motion, with amendment, carried.

Councilman Joseph made the following motion:

**RESOLUTION 59-208 TOWN OF KENDALL EQUAL OPPORTUNITY
EMPLOYMENT POLICY**

Whereas the Town of Kendall is committed to such fundamental ideas as fairness and equal opportunity, be it hereby resolved the Town Board of the Town of Kendall hereby establishes an Equal Opportunity Employment Policy as follows:

We are an Equal Opportunity Employer (EEO). Accordingly we promote equal opportunity in the areas of recruitment, employee training, and development. Our employment practices are without regard to race, color, religion, creed, gender, disability or medical condition, national origin, and veteran status, and including other categories protected by federal, state or local discrimination laws.

Questions concerning Affirmative Action and Equal Opportunities should be directed to the Human Resources Chairman Szozda.

The motion was seconded by Councilwoman Szozda. Supervisor Gillman called for a vote, which resulted in all ayes, and declared the motion carried.

Supervisor Gillman asked Mr. Leone to discuss the status of the Lemke property (1750 Kendall Road). Attorney Leone recapped the legal actions taken to date. Supervisor Gillman said that photos and VIN numbers of each vehicle on said property will be taken and recorded, before removal. Supervisor Gillman said he wants to advertise for parties willing to do this clean-up. Councilman Gaesser stated that advertising may not be prudent; response may be too great; and keeping this in-town has advantages. One local business has an interest, and proper insurance. Councilman Joseph asked what might happen if hazardous materials were found on the property. Attorney Leone replied that Kendall would NOT be required to clean-up any hazardous materials. The Court Order is a permissive order, not a directive order. Councilman Joseph asked if there is a policy for charging back clean-up costs to the property owner. Councilman Gaesser informed him that this is covered by the Law, not local policy.

NEW BUSINESS

Supervisor Gillman asked Councilman Gaesser to address the Board about vouchering procedures:

Procedure changes are necessary, to assure timely function. The Friday afternoon deadlines must be adhered to. Clerk Richardson is willing to collect and compile the bills, voucher them, and pass the information to the bookkeeper. Councilman Joseph suggested a written procedure be formulated. Councilman Schuth stated that Supervisor Gillman had been given authority to pre-pay.

With there being no further business coming before the Board, Councilwoman Szozda moved for adjournment, seconded by Councilman Schuth; all in favor. Meeting adjourned at 9:50 p.m.

Respectfully Submitted,

Amy K. Richardson
Kendall Town Clerk