

KENDALL TOWN BOARD
Tuesday, September 1, 2022, 7:00 p.m.
Kendall Town Hall – 1873 Kendall Road, Kendall, New York 14476

Supervisor Cammarata called the meeting to order at 8:00 p.m., and led the Pledge of Allegiance.

ROLL CALL

Councilwoman Flow	absent
Councilman Jennings	present
Councilman Martin	present
Councilwoman Szozda	present
Supervisor Cammarata	present

SUPERVISOR’S REMARKS

Tonight's resolution, once approved, puts us one step closer to obtaining funding for the proposed sewer district. It enables us to apply for and hopefully obtain the necessary money to fund our first sewer district in Kendall.

Councilwoman Szozda made the following motion, which was seconded by Councilman Jennings:

RESOLUTION 91-0922 A BOND RESOLUTION, DATED SEPTEMBER 1, 2022, OF THE TOWN BOARD OF THE TOWN OF KENDALL, ORLEANS COUNTY, NEW YORK (THE “TOWN”), AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT WITHIN SEWER DISTRICT NO. 1 AND THE CONSTRUCTION OF IMPROVEMENTS THEREIN, AT AN ESTIMATED MAXIMUM COST OF \$16,324,812 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$16,324,812 OF THE TOWN, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SUCH PURPOSE, SUCH AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED BY THE TOWN, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

WHEREAS, the Town Board of the Town of Kendall, Orleans County, New York (the “Town”), pursuant to Article 12-A of the Town Law, created a sewer district designated and known as Sewer District No. 1 in the Town (the “Sewer District”); and

WHEREAS, on August 5, 2022, the Town entered into an Intermunicipal Agreement with the Town of Hamlin, Monroe County, New York, pursuant to Article 5-G of the New York General Municipal Law (as such agreement may be amended from time to time, the “IMA”), with respect to construction and installation of a joint sewer improvements project in the Sewer District No. 1 and the Town of Hamlin Sewer District No. 2; and

WHEREAS, the Town Board has determined to undertake a sewer system capital improvements project (the “Project”) generally consisting of the construction of the infrastructure for the Sewer District; and

WHEREAS, by Resolutions the Town Board took the following actions with respect to the Project: (a) prepared maps, plans and boundaries for the Sewer District and such Project, (b) held a public hearing with respect to the Project, (c) determined that the Project would not have a significant effect on the environment under Article 8 of the Environmental Conservation Law, and (d) determined that the requirements of Article 12-A of the Town Law had been satisfied with respect to the Project and further determined to undertake the Project; and

WHEREAS, the Town now wishes to appropriate funds and issue indebtedness for the entire joint project, in accordance with the IMA, and further to authorize the issuance of obligations including, but not limited to, serial bonds and bond anticipation notes to be issued to finance the entire Project; and

NOW, THEREFORE, be it

RESOLVED, by the Town Board (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The Town is hereby authorized to undertake a certain sewer system capital improvements project generally consisting of the installation of approximately 70,000 linear feet of force main piping, approximately 10,000 linear feet of gravity sewer piping, grinder pumps and service laterals, pump stations, air valves, cleanouts, odor control systems, and manholes, as well as other such improvements as more fully identified in (or contemplated by) such map, plan and report prepared in connection with such project, all of the forgoing to include all necessary site work, equipment, apparatus and other improvements and costs incidental thereto and in connection with the financing thereof (collectively, the “Purpose”). The estimated maximum cost of said purpose is \$16,324,812.

SECTION 2. The Town Board plans to finance the estimated maximum cost of said purpose by the issuance of serial bonds in an aggregate principal amount not to exceed \$16,324,812 of said Town, said amount to be offset by any federal, state, county and/or local funds received including, but not limited to, grant and/or loan funds expected to be received from the Resiliency and Economic Development Initiative (REDI) and the New York State Environmental Facilities Corporation (NYSEFC). Unless paid from other sources or charges (including, but not limited to, funds received from the Town of Hamlin pursuant to the terms of the IMA), the cost of the Project will be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the Sewer District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of the benefit conferred upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable, except as provided by law.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 40 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources or charges, the cost of the project will be paid by the assessment, levy and collection of special assessments from the several lots and parcels of land within the Sewer District which the Town Board shall determine and specify to be especially benefited thereby, so much upon and from each as shall be in just proportion to the amount of the benefit conferred upon the same, to pay the principal of and interest on such bonds or notes as the same shall become due and payable, except as provided by law. Should the assessments upon benefited real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all the taxable real property of said Town a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town. Without in any way limiting the scope of the foregoing delegation of powers, the Town Supervisor, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the Town.

SECTION 8. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in this resolution.

SECTION 9. This resolution shall constitute the declaration (or reaffirmation) of the Town's "official intent" to reimburse the expenditures authorized in this resolution with the

proceeds of the bonds, notes or other obligations authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 10. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and may designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3) of the Code.

SECTION 11. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 12. The Town has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under SEQRA is necessary.

SECTION 13. To the extent applicable, the Town Supervisor is hereby authorized to execute and deliver in the name and on behalf of the Town a project financing agreement prepared by the New York State Environmental Facilities Corporation ("EFC") (the "SRF Project Financing Agreement"). To the extent applicable, the Town Supervisor and the Town Clerk and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the SRF Project Financing Agreement.

SECTION 14. In the absence or unavailability of the Town Supervisor, the Deputy Town Supervisor is hereby specifically authorized to exercise the powers delegated to the Town Supervisor in this resolution.

SECTION 15. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

(1) (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or

(b) 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 such publication; or

(2) such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 16. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in the Town and hereby designated as the official newspaper of the Town for such publication.

SECTION 17. This resolution is effective immediately.

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

Councilwoman Flow	absent
Councilman Jennings	aye
Councilman Martin	aye
Councilwoman Szozda	aye
Supervisor Cammarata	aye

The motion was declared carried by Supervisor Cammarata.

With no further business being brought forward, Councilman Jennings made a motion to adjourn. Second by Councilwoman Szozda; all ayes. Meeting adjourned at 8:13 p.m.

Respectfully Submitted,

Amy Richardson, Kendall Town Clerk