

KENDALL TOWN BOARD  
Work session converted to meeting  
Kendall Town Hall – 1873 Kendall Road, Kendall, New York  
April 7, 2015 7:00 p.m.

Meeting started at 7:07 p.m.

**ROLL CALL**

Councilman Martin	present
Councilman Newell	present
Councilwoman Szozda	present
Supervisor Cammarata	present

Also present, Clerk Richardson, CEO Hennekey, and Planning Board Chair Kludt

**SUPERVISOR’S REMARKS**

Discussions:

General Code – Chairman Kludt said the Planning Board had finished going through the provided codified regulations book, and is now presenting it to the Town Board with the Planning Board’s recommendation of approval, and its recommendation to obtain the electronic copy of this.

Code Enforcement concurred, as did the Town Clerk.

Councilman Newell said the Public Hearing can be set at the next meeting for the Local Law regarding this.

Councilman Martin suggested the existing books be signed out to keep track of who has them. All agreed.

Memorial Day – Assemblyman Hawley will attend. Councilwoman Szozda is finalizing plans.

Congressman Collins will be holding satellite hours at the Kendall Town Hall on April 23<sup>rd</sup>.

The resolution brought forth and tabled in February regarding Monroe County Water Authority (MCWA) obtaining an easement on Woodchuck Alley will be dropped, as unnecessary.

Out of district water request for Carton Road – Supervisor Cammarata said, “MCWA said it will send a letter, stating what they would prefer,” and he will pass that to the Board to discuss options. A landowner there told the Supervisor she could not obtain a building permit without water. Code Enforcement corrected that misunderstanding. (CLERK’s note: no out of district water application has been filed from anyone on Carton Road)

Public Water Expansion - USDA has given approval to income survey West Kendall Road residents for qualification determination. Councilwoman Szozda asked if the Town Board would be including a letter with the survey. Supervisor Cammarata said he already sent a letter to LaBella, to be included. Councilman Martin asked about Creek Road being listed now on some document from LaBella. Creek Road was not originally included. Supervisor Cammarata responded, “that’s up in the air, because there are different opinions as to where we can go with this. There is the original plan, there {are} the additional plans; there are several plans. We will be in a clearer position in 30 to 60 days.”

Medical Insurance Consortium – Councilwoman Szozda said prices for potential plans should be forthcoming.

Marina on Lakeland Beach – Supervisor Cammarata said there is now a new owner and passed out copies of an employment ad from the Pennysaver. The new name of the business will be Treasure Cove Marina and Resort. They hope to open a restaurant, The Black Pearl. A meeting was held with the DEC, the Army Corps of Engineers, the new owners, and Supervisor Cammarata. The new owners impressed Supervisor Cammarata as positive and enthusiastic and wanting to move quickly. A new Special Use permit will be required, so they will be in front of the Planning Board for that this month.

Code Enforcement Officer Hennekey said the new owners are required to submit a formal application and site plans, and the ad in the paper seems premature. A restaurant requires multiple steps for approval, including the Town, the Orleans County Health Department, and the Department of Environmental Conservation.

Councilman Newell said he was encouraged by the experience and knowledge of the new owners; they have run similar operations elsewhere, and want to emulate successes in other parts of the country.

Supervisor Cammarata handed out two resolutions for consideration.

Councilman Martin made the following motion, seconded by Councilman Newell:

**RESOLUTION 59-0415 UNTITLED**

Whereas the Town of Kendall has received a request from the new owners of Eagle Creek Marina to waive the 30-day notice period for their application to the NYSLA for an on-premises permit, and

Whereas the project will provide substantial benefits to the town by way of new tax base, new employment opportunities, and additional sales tax revenue, now therefore

Be it RESOLVED that the Town of Kendall hereby waives the 30-day notice period for the NYSLA application, and be it

FURTHER RESOLVED that the Supervisor is hereby authorized to sign and deliver to the developer any such documents as they may require to carry out the waiver.

**DISCUSSION:** The new owners should be named.

“New tax base” is misleading.

NYSLA stands for New York State Liquor Authority.

Councilman Newell stated he and Supervisor Cammarata have spoken with Attorney Meier regarding this, and view it as simply a way to take 30 days out of a process, and assume no one would object to their obtaining a liquor license, including serving in the restaurant, an outside tiki bar and packaged sales. The Authority makes any decision.

CEO Hennekey asked if the packaged sales meant a liquor store, and reminded the Board of that being outside the scope of current allowed use. He cautioned the Board against sounding as though it is approving anything at this point.

Councilman Newell suggested adding wording to make that point clear.

Councilwoman Szozda asked for an estimate of a reasonable timeframe for being through the process of obtaining necessary permits.

CEO Hennekey answered if everything goes smoothly, between three months and a year.

Supervisor Cammarata expressed confusion. At the meeting he attended, he thought opening the proposed business by June was realistic. He asked if there is a Certificate of Occupancy in effect for the first floor.

CEO Hennekey said yes, which means it can be occupied, but is not a blanket permit for all purposes. The restaurant area requires extensive construction. No plan has been submitted to the town. This will be a commercial plan, and so will require review by Code Enforcement, the Planning Board and the Town Board. The LWRP may need to be visited to assure amenability to it. (Local Waterfront Revitalization Program)

Councilman Newell asked how much of the original site plan for the marina will be the same for this operation.

CEO Hennekey said the Special Use permit originally granted was, by specific condition of the Planning Board, granted to Mr. Freemesser, and not to be passed to subsequent owners.

The most recent owners did not change the basic operation of the marina, so it has not been an issue. He reiterated caution that this proposed resolution could be construed as a type of approval for operation.

Clerk Richardson spoke about the reason behind a 30 day notice period for liquor sales, and how it may appear to the surrounding neighborhood if it is waived without public notification. Further discussion regarding wording changes of the resolution resulted in suggestions to include "pending Attorney approval."

Councilman Newell stated he had discussed this with the Attorney for the Town and the attorney was fine with the resolution, as is.

Councilman Martin said although the intent was to decrease lead time for the business, he has not been at any meeting where this was discussed, and is unsure of its ramifications.

Clerk Richardson asked who the new owners are, and if they have actually closed on this property, as she has had no notification of change of ownership. No one knew if any sale had been finalized.

Supervisor Cammarata asked if anyone could suggest wording to be more cautious.

Clerk Richardson suggested the owners be named, rather than "new owners," and the parcel of property be named by legal description or tax map id, rather than "Eagle Creek Marina," as that is a business, not a property or owner, and additional "whereases" are necessary to explain the reasons the Town believes it is in its residents' best interests to waive the period designed for municipal input.

CEO Hennekey asked if the open container law would need to be waived to accommodate the outdoor bar area and once again urged caution in making it clear that the Town is not approving anything at this time.

Councilwoman Szozda said this vote should be held off, in light of these issues and the fact that she and Councilman Martin had not seen this resolution until now.

Councilman Martin made a motion to table this resolution, not seconded. All ayes.

**\*\*\*RESOLUTION 59-0415 TABLED\*\*\***

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

**RESOLUTION 60-0415 UNTITLED**

Whereas the Town of Kendall utilizes First Niagara Bank as official depository, and

Whereas the Bank of America, as Custodian, has resigned as Custodian effective May 1, 2015, and

Whereas JP Morgan Chase has agreed to serve as Custodian and requested the Town to sign a new Custodian Agreement, and

Whereas, the Town Board has determined that said agreement is substantially in the Town's interests,

Now, therefore, be it RESOLVED, that the Supervisor is authorized to sign the proposed Custodian Agreement, as presented.

DISCUSSION: Supervisor Cammarata said the resolution was incorrect. The bank names are not correct.

After reviewing a letter sent to him by First Niagara, Supervisor Cammarata changed, and moved the resolution to:

**RESOLUTION 60-0415 UNTITLED (amended)**

Whereas the Town of Kendall utilizes First Niagara Bank as official depository, and

Whereas the JP Morgan Chase Bank has resigned as Custodian effective May 1, 2015, and

Whereas Federal Home Loan Bank of New York has agreed to serve as successor and requested the Town to sign a new Custodian Agreement, and

Whereas, the Town Board has determined that said agreement is substantially in the Town's interests,

Now, therefore, be it RESOLVED, that the Supervisor is authorized to sign the proposed Custodian Agreement, as presented.

Further discussion:

The Clerk requested a copy of the agreement to include with the minutes, as the resolution states it was presented, and suggested the other Board members see it before voting.

Councilwoman Szozda asked what the resolution really means. Supervisor Cammarata answered, "every day we get a printout - that's them - they send that."

Supervisor Cammarata said the attorney has reviewed the agreement.

Supervisor Cammarata asked if anyone could see the May 1<sup>st</sup> effective date in the agreement, and left the room. When he came back, he read letters from First Niagara and JP Morgan Chase banks, neither of which mentions May 1<sup>st</sup>.

NO vote taken.

Supervisor Cammarata re-amended the resolution, to read as follows:

**RESOLUTION 60-0415 UNTITLED (re-amended)**

Whereas the Town of Kendall utilizes First Niagara Bank as official depository, and

Whereas the JP Morgan Chase Bank has resigned as Custodian, and

Whereas Federal Home Loan Bank of New York has agreed to serve as successor and requested the Town to sign a new Custodian Agreement, and

Whereas, the Town Board has determined that said agreement is substantially in the Town's interests,

Now, therefore, be it RESOLVED, that the Supervisor is authorized to sign the proposed Custodian Agreement, as presented.

**Councilwoman Szozda made a motion to pass Resolution 60-0415, as re-amended, seconded by Councilman Martin; all ayes; motion carried.**

Councilwoman Szozda asked for help in getting the shared services rebate for staying under the 2% tax cap paperwork completed. Supervisor Cammarata must complete this by May 1<sup>st</sup>.

Councilwoman Szozda stated the website needs design work and updating more often.

Councilman Martin has spoken to Highway Superintendent Kruger about property being damaged at the lakefront on Thompson Drive, which was brought to the Board's attention at its March meeting. According to Councilman Martin, Superintendent Kruger expressed that is not a Town issue, but a highway department issue, and that the fence was not within code and encroached on the right of way. The Superintendent has crafted a letter to send to the property owners, contending the fence is not his responsibility. Code Enforcement has spoken with the property owners, who do not agree. Neither Code Enforcement nor residents have the maps of the rights of way available. The owners have not been contacted by the town since their complaint. CEO Hennekey said if he is being involved in this, he needs all the submissions of the owners, including pictures and survey maps, and all the pertinent right of way maps. This is not within Code Enforcement area of responsibility. Supervisor Cammarata will procure the original documents which were presented to the Board, and given to the Highway Superintendent after the March meeting. Councilman Newell expressed that he thought it would be a matter of fixing the fence, and questioned why this being handled differently from other snow removal damage repair. Councilwoman Szozda asked if insurance could cover it. Neither the Supervisor nor the Highway Superintendent have contacted the property owners. Supervisor Cammarata said it is not considered a town issue, but a highway issue. Clerk Richardson asked that the Supervisor return the phone calls from the owners, and let them know where their complaint stands. Councilman Newell asked the Supervisor to contact them tomorrow, to let them know it is being discussed.

Councilwoman Szozda motioned for adjournment, seconded by Councilman Newell; all ayes. Meeting adjourned at 8:55 p.m.

Respectfully Submitted,

Amy Richardson, Kendall Town Clerk

