

**TOWN OF KENDALL**  
**TOWN BOARD MEETING**  
Tuesday, March 20, 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	present
Councilman Joseph	present
Councilman Schuth	present
Councilwoman Szozda	present
Supervisor Gaesser	present

Also present, Attorney Sansone, Al and Bev Lofthouse, Stephen Seaman, Joyce Henry, Hwy. Supt. Kruger, CEO Hennekey, Bob Hart, Ty Whitehair, Clerk Richardson

**SUPERVISOR'S REMARKS**

Supervisor Gaesser expressed the Board's sympathy for Planning Chair Gray on the loss of his sister, Sharon Colburn.

Supervisor Gaesser, Chairman Gray and Bruce Newell attended a meeting in Buffalo with Attorneys Spitzer and Malcomb of Hodgson Russ to discuss the proposed Troutburg development. The opinion was that the development does meet the intent of the Town of Kendall Master Plan. There will be documentation of their opinion, and discussions will be ongoing.

The New York State Comptroller's office contacted Clerk Richardson to inform her that they would be conducting a risk assessment overview of the Town of Kendall. Chief examiner Janine Szymczak began the process last Tuesday, was on site again today, and will be spending several more days conducting this assessment. The purpose is to review the financial condition of the town. It is a random selection process, and it has been at least fifteen years since Kendall has been reviewed.

Councilman Pritchard moved to accept the minutes of the February 21, 2012 meeting, 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

Some minor damage was sustained to the roof during recent high winds. Repair is being addressed.

Highway –Gaesser, Chair

A dump body was purchased through auction.

Culture & Recreation –Pritchard, Chair

- no addition to Recreation Director Flow's report

Planning, Zoning & Agriculture -Schuth, Chair

Community Relations –Schuth, Chair

The community park gazebo is scheduled to be finished this year, and a use application is being formed, as well as guidelines for committee establishment.

Town clean-up date is set for April 28.

The Bicentennial Opening Ceremony is April 28<sup>th</sup> at 7:00 p.m. at the High School.

The Memorial Day ceremony is scheduled for May 30, 2012 at Greenwood Cemetery.

Human Resources and Ethics –Szozda, Chair

Employee Benefits –Szozda

No report

Finance, Taxes & Special Districts –Gaesser, Chair

No report

## Boards

Planning Board – P. Gray, Chair – no report

Zoning Board – K. Banker, Chair – no report

## Department Heads

Assessor – G. Massey – no report

Code Enforcement – P. Hennekey

The Marina owners are ready to discuss their plans. Building permits are increasing. Property issues are being researched and addressed.

Highway - W. Kruger

The highway department has switched over to have equipment ready for Spring.

Supt. Kruger met with the County about its proposed work on Kenmor Road.

Supt. Kruger spoke regarding the resolution on the agenda about capping of the water connection at the garage. He expressed that much has been done for MCWA, but little has been done for the town, and that maintenance done for the MCWA hydrants by the highway department should be compensated by MCWA, and that he thought there was a long-standing verbal agreement that the connection's use was allowed. He suggested delaying the capping further, to use that as a "bargaining chip". Supervisor Gaesser said any subject can be broached after the town is in compliance. Attorney Sansone said the town could be sued if it does not comply with Department of Health concerns and with the indenture contract. After discussion, Superintendent Kruger said he will cap it. Councilwoman Szozda asked if this could be considered a fire defense issue. Councilman Joseph stated it is not rated for fire flow, is not a hydrant, by definition, and is not okay to use for firefighting. Councilwoman Szozda said that the connection is used for truck washing, and asked how that would be accomplished if it was capped. Superintendent Kruger replied that hoses would be used. Supervisor Gaesser requested a list of issues to be addressed with MCWA after compliance is reached, and directed the flow preventer purchased be returned.

Historian – J. Knapp – 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**

From Attorney Sansone to Councilman Joseph re. new legislation on Public Officers’ Law  
Councilman Joseph said that after consulting with the attorney, it is determined that we are currently in compliance with the new legislation. All efforts are and will be made to make areas of discussion at meetings available to the public.

**PUBLIC COMMENT**

Robert Hart – asked commented on Resolution 48-0312, regarding the band for the bicentennial celebration. He said the \$50 deposit has probably been paid.

Al Lofthouse asked about Resolution 49-0312. Supervisor Gaesser explained the intent of that resolution to establish a legal position.

Anyone wishing to address the Town Board please stand and state your name.

**RESOLUTIONS**

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

**RESOLUTION 47-0312            Requesting the Highway Superintendent to Correct MCWA Plumbing Issues at the Highway Garage**

Whereas, in June 2011 the Monroe County Water Authority (MCWA) notified the Town of Kendall of an “unmetered water service connection” at the highway building that is prohibited by the MCWA Trust Indenture, as well as the lack of a backflow prevention device as required by the Department of Health, and,

Whereas, that notice from the MCWA also requested the Town of Kendall to correct these issues with the plumbing at the highway garage as to bring the highway building in compliance with MCWA and NYSDOH regulations, and,

Whereas, since June 2011 until the present, that condition has not been corrected,

Now, therefore, be it RESOLVED, that the Town Board of the Town of Kendall requests the Highway Superintendent to cap this connection before the end of March, 2012.

Supervisor Gaesser called for a roll call vote, with the following result:

Councilman Pritchard	aye
Councilman Joseph	aye
Councilman Schuth	aye
Councilwoman Szozda	aye
Supervisor Gaesser	aye

Supervisor Gaesser declared the motion carried.

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

**RESOLUTION 48-0312          Engaging the Services of Musicians for the Kendall Bicentennial**

Whereas, the Bicentennial Committee has recommended that we engage the services of “Street Wise”, a musical group, for the Kendall Bicentennial Celebration on August 18, 2012, and,

Whereas, the fee for this is \$400.00 including a \$50 non-refundable deposit,

Now, therefore, be it RESOLVED, that the Town Board of the Town of Kendall authorizes the Supervisor to enter into a musician’s contract with the “Street Wise” musicians, subject to a legal review by the attorney for the town, and,

Be it further, RESOLVED, to authorize the Supervisor to make payment of the \$50 non-refundable deposit, if necessary.

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

Mr. Hart commented that Mr. Scott Wright, Kendall’s elementary principal, a member in the band, is donating his time, and that is appreciated.

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

**RESOLUTION 49-0312 AUTHORIZING INVESTIGATION AND COMMENCEMENT OF LITIGATION RELATED TO EAGLE CREEK MARINA**

WHEREAS, in 2006, promissory notes were executed by the former owners of Eagle Creek Marina, in favor of the Town of Kendall, as associated with disbursement by the Town of Kendall of state grant funds related to the project; and

WHEREAS, it is the Town of Kendall’s position that the former owners of Eagle Creek Marina have not complied with the repayment terms set forth in the promissory notes; and,

WHEREAS, the Town Board has asked the town attorney to explore its options in seeking repayment due under the promissory notes,

NOW, THEREFORE, BE IT RESOLVED that the town board hereby authorizes the attorney for the town to investigate its legal options in seeking repayment, and also, authorizes him to commence a lawsuit to collect the amounts due the Town of Kendall, if directed by the Town Board.

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

Attorney Sansone declared that he has represented Mr. Murray (of the following resolution) in a past real estate matter, and so a waiver stating he may review the contract would be prudent. The Board agreed to accept such waiver.

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

**RESOLUTION 50-0312 COMPUTER MAINTANCE AND SUPPORT**

Be it RESOLVED that the Town Board of the Town of Kendall authorizes Supervisor Gaesser to negotiate and execute with Kevin Murray, owner of Down to Earth Computers, an agreement for computer maintenance. This service agreement is for two (2) hours every two (2) months for twelve (12) months for the amount of three hundred and sixty dollars (\$360.00), subject to attorney approval as to form, content and legal compliance.

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

Councilman Schuth made a motion to accept the payment of claims, as presented, seconded by Councilman Pritchard; all ayes; motion carried.

**PAYMENT OF CLAIMS**

General Fund	Abstract 3	\$15,923.45	Vouchers 118-142,144-152
Highway Fund	Abstract 3	\$18,614.12	Vouchers 119,126,153-177
Light District One	Abstract 3	\$471.01	Voucher 140
Light District Two	Abstract 3	\$277.86	Voucher 140
Light District Three	Abstract 3	\$154.62	Voucher 140
Water District 6	Abstract 3	<u>\$54.17</u>	Vouchers 143,150
		\$35,495.23	

**OLD BUSINESS**

Troutburg – the Board is awaiting Attorney Spitzer’s opinion

Highway 284 Agreement – has been submitted, and will be reviewed and set into place at the April board meeting.

County Board of Ethics – will be discussed at the next work session

With no new business coming before the Board, motion for adjournment was made by Councilman Pritchard, seconded by Councilman Joseph; all ayes. Meeting adjourned at 8:41 p.m.

Respectfully Submitted,

Amy Richardson