

**TOWN OF KENDALL**  
**PUBLIC HEARING – WATER DISTRICT 6 BOND INCREASE**  
Thursday, May 8, 2008 7:30 P.M.  
**TOWN BOARD MEETING**  
Immediately following

Supervisor Gillman called the meeting to order at 7:33 p.m., and led the Pledge of Allegiance.

Clerk Richardson called the roll:

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

OTHERS PRESENT: Attorney for the Town Leone, Historian Joette Knapp, Assessor Gene Massey, Planning Board Chairman Paul Gray, Deputy Code Enforcement Officer Hennekey, Engineer for the Town Michael Schaffron, Ed Gaesser, Al and Bev Lofthouse, Gary Smith, Mary Mann, Vince Flow, Gary Williams, K. Lillibridge, Gert Hauck, Harry Butler, Mike Cusimano, Nadine Hanlon, Joyce Henry

**PUBLIC HEARING – Water District 6 Bond Increase**

Supervisor Gillman opened the Public Hearing at 7:35 p.m., and asked Mr. Schaffron to give an overview of the progress of Water District 6, and an explanation of why an increase in project costs has been estimated.

Nadine Hanlon, Center Road – asked what the cost per household effect will be of this proposed bond increase.

Mr. Schaffron responded that the estimate is \$297 per average house.

There was no other public participation, and Supervisor Gillman closed the Public Hearing at 7:42 p.m., and called a 10 minute recess.

Supervisor Gillman called the meeting back to order at 8:52 p.m.

**SUPERVISOR’S REMARKS**

Supervisor Gillman introduced Community Park Committee Chairman Ed Gaesser, who gave a synopsis of the activities thus far and plans for the Kendall Community Park.

Assessor Stephen Seaman's retirement was announced, and Assessor A. Eugene Massey was introduced. Deputy Code Enforcement Officer Paul Hennekey was introduced and welcomed.

Supervisor Gillman read a letter of gratitude from the Community Free Library thanking Councilman Schuth for his time and help in judging the Student Art Show entries.

### **ACCEPTANCE OF MINUTES**

Councilman Gaesser made motion to accept the minutes of the Regular Town Board Meeting of February 14, 2008, seconded by Councilman Schuth.

A vote resulted in all ayes for acceptance.

Councilman Joseph asked that the minutes for Kendall Town Board Meeting – March 13, 2008 be tabled for further review and discussion.

### **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 – met with Warren to discuss staffing, Water District 6, future plow trucks acquisition

Grants applied for last year have been secured for energy efficiency upgrades at the Highway Buildings. The Assembly grant is \$3500; the Senate grant is \$10,000.

Buildings & Grounds – B. Joseph, Chair – generator maintenance program is in progress; development of 5-year plans for buildings upkeep in progress; Town cell phones have been discontinued; Town Hall phone system is being critically studied; Highway Garage fire/security upgrades are necessary

Planning, Zoning & Agriculture - D. Schuth, Chair – Wind Energy Law update

Community Relations – D. Schuth, Chair – Methodist Church BBQ Saturday, Lion's Club garage sale; Memorial Day Services at Beechwood Cemetery at 7:30 pm, May 30th., Lutheran Church flower exchange June 1<sup>st</sup>

Human Resources and Ethics – L. Szozda, Chair – alcohol/drug and ethics policies have been reviewed, and proposed changes will be discussed at the next workshop

Finance, Taxes & Special Districts – J. Gillman, Chair – annual update for 2007 finances has been filed with the State Comptroller by the bookkeeper; 2007 Gray audit is pending

Information Services – B. Joseph, Chair – website is updated, and growing; Assessor's new computer has been ordered; pre-pay vouchers have been put onto Supervisor Gillman's computer

Employee Benefits – L. Szozda, Chair – an informal advisory committee has been formed of community members to review the Medical Benefits Policy

Culture & Recreation –D. Gaesser, Chair – Recreation – met with Recreation Director Flow - on budget; busy time of year

Orleans County Representative – K. Rush – not present

#### Boards

Planning Board – Paul Gray, Chair – Wind Energy Document will be given to the Town Board imminently

Zoning Board - K. Banker – no report

#### Department Heads

Assessor – A. Massey – written report submitted

Code Enforcement – L. Gurslin – legal and practical placement of welcome signs is being determined; written report submitted

Highway - W. Kruger – written report submitted; residents along Water District 6 being contacted, excited; improvements to hamlet area in planning stages; large trees from hamlet will be removed

Historian - J. Knapp – attended Spring conference of New York State Historians; is working toward registered status

Recreation – B. Flow – written report submitted; thanked Kendall Lion’s Club for generous donation to disadvantaged youth; Seniors need a phone line available in the Courtroom

Town Clerk – A. Richardson – written report submitted

Town Justice - R. Ernenwein & C. Lape – no report

### **PUBLIC PARTICIPATION**

No one wished to address the Board

Councilman Gaesser moved that the claims be paid as presented, seconded by Councilman Schuth. All in favor; motion carried.

### **PAYMENT OF CLAIMS**

General Fund	Abstract 005	\$ 19,076.32	Vouchers 933-964, 967, 969, 984, 985
Highway Fund	Abstract 005	\$ 9,360.46	Vouchers 932, 934, 938, 941, 966, 968, 970-983, 985-994
Street Lighting 1	Abstract 005	\$ 427.70	Voucher 939
Street Lighting 2	Abstract 005	\$ 250.87	Voucher 939
Street Lighting Gen.	Abstract 005	\$ 138.98	Voucher 939
Water District 3	Abstract 005	\$ 7,203.75	Voucher 995
Water District 4	Abstract 005	\$ 26,243.75	Voucher 995
Water District 6	Abstract 005	<u>\$ 6,220.30</u>	Vouchers 942, 951,971
		\$ 68,922.13	

## **RESOLUTIONS**

Councilman Joseph moved the following, seconded by Councilwoman Szozda:

### **RESOLUTION 90-508 TO DESIGNATE MAY 18- 24, 2008 AS EMERGENCY SERVICES WEEK**

WHEREAS, the Kendall Fire Department and Morton Fire Company provide emergency medical services a vital public service; and

WHEREAS, the members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, the emergency medical services system consists of emergency physicians, emergency nurses, emergency medical technicians, paramedics, firefighters, educators, administrators and others; and

WHEREAS, the members of emergency medical services teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS, it is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating Emergency Medical Services Week; now

*THEREFORE, in recognition of this event, the Kendall Town Board does hereby proclaim the week of May 18-24, 2008, as*

### **EMERGENCY MEDICAL SERVICES WEEK**

*With the theme, EMS: Your Life is Our Mission. We encourage the community to observe this week appropriately.*

Supervisor Gillman called for a vote, which resulted in all ayes. Motion carried.

Councilman Schuth moved the following, seconded by Councilman Gaesser.

**RESOLUTION 91-508 ACKNOWLEDGEMENT AND THANK YOU FOR TOWN CLEAN-UP**

Whereas the members of the Kendall Lions Club, Kendall Leos Club, Boy Scout Troop 94 and Cub Scout Pack 94 volunteered to, and accomplished, a town-wide roadside clean-up project on the 26<sup>th</sup> day of April, 2008, and...

Whereas this project did improve the appearance of the Town, reduced the workload of the Highway Department, and aided the community residents and local organizations, therefore, now...

Be it resolved that the efforts of the Kendall Lions Club, Kendall Leos Club, Boy Scout Troop 94 and Cub Scout Pack 94 are hereby acknowledged, duly noted and sincerely appreciated.

Supervisor Gillman called for a vote, which resulted in all ayes. Motion carried.

Councilwoman Szozda moved the following, seconded by Councilman Gaesser:

**RESOLUTION 92-508 – TO CREATE ONE FULL TIME LABORER’S POSITION IN THE TOWN OF KENDALL’S HIGHWAY DEPARTMENT**

Whereas, there is a need in the Town of Kendall Highway Department for a full time laborer’s position, and...

Whereas there are sufficient funds in the Town of Kendall Highway Department’s budget, and...

Whereas, it is the recommendation of the Town of Kendall Highway Superintendent,

Be it resolved, that as of June 1, 2008, a full time laborer position in the Town of Kendall Highway Department be created.

Discussion: Councilman Gaesser said that budget funding is available; will need to be discussed for next year’s budget.

Supervisor Gillman called for a vote, which resulted in all ayes. Motion carried.

Councilwoman Szozda moved the following, seconded by Councilman Joseph:

**RESOLUTION 93-508 – TO CREATE THREE (3) PART-TIME LABORER POSITIONS AND TWO (2) PART-TIME MACHINE EQUIPMENT OPERATOR POSITIONS IN THE TOWN OF KENDALL HIGHWAY DEPARTMENT**

Whereas, there is a need for trained and available personnel to assist in snow removal, and to create depth of training in said personnel for the Town of Kendall's Highway Department, and...

Whereas, extra laborers and machine equipment operators will be needed for Water District 6, and...

Whereas it is the recommendation of the Town of Kendall's Highway Superintendent to create these positions,

Be it resolved, that three (3) part-time laborer positions and two (2) part-time machine equipment operator positions be created in the Town of Kendall Highway Department.

Discussion: Councilman Gaesser commented that the concern had been a broadening of the payroll; this is not. It is a broadening of training.

Supervisor Gillman called for a vote, which resulted in all ayes. Motion carried.

Councilwoman Szozda moved the following, seconded by Councilman Schuth:

**RESOLUTION 94-508 – CONSTRUCTION AND PLACEMENT OF FIVE TOWN OF KENDALL WELCOME SIGNS BY BRIAN PATT IN CONJUNCTION WITH JEFF MILLER AND LORA PARTYKA AT THE KENDALL TOWN LINES**

Whereas, The Town of Kendall does not have any welcome signs and the addition of signs will improve the appearance and recognition of the Town and...

Whereas Brian Patt has offered to construct and erect a Town of Kendall Sign at the intersection of Countyline Road and Route 18 for his Eagle Scout project and,

Whereas, Jeff Miller and Lora Partyka have graciously offered to construct and place four additional signs at the Town of Kendall town lines, the exact locations to be determined, and...

So, The Town Board of the Town of Kendall authorizes the Supervisor to enter into any necessary agreements to place signs at the various locations. The Town Board can allow signs of this nature, based on an individual site review of the sign design, and exact placement, with written approval from the current property owners.

Therefore, The Kendall Town Board does hereby authorize with much appreciation the erection of five Town of Kendall welcome signs, of appropriate size and dimensions, depicting a barn along with a silo and fence, to be placed at the Kendall Town Lines.

Supervisor Gillman called for a vote, which resulted in all ayes. Motion carried.

Councilwoman Szozda moved the following, seconded by Councilman Schuth:

**RESOLUTION 95-508:**

**AMENDED AND RESTATED BOND RESOLUTION, AMENDING, RESTATING AND REPLACING IN ITS ENTIRETY THAT CERTAIN BOND RESOLUTION (BEING RESOLUTION 184-1207), DATED DECEMBER 20, 2007, AUTHORIZING THE ISSUANCE OF \$120,000.00 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. WHICH AMENDED AND RESTATED BOND RESOLUTION SHALL INCREASE THE ESTIMATED MAXIMUM COST OF THE PROPOSED CAPITAL IMPROVEMENTS, INCREASE THE AMOUNT WHICH IS AUTHORIZED TO BE FINANCED PURSUANT TO SUCH RESOLUTION AND FURTHER AMEND AND RESTATE THE PLAN FOR FINANCING OF SAID IMPROVEMENTS.**

WHEREAS, the Town Board of the Town of Kendall, Orleans County, New York (the "Town") duly adopted a certain Bond Resolution, dated December 20, 2007 (the "Original Resolution") authorizing, among other things, the issuance of its general obligation serial bonds in an amount of \$120,000 for the purpose or purposes therein specified; and

WHEREAS, the Original Resolution provided for a plan for financing the original estimated \$520,000 maximum cost of the purposes therein stated (the "Original Estimated Maximum Project Cost") by the payment of \$120,000 of said maximum cost by issuance of bonds or bond anticipation notes as herein authorized;

WHEREAS, the Town Board of the Town of Kendall wishes to amend the Original Resolution by increasing the Original Estimated Maximum Project Cost by an amount equal to \$70,000, increasing the amount authorized to be financed for such purposes through the issuance of notes and/or bonds by an amount equal to \$70,000, and further by amending the plan for financing the amended estimated

maximum project cost as more fully set forth herein; and

WHEREAS, the Town of Kendall has duly complied with the requirements of the State Environmental Quality Review Act and the applicable regulations thereunder of the State of New York with respect to the purpose hereinafter described and the financing therefore.

NOW, THEREFORE BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF KENDALL, ORLEANS COUNTY, NEW YORK (hereinafter referred to as the "Town"), by the favorable vote of not less than two-thirds of all of the members of such Board, the Original Resolution is hereby amended, restated and replaced in its entirety as follows:

Section 1. The Town shall undertake the construction and equipping 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 12,500 linear feet along Petersmith Road from (i) the Kendall Murray Townline to (ii) the intersection of Roosevelt Highway (Route 18); then (b) east approximately 500 feet along Roosevelt Highway (Route 18) to a point of termination: then from (x) the intersection of Roosevelt Highway (Route 18) and Petersmith Road north approximately 6,200 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; connections to existing water mains, acquisitions of lands or rights in lands, and all other furnishings, equipment, machinery and apparatus incidental thereto for such district and Town use, 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 (hereinafter referred to as "purpose"), and general obligation serial bonds (or a statutory installment bond) in an aggregate principal amount not to exceed \$190,000 and bond anticipation notes in anticipation thereof (and renewals thereof) of the Town are hereby authorized to be issued to finance said purpose.

Section 2. The maximum cost to the Town of said purpose, including preliminary costs and costs incidental thereto and costs of the financing thereof is estimated to be \$590,000 and said amount is hereby appropriated. Therefore the plan for the financing of said purpose is to provide \$190,000 of said maximum cost by issuance of bonds or bond anticipation notes as herein authorized and \$400,000 of said maximum cost from the proceeds of a "Small Cities Grant", which the Town has heretofore applied for and been awarded. Further, the Town is hereby authorized to apply for and/or accept any funds or additional grant moneys from the State of New York and/or the United States of America in connection with all or any part of said purpose and to apply the same toward the payment of the cost thereof, including the reimbursement to the Town of any expense or cost and the payment of all or any part of the indebtedness incurred pursuant to this resolution.

Section 3. To the extent that the authorization set forth in this resolution is inconsistent with the current capital budget of the Town, such capital budget is hereby amended.

Section 4. It is hereby determined and declared that (a) said purpose is one of the class of objects or purposes described in Subdivision 1 of Paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is forty (40) years, (b) current funds are not required to be provided prior to the issuance of the bonds or notes herein authorized, pursuant to Section 107.00 of the Local Finance Law, (c) the notes herein authorized are issued in anticipation of bonds for an assessable improvement, (d) there are no outstanding bond anticipation notes issued in anticipation of the sale of said bonds, and (e) the maximum maturity of the bonds herein authorized shall exceed five (5) years.

Section 56. The bonds and notes authorized by this resolution shall contain the recital of validity prescribed in Section 52.00 of the Local Finance Law and such bonds and notes shall be general obligations of the Town and all the taxable real property in the Town is subject to the levy of ad valorem taxes to pay the principal thereof, and interest thereon, without limitation as to rate or amount.

Section 7. The power to prescribe the terms, form and contents of said bonds and notes, subject to the provisions of this resolution and the provisions of the Local Finance Law, and to authorize the issuance of, and to sell and deliver said bonds and notes, is hereby delegated to the Town Supervisor, the Town's chief fiscal officer. The Town Supervisor and the Town Clerk or Deputy Clerk are hereby authorized to sign any bonds and notes issued pursuant to this resolution, and the Town Supervisor and the Town Clerk or Deputy Clerk are hereby authorized to affix to such bonds and notes the corporate seal of the Town and to attest the same.

Section 8. The faith and credit of the Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds and notes as the same respectively become due and payable. Such bonds and notes shall be payable from a levy on property in the Kendall Water District No. 6 in the manner provided by law, but if not paid from such source, all the taxable real property within said Town shall be subject to the levy of an ad valorem tax, without limitation as to rate or amount, sufficient to pay the principal of and interest on said bonds and notes. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year.

Section 9. This resolution, or a summary hereof, shall be published in full by the Town Clerk of the Town together with a notice in substantially the form prescribed by Section 81.00 of said Local Finance Law, and such publication shall

be in the Hamlin Clarkson Herald, the official newspaper of the Town, in the manner prescribed by law. The validity of said bonds or of any bond anticipation notes issued in anticipation of the sale of said bonds, may be contested only if such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or 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 twenty (20) days after the date of such publication; or if said obligations are authorized in violation of the provisions of the Constitution.

Section 10. This resolution shall become effective immediately upon its adoption.

Supervisor Gillman called for a vote, which resulted in all ayes. Motion carried.

Councilwoman Szozda moved the following, seconded by Councilman Gaesser:

**RESOLUTION 96-508 AUTHORIZING ACCEPTANCE OF EASEMENTS FOR KENDALL WATERDISTRICT #6**

WHEREAS, the Town Board has duly created Kendall Water District #6 for the construction and equipping of a water distribution system to serve certain residents of the Town of Kendall; and

WHEREAS, this action by the Town Board is a Type II action for purposes of the State Environmental Quality Review Act; and

WHEREAS, LaBella Associates, P.C. the Town's engineers (hereafter "Town Engineers") have at the request of the Town of Kendall prepared a plan to construct, equip and allow for a water distribution system to serve certain residents of the Town of Kendall in Kendall Water District #6; and

WHEREAS, the plans designated by the Town Engineers require the obtaining of certain easements from the following property owners, Timothy and Cindy Christensen, Richard and Stacy L. Esposito, Earl Snyder, Jacquelyn Mosher, Gary Kludt and Mike Kludt, and Kludt Family Limited Partnership; and

WHEREAS, said easements have been offered by the above-named property owners to the Town of Kendall; and

WHEREAS, the Town Board of the Town of Kendall is desirous of accepting said offered easement on behalf of the Town of Kendall; and

WHEREAS, the Town Board of the Town of Kendall has examined said instrument and finds the consideration to be fair and reasonable for the value of

such taking; now, therefore,

BE IT RESOLVED, that the Town Board of the Town of Kendall does hereby accept easements from Timothy and Cindy Christensen, Richard and Stacy L. Esposito, Earl Snyder, Jacquelyn Mosher, Gary Kludt and Mike Kludt, and Kludt Family Limited Partnership in accordance with the terms and conditions contained in said instrument and directs that the same be recorded in the office of the Clerk of Orleans County, that the Supervisor is authorized and directed to execute any documents to effectuate same, with the fees for said recording to be borne by the Town of Kendall.

Supervisor Gillman called for a vote, which resulted in all ayes; motion carried.

Councilwoman Szozda moved the following, seconded by Councilman Joseph:

**RESOLUTION 97-508 TO ENGAGE THE SERVICES OF WOODS OVIATT GILMAN FOR PROFESSIONAL LEGAL SERVICES AS BOND COUNSEL TO THE TOWN OF KENDALL, NEW YORK TN 2008:**

WHEREAS, the Town Board has duly adopted a certain bond resolution for the issuance of general obligation serial bonds for the purpose of financing Kendall Water District #6; and

WHEREAS, this action by the Town Board is a Type II action for purposes of the State Environmental Quality Review Act; and

WHEREAS, the law firm of Woods Oviatt Gilman LLP, Patrick M. Malgieri, Esq, of Counsel are qualified and registered to serve as Bond Counsel; and

WHEREAS, the Attorneys for the Town, Harris, Chesworth, O'Brien, Johnstone, Welch & Leone LLP, Michael P. Leone, Esq., of Counsel, have given a positive recommendation for Woods Oviatt Gilman LLP, Patrick M. Malgieri, Esq., of counsel to serve as Bond Counsel; now therefore,

BE IT RESOLVED, that Woods Oviatt Gilman LLP, Patrick M. Malgieri, Esq., is hereby appointed Bond Counsel to the Town of Kendall, New York in 2008, and the Supervisor is hereby authorized and directed to execute a Letter of Engagement for Professional Services for same.

Discussion: Councilman Gaesser asked if the fee schedule is budgeted within the Water District. Supervisor Gillman answered affirmatively.

Supervisor Gillman called for a vote, which resulted in all ayes. Motion carried.

## **OLD BUSINESS**

Code Enforcement – Court Order – Councilman Joseph presented a proposal for the property clean-up, keeping the interests of Mr. Lemcke at the forefront; Attorney Leone said the proposal goes well beyond any legal obligation, and would be defensible. Holding any money derived from “scrapping” would not be necessary, but could be done. Councilman Gaesser said discussion was necessary, and Supervisor Gillman suggested this be a topic for the next worksession. Councilman Joseph said no, that a decision should be immediate. Councilman Gaesser suggested it be addressed at a workshop, since the proposal states the Highway Department would have to be involved, and it is currently working on the Water District 6 project, and will be for the next two months. Superintendent Kruger stated he is not particularly interested in the clean-up project, but is always willing to help.

Councilwoman Joseph moved the following, seconded by Councilwoman Szozda:

### **RESOLUTION 98-508 ADOPTING A PROPOSAL FOR THE CLEAN-UP OF PROPERTY**

**TOWN OF KENDALL**  
P.O.Box 474 1873 KENDALL ROAD  
KENDALL, NY 14476  
TELE: 585-659-8201/8721  
FAX: 585-659-8203

## **Memorandum**

To: Kendall Town Board

From: Bart Joseph,

Date: March 26, 2008

Re: Proposal to clean-up the Lemcke Property

Since taking office in January 1, 2008, the Supervisor and I have not been able to locate a written plan to clean up the Lemcke property. I have attached an e-mail from Dan Gaesser dated Tuesday, April 29, 2008 which states, “I made some phone calls on the Lemcke property. It seems there was nothing finalized before the end of the year. It was phone calls between the two attorneys. With regards to other possible residents interested in clearing that property. It was all verbal contact. The previous Supervisor contacted Alan Lofthouse, they were not interested. Steffens were also contacted and it was determined they did not (have) enough insurance. Lastly in a meeting Warren stated the Highway Dept. did not have the time to tackle this.”

Based on the above information, I am submitting the following plan to clean up the property.

- 1.) The Town Board directs the Highway Department to do the clean up as soon as time permits.
- 2.) Contact scrap and used equipment parts yards to get the best price on sale of items for salvage. (Use a Board member to assist in e-mailing photos, etc)
- 3.) Place received funds into an Account for clean up project.
- 4.) Clean up site, dispose of debris and tires as needed to make property presentable.
- 5.) Pay disposal expenses and back charge from revenues received from the project clean up account.
- 6.) Balance of funds if any shall be put into a time account that Mr. Lemcke has a set time to claim. If the funds are not claimed at the end of this time, funds go to the Town. (We need to check on the legality)

#### Benefits

- 1.) Accomplish clean up of the property and assure clean up is done to the satisfaction of the Town
- 2.) If Mr. Lemcke tries to come back on the Town at some future date we will have; A.) Best price was received for his property
- B.) Documentation of how the property was disposed of, cost of clean up, and how Mr. Lemcke's interests were looked out for even in his absence.
- C.) Closest to Town Policy on Disposition of Property
- 3.) Solve concerns about insurance that arise with a free for the taking and a promise to clean up the site when finished agreement
- 4.) Whole matter is out in the public forum.

Discussion: Councilman Gaesser expressed concern that the Board had just received, and has not had time to review this document, and concern about potential liability and legal issues, regarding matters such as determining "fair market value", and having third party involvement concerning insurance.

Attorney Leone stated the Court Order is very broad, and allows the Town to clean-up the property as it sees fit. If the Highway Department does the clean-up, and anyone is injured, that would be covered by Worker's Compensation. If a third party were to be contracted for the clean-up, and were injured, appropriate and adequate liability insurance would need to be in place by them, as well as the Town being named as an additional insured on that policy.

Supervisor Gillman said insurance would be properly checked, and he would like to move on this as soon as possible.

Highway Superintendent Kruger asked what will happen if a particular item is desired by a third party, for a fair price, Would it be possible to allow that party to take the one item, stipulating that it would be at their own risk?

Supervisor Gillman asked what the Town's liability would be for an injury, considering that this is Mr. Lemcke's property.

Attorney Leone reiterated that Town workers are covered; anyone else's insurance policy would have to be checked thoroughly. Liability could be against the Town, because it would be acting on a Court Order.

Councilman Joseph expressed upset at Councilman Gaesser's and Schuth's concerns being expressed now, rather than earlier in the year, and stated that the concerns are addressed in his proposal.

Councilman Gaesser said he does not feel those concerns are properly addressed. The insurance issue was addressed by the Town Board in 2007. The then-Town Attorney was in conversation on agreement with the individual with whom the Town was going to deal. He had two million dollars in liability insurance and all other necessary insurance, so that the insurances were in place with the direction the previous Board was moving.

Councilwoman Szozda asked if the resolution is specific enough, and if it portrays what the Board is trying to accomplish.

Attorney Leone advised that the proposal could be considered an outline of a policy; it does not address the process of contracting with third parties. That would have to be done and approved as individual resolutions, as outside contractors were considered.

Councilwoman Szozda asked if this then allows the first steps to be taken to contact interested parties.

Attorney Leone stated the Court Order already did that. This proposal simply outlines how to do that.

Councilman Gaesser asked Attorney Leone if he recommends there be specific, written contracts between the Town and any third parties. Attorney Leone answered affirmatively.

Supervisor Gillman ended discussion, and called for a roll call vote, with the following results:

Councilman Gaesser	abstain
Councilman Joseph	aye
Councilman Schuth	abstain
Councilwoman Szozda	aye
Supervisor Gillman	aye, with explanation that his vote was unnecessary, due to the abstentions

Motion carried.

Councilman Joseph asked to speak, and turned the following letter into the Town Clerk, addressed to the Town Board:

1353 County Line Road  
Kendall, New York 14476  
May 8, 2008

Kendall Town Board  
P.O. Box 474  
1873 Kendall Road  
Kendall, New York 14476

Fellow Board Members,

I have been active in the Kendall Community as a firefighter, paramedic, and fire commissioner for the past thirty four years. I have always felt a deep pride in being a volunteer, and giving back to the community.

It is due to this belief that I am donating my salary as a Councilperson back to the Town of Kendall.

Sincerely,

Bart B. Joseph

Councilman Joseph added that he has returned his previous, uncashed checks to the Supervisor. He said this shows HIS commitment to the Town. Supervisor Gillman thanked Mr. Joseph.

Cemetery Trust – not addressed

Marina Project – progressing; CEO Gursslin meeting with Mr. Freemesser on a weekly basis.

Justice Court Audit – not addressed

With there being no further business brought before the Board, Councilwoman Szozda moved for adjournment, seconded by Councilman Schuth; all ayes. Meeting adjourned at 9:42 pm.

Respectfully Submitted,

Amy K. Richardson  
Kendall Town Clerk