

TOWN OF KENDALL
SPECIAL TOWN BOARD MEETING
Monday, August 3, 2009 4:00 P.M.

Supervisor Gillman called the meeting to order at 4:00 pm., and led the Pledge of Allegiance.

ROLL CALL

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

Also present, John Pulver, Rod and Becky Hughson, Al and Bev Lofthouse, Pat Condo, Gil Schultz, Hwy. Sup. Kruger

Councilman Joseph gave a summary of the steps taken to address a fireworks application received from Mr. Freemesser of Eagle Creek Marina for August 8th. Mr. Freemesser withdrew his application on July 27th. The Board is working to bring any potential fireworks displays into compliance.

PUBLIC PARTICIPATION

Gil Schultz, Banner Beach Road – was disappointed and surprised to learn that a letter sent from his attorney, STEVEN M. WITKOWICZ, to Attorney for the Town LEONE on June 24th was never shared with the Board. Attorney Leone acknowledged receipt of the letter, and believed he had sent it to Supervisor Gillman. Mr. Schultz asked each Board member individually; none of the Town Board members had seen it. Mr. Schultz provided a copy of the letter. Mr. Schultz explained that dues are collected from Banner Beach Road residents each year by its association, to pay for snowplowing, and road repairs. The association calls for assistance from the Town from time to time, but the private road is not routinely maintained by the Town of Kendall. Mr. Schultz has concerns about salting affecting his well, road debris damage to his property, and safety concerns, and is opposed to this private road becoming a public road. Mr. Schultz provided copies of several case laws, and reminded the board that everyone who has purchased property on Banner Beach Road knew it was and is a private road. Mr. Schultz asked what portion of the road on the east end the Town would take over. Supervisor Gillman answered that it would only take the road as it sits now. Mr. Schultz asked where the removed snow would go. Superintendent Kruger answered that it would go onto yards and private property as is the case on all roads within the township. Mr. Schultz pointed out that the Banner Beach Road Association makes determinations as to road maintenance, not the Town of Kendall; school buses do not go down the road; it is not a public highway, nor is it used as such. The association funds its maintenance. Attorney Leone told Mr. Schultz that he contacted Attorney Witkowicz to let him know what was happening. Mr. Schultz reiterated that he was disappointed that his lawyer's letter, specifically requesting that the concerns listed be made known at the June 25th meeting, was not distributed or read. Councilman Joseph echoed that disappointment, and expressed concern at this failure to communicate.

Mr. Hughson asked if his concerns about Sandy Creek contamination were being addressed.

Deputy CEO Hennekey has checked the area. Councilman Joseph shared that the Orleans County Health Department checked the creek. There has not been a determination yet as to a next step.

Mr. Hughson also asked about extending a potential Town of Murray water line. Superintendent Kruger has spoken to Ed Morgan. This water line is only in the planning stage, but Mr. Morgan would consider an extension if this line were to be constructed.

Supervisor Gillman explained that the Board needs to meet with the attorney privately, and requested a motion for adjournment. A motion was made by Councilman Joseph to adjourn, and seconded by Councilman Gaesser; all ayes; meeting adjourned at 4:30 pm.

Respectfully Submitted,

Amy K. Richardson
Kendall Town Clerk