

KENDALL TOWN BOARD
RECESSED TOWN BOARD MEETING
Tuesday, July 7, 2020 7:00 p.m.

Supervisor Cammarata called the recessed meeting back to order, and led the Pledge of Allegiance.

ROLL CALL

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

Councilwoman Szozda made a motion to accept the minutes, as presented for June 2, 2020 and June 16, 2020. Motion was seconded by Councilwoman Flow. All ayes.

SUPERVISOR'S COMMENTS

Auditors have finished, and report should be done before August. The Justice audit will begin in July.

An out-of-district user contract will be forthcoming from Monroe County Clearwater to review regarding the potential sewer project to service the lakefront residents.

The REDI project at Thompson Drive is delayed because the Town has not been granted the land from the Parks Department of NYS.

Water District Eight is continuing its build out.

Water District Ten is being bid on, and bonding is expected to be in place by August.

Construction is scheduled for September.

CORRESPONDENCE

Robert and Ellie Nelson, 16686 Lakeshore Road re. explosion occurring June 27th.

The incident was discussed. County dispatch believes it was an apparent detonation caused by tannerite, a legal explosive, probably from Woodchuck Alley. Supervisor Cammarata passed this information onto the Nelsons.

PUBLIC COMMENT

No public present

RESOLUTIONS

Councilwoman Szozda made the following motion, seconded by Councilwoman Flow:

RESOLUTION 78-0720 DETERMINING THAT ACTION TO MAINTAIN AND IMPROVE THE EXISTING KENDALL ROAD STORM AND SURFACE WATER DRAINAGE SYSTEM IMPROVEMENTS PROJECT WILL HAVE NO SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT AND IS A TYPE II ACTION UNDER THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT

WHEREAS, in order to address various deficiencies in its water collection and dispersal system the Town of Kendall (the “**Town**”) is proposing to maintain and improve the existing storm and surface water drainage ditch system which runs from Kendall Road through the properties identified by the following SBL numbers located in the Town:

32.16-1-8
32.16-1-7.1
32.-2-25
32. 16-1-6
32.-2-57.2
32.-2-57.3
32.-2-57.1
32.-2-58
32.-2-26-115

(“**Kendall Road Storm and Surface Water Drainage System**”).

This maintenance and improvement work will require that the Town own certain permanent drainage easements in the properties identified above. As of the date of this Resolution, the Town has acquired a permanent drainage easement in the parcel identified as SBL 32.-2-57.3. With respect to the remaining parcels identified below, the Town has not acquired the permanent drainage easements through the Property necessary for the Kendall Road Sewer/Drainage System:

32.16-1-8
32.16-1-7.1
32.-2-25
32. 16-1-6
32.-2-57.2
32.-2-57.1
32.-2-58
32.-2-26-115

(“**Property**”); and

In order to acquire the necessary permanent drainage easements in the Property, the Town intends to exercise its power of eminent domain under New York Town Law 64 (11-a) and the Eminent Domain Procedure Law (“**EDPL**”). The maintenance and improvement of the Kendall Road Storm and Surface Water Drainage System and the acquisition of the permanent drainage easements through the Property is referred to as the “**Project**,” and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, as amended, the New York State Environmental Quality Review Act (“**SEQRA**”) and the implementing regulations at 6 NYCRR Part 617 (the “**Regulations**”), the Town desires to comply with SEQRA and the Regulations with respect to the Project; and

WHEREAS, the Kendall Road Storm and Surface Water Drainage System has been in place for many years and certain of the surrounding lands are now experiencing periodic flooding because of its

deterioration, maintenance and improvement of the Kendall Road Storm and Surface Water Drainage System is necessary. The work to improve the system and provide continued maintenance in the future will be minor and focused on the ditches and pipes which are, and for the most part have been, in place for many years; and

WHEREAS, pursuant to the SEQRA Regulations, the Project involves maintenance or repair involving no substantial changes in existing structures or facilities and involves the minor uses of land, having no permanent impact on the environment and, as such, is a Type II action under SEQRA Regulation 617.5. The Town has considered the significance of the potential environmental impacts of the Project against the criteria specified in the SEQRA Regulations and thoroughly analyzed the potential areas of environmental concern.

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Kendall Town Board hereby determines the Project will have no significant adverse environmental impacts and is a Type II action under the SEQRA Regulations; and

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

Discussion: Councilwoman Flow asked what this means. Supervisor Cammarata responded that it means the Town Board will act as the Lead Agency for SEQR for this process, and Highway Superintendent Kruger is “on board” with this process, and the resolution was sent yesterday to peruse.

Clerk Richardson stated that one of the parcels (32.16-1-8) targeted does not exist in the tax rolls, and asked if there was an error in numbering. Supervisor Cammarata said that the mistake would be moot, and simply not applicable. The resolutions could be passed as is.

Code Enforcement Officer Hennekey expressed that this seems like a drastic measure. Supervisor Cammarata said it involves ongoing litigation, and so he does not want to respond, and this will be the only way out of a mess. CEO Hennekey asked for clarification of the plan for drainage correction using the attached map. Supervisor Cammarata said that the Town Board will pass the resolutions tonight, and do this, and then if there are questions, they can be asked later. He wants to move this forward to end a nearly seven year-long situation.

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

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

Supervisor Cammarata declared the motion passed.

Councilwoman Szozda made the following motion, seconded by Councilwoman Flow:

RESOLUTION 79-0720 A RESOLUTION PURSUANT TO TOWN LAW 64 (11-A) AND EMINENT DOMAIN PROCEDURE LAW 206(D) AND 402(B) REGARDING THE ACQUISITION OF CERTAIN PERMANENT DRAINAGE EASEMENTS IN REAL PROPERTY IN THE TOWN OF KENDALL, NEW YORK IN CONNECTION WITH THE KENDALL ROAD STORM AND SURFACE WATER DRAINAGE SYSTEM IMPROVEMENTS AND MAINTENANCE PROJECT AND DIRECTION FOR ASSOCIATED ACTIVITIES BY TOWN COUNSEL AND STAFF

WHEREAS, the Town of Kendall (the “**Town**”) is authorized and empowered by New York State Town Law 64 (11-a) to acquire, in the manner provided by the New York State Eminent Domain Procedure Law (“**EDPL**”), any lands or rights therein, for the purpose of drainage and to protect the property within the Town from floods, freshets, and high waters, and to construct drains, culverts, ditches, sluices, and other channels for the passage of water, and may deepen, straighten, alter, pipe, or otherwise improve any of the lakes, ponds, streams, ditches, drains, or water courses in any part or section of the town in order to prevent the same from overflowing, and provide that the same carry off such additional water as may be brought to the same by other public improvements in the Town; and

WHEREAS, in order to address various deficiencies in its water collection and dispersal system including, but not limited to, controlling the periodic flooding to surrounding lands, the Town is proposing to maintain and improve the existing storm and surface water drainage ditch system which runs from Kendall Road through the properties identified by the following SBL numbers located in the Town:

- 32.16-1-8
- 32.16-1-7.1
- 32.-2-25
- 32. 16-1-6
- 32.-2-57.2
- 32.-2-57.3
- 32.-2-57.1
- 32.-2-58
- 32.-2-26-115

(“Kendall Road Sewer/Drainage System”)

This maintenance and improvement work will require the Town own certain permanent drainage easements in the properties identified above. As of the date of this Resolution, the Town has acquired a permanent drainage easement in the parcel identified as SBL 32.-2-57.3. With respect to the remaining parcels identified below, the Town has not acquired the permanent drainage easements through the Property necessary for the Kendall Road Storm and Surface Water Drainage System:

- 32.16-1-8
- 32.16-1-7.1
- 32.-2-25
- 32. 16-1-6
- 32.-2-57.2
- 32.-2-57.1

32.-2-58

32.-2-26-115

(“**Property**”); and

WHEREAS, with respect to the Property, the Town has not yet acquired permanent drainage easements through the Property and intends to exercise its power of eminent domain under New York Town Law 64 (11-a) and the Eminent Domain Procedure Law (“**EDPL**”) to acquire the permanent drainage easements as depicted on the attached Exhibit A (“**Permanent Drainage Easements**”). The maintenance and improvement of the Kendall Road Storm and Surface Water Drainage System and the acquisition of the Permanent Drainage Easements through the Property for the Kendall Road Storm and Surface Water Drainage System is referred to as the “**Project**,” and

WHEREAS, on July 7, 2020, the Town, consistent with its obligations under the State Environmental Quality Review Act, adopted Resolution 78-0720, determining that the Project is a Type II action and will not result in any significant adverse environmental impacts which resolution is incorporated herein by reference; and

WHEREAS, the Kendall Road Storm and Surface Water Drainage System has been in place for many years and certain of the surrounding lands are now experiencing periodic flooding because of its deterioration, maintenance and improvement of the Kendall Road Storm and Surface Water Drainage System is necessary. The work to improve the system and provide continued maintenance in the future will be minor and focused on the ditches and pipes which are, and for the most part, have been in place for many years; and

WHEREAS, the Project involves maintenance or repair involving no substantial changes in existing structures or facilities and involves the minor uses of land having no permanent impact on the environment and, as such, is an Type II action under SEQRA Regulation 617.5, the proposed acquisition of Permanent Drainage Easements through the Property is de minimis in nature so that the public interest will not be prejudiced by the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN OF KENDALL TOWN BOARD AS FOLLOWS:

RESOLVED, that the Project will serve a public use, benefit, and purpose by addressing certain of the various deficiencies in the Town’s water collection and dispersal system including, but not limited to, the repair, maintenance and improvement of the Kendall Road Storm and Surface Water Drainage System and controlling the periodic flooding to surrounding lands; and

RESOLVED, that since the Project involves maintenance or repair involving no substantial changes in existing structures or facilities and involves the minor uses of land having no permanent impact on the environment and has been determined to be a Type II action under SEQRA Regulation 617.5, the acquisition of Permanent Drainage Easements through the Property is de minimis in nature so that the public interest will not be prejudiced by the Project and such acquisition is exempt from compliance with the provisions of EDPL Article 2 pursuant to EDPL 206 (D); and

BE IT FURTHER RESOLVED, that Town Attorney, Andrew Meier, the Town's staff and special counsel, Barclay Damon LLP, are hereby authorized and directed to do such things, commence such proceedings or perform such acts and execute such documents as are necessary and/or appropriate to acquire the Permanent Drainage Easements pursuant to Town Law 64 (11-a) and the EDPL.

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

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

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

Supervisor Cammarata declared the motion passed.

With no further business being brought forward, Supervisor Cammarata adjourned the meeting at 7:23 p.m.

Amy K. Richardson,
Kendall Town Clerk