

TOWN BOARD MEETING DECEMBER 19, 2017

A regular meeting was held at on December 19, 2017 at 6:00 p.m. at the Kent Town Hall, 25 Sybil's Crossing, Kent Lakes, New York 10512.

Supervisor Fleming stated two town members had an event at their children's school this evening and unavoidably could not be here for the start of the evening. She explained because the Public Hearing is an important item, they will start the workshop and continue the Public Hearing upon their arrival.

Salute to the Flag

The board proceeded to open the Workshop Meeting at 7:10 p.m. with the Salute to the Flag.

Workshop Meeting

The Board reviewed and discussed all the items on the workshop agenda.

Public Comment

Legislator Toni Addonizio gave an update on the December legislator items. She advised the public that committee meetings are audio taped and can be heard on Putnamcountyny.com. The full legislature meetings are held on the first Tuesday of every month at the Historic Courthouse and are videotaped and can be seen on the same website.

She proposed to have a Legislature Corner in our local newspapers, to apprise the public of the different items the legislature is bringing forward. As an example she said there are many unfunded mandates and sometimes grants are received for them which can be posted. She said recently they received funding in the amount of \$92,500 for the Peer to Peer program, which does wonderful things for Veterans in Putnam County, funds are used to assist and counsel those suffering from PTSD or other combat distress disorders administered through Putnam County Veterans Affairs and NYS Office of Mental Health.

She said Putnam County has a long history of honoring Veterans back to 1919 when a commemoration parade celebration was held for returning WWI Service members and special designed service medals were awarded. The Legislature has just established a Veterans Service Medal Advisory panel which she is proud to be a part in deciding the look. She thanked Joseph Stillwell for his generous donation of \$40,000 to the Putnam County Sheriff's Department to purchase a canine vehicle. She wished everyone a Merry Christmas, Happy Hanukah and Happy Holidays. Supervisor Fleming thought it great to apprise the residents.

Supervisor Fleming was privileged to attend the graduation of our newest police officer Ryan Piekarski, Class of the 144th Westchester Police Academy and welcomed him.

Resolution #399 - Open Public Hearing – Amendment Town Code Chapter 77 “Zoning

On a motion by Councilman Huestis

Seconded by Councilwoman McGlasson

Resolved: At 8:15 p.m. the public hearing on an Amendment to Town Code Chapter 77

“Zoning” to restrict the production of concrete in all use districts except the IOC was reopened.

Motion carried unanimously

Public Hearing – Amendment to Chapter 77 – Prohibited Uses in Certain Districts

Supervisor Fleming asked for comments of the public. Bobby Palazzo said we have been discussing the beautification of Kent, yet the Route 52 corridor looks like a ghost town, it is horrible and yet we allow no matter how it happen we put in an environment of disaster and an eye sore in the middle of town. It is like driving by a dump, it is disgusting to look at along with the rest of stuff going on in town. Whatever happened in 1948 whatever laws were in effect or not there do not effect what happens in 2017 and 2018 and it needs to be addressed. Titan does not care about us, their people do not care about us, they abuse us, they abuse our laws and rights and something needs to be done. Supervisor Fleming asked for further comments. There were none.

Resolution #400 - Close the Public Hearing

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On a motion by Councilwoman McGlasson
Seconded by Councilman Denbaum
Resolve: The Public Hearing to Amend Chapter 77 – Prohibited Uses in Certain Districts was closed.
Motion carried unanimously

Roll Call

Councilman Denbaum – present Councilwoman McGlasson – present
Councilman Huestis – present Councilman Chin – present
Supervisor Fleming – present

Also Present: Town Clerk Cappelli, Town Counsel Tagliafierro, Highway Superintendent Othmer, Director of Finance Kelly, Legislator Addonizio and several members of the public.

Resolution #401 - Adopt Local Law #4 / 2017 * Previously known as LL#3/2017

On a motion by Councilman Denbaum
Seconded by Councilman Chin

WHEREAS, a local law to amend the Kent Town Code to prohibit the production of concrete, the operation of a concrete products plant, or the manufacture of any form of concrete in all use districts within the Town of Kent with the exception of the Industrial-Office-Commercial (“IOC”) District, was introduced as Introductory Local Law #4 of the year 2017 before the Town Board of the Town of Kent on October 10, 2017; and

WHEREAS, a public hearing was held on October 10, 2017 and continued to October 24, November 14, November 28, December 5 and December 19, 2017 and the public was invited to attend and be heard on the matter;

NOW THEREFORE, BE IT RESOLVED, that Introductory Local Law #4 of 2017 is hereby enacted by the Town Board of the Town of Kent and; and

BE IT FURTHER RESOLVED, that a true copy of the law is attached hereto and made a part hereof.

Upon Roll Call Vote

Supervisor Fleming – abstain Councilman Denbaum – aye
Councilwoman McGlasson – aye Councilman Huestis – aye
Councilman Chin – aye

Motion carried

* At the Town Board Meeting the Local Law to amend Chapter 77 was adopted as Local Law #3 in error and should be Local Law #4.

Resolution #402 - Approve Budget Transfers Fiscal Year 2017

On a motion by Councilman Denbaum
Seconded by Councilman Chin

WHEREAS, the Director of Finance has recommended certain budgetary amendments to the 2017 Budget in order to adjust appropriations in the General Fund, the Recycling Center budget, the Highway Department budget, the Lake Carmel Park District budget, the Lake Carmel Sanitation Department budget, the Water District 1 budget, and the Water District 2 budget, as set forth in the summary annexed hereto and incorporated herein by reference; and

WHEREAS, the Director of Finance advises that the proposed transfers will have the fiscal impacts as outlined on the annexed summary and the Town Board wishes to accept the recommendations of the Director of Finance;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby accepts the recommendations of the Director of Finance and authorizes the budget transfers as set forth on the annexed summary.

Motion carried unanimously

Resolution #403 - Authorizing Purchase of 5 Ton Roller

On a motion by Councilman Denbaum
Seconded by Councilwoman McGlasson

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WHEREAS, the Town Board of the Town of Kent has received a request from the Town Highway Superintendent to purchase a second hand 2005 Hamm HD-12 5 Ton Roller (the "5 Ton Roller"); and

WHEREAS, the Town Board has determined there is a need to purchase the 5 Ton Roller;

WHEREAS, consistent with the Town Procurement Policy the Highway Department has requested quotes for a 5 Ton Roller and received four, copies of which are annexed hereto; and

WHEREAS, the Town Board has been provided with a proposal from Fred Adams Jr., Inc. for the 5 Ton Roller for a cost of \$12,000; and

WHEREAS, in accordance with the Town's Procurement Policy and the General Municipal Law, the Town Board wishes to authorize the Highway Department to purchase the 5 Ton Roller from Fred Adams, Jr., Inc. consistent with the above referenced proposal;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby authorizes and approves the purchase of a 2005 Hamm HD-12 5 Ton Roller from Fred Adams Jr., Inc. for a price not to exceed \$12,000; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Kent hereby authorizes and directs the Supervisor to execute any and all documents necessary to give effect to this Resolution.

Motion carried unanimously

Resolution #404 -Authorizing Release of Erosion Control Bond 14 Lorne Court TM#22.-2-5

On a motion by Councilman Denbaum

Seconded by Councilman Chin

WHEREAS, Licari-Limitone Property (the "Owner") owns a parcel of land at 14 Lorne Court, Kent, New York, identified as Tax Map No. 22.-2-5 (the "Lot"); and

WHEREAS, the Owner posted a bond for erosion control to the Town of Kent in the amount of \$4,095 and has submitted a request to the Planning Board that the erosion control bond be released to the Owner; and

WHEREAS, the Planning Board, at their meeting held on December 14, 2017, approved Resolution #26 of Year 2017 recommending the release of the erosion control bond in the amount of \$4,095 and the Town Board of the Town of Kent wishes to follow the recommendation of the Planning Board;

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Kent hereby authorizes the release of the erosion control bond in the amount of \$4,095.

Motion carried unanimously

Resolution #405 - Accept Member to Lake Carmel Fire Department

On a motion by Councilman Denbaum

Seconded by Councilman Chin

WHEREAS, the Lake Carmel Fire Department has recommended to the Town Board of the Town of Kent the acceptance of Cooper Hillyer as a new member of the Lake Carmel Fire Department; and

WHEREAS, the Town Board of the Town of Kent wishes to accept the recommendation of the Lake Carmel Fire Department;

NOW, THEREFORE, BE IT RESOLVED, that Town Board of the Town of Kent hereby accepts Cooper Hillyer as a member of the Lake Carmel Fire Department; and

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BE IT FURTHER RESOLVED, that the Town Board of the Town of Kent hereby authorizes and directs the Supervisor to execute any and all documents necessary to give effect to this Resolution, consistent with the terms hereof and in such form as is satisfactory to the Town Supervisor and the Town Attorney.

Motion carried unanimously

Resolution #406 - Accept Erosion Control Bond & Escrow Fund TM#10.20-1-71

On a motion by Councilman Denbaum

Seconded by Councilwoman McGlasson

WHEREAS, the Planning Board, at their meeting held on November 9, 2017, approved Resolution #22 of Year 2017 recommending that the Town Board accept an Erosion Control Bond in the amount of \$12,890 from the owner of land located at Kentview Drive, Kent, New York, identified as Tax Map No. 10.20-1-71(the "Lot"); and

WHEREAS, the Town Board of the Town of Kent wishes to follow the recommendations of the Planning Board;

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Kent hereby accepts the recommendation of the Planning Board and approves the posting of an Erosion Control Bond in the amount of \$12,890.

Motion carried unanimously

Resolution #407 - Release of Erosion Control Bond China Circle Court TM#42.8-1-2

On a motion by Councilman Denbaum

Seconded by Councilwoman McGlasson

WHEREAS, Patrice Morini (the "Owner") owns a parcel of land at China Circle Court, Kent, New York, identified as Tax Map No. 42.8-1-2 (the "Lot"); and

WHEREAS, the Owner posted a bond for erosion control to the Town of Kent in the amount of \$5,871.24 and has submitted a request to the Planning Board that the erosion control bond and review fees be released to the Owner; and

WHEREAS, the Planning Board, at their meeting held on December 14, 2017, approved Resolution #25 of Year 2017 recommending the release of the erosion control bond in the amount of \$5,871.24 and any remaining reviews fees and the Town Board of the Town of Kent wishes to follow the recommendation of the Planning Board;

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Kent hereby authorizes the release of the erosion control bond in the amount of \$5,871.24 and any remaining review fees.

Motion carried unanimously

Resolution #408 - Accept Resignation of Timothy J. Curtiss, Esq.

On a motion by Councilwoman McGlasson

Seconded by Councilman Denbaum

WHEREAS, by letter dated December 11, 2017, Timothy J. Curtiss, Esq. informed the Town that due to his election as Town Justice he is required to resign his position as Town Attorney for Part Two, General Litigation, and Part Three, Town Prosecutor, effective December 31, 2017; and

WHEREAS, the Town of Kent wishes to accept the resignation of Mr. Curtiss as Town Attorney for Part Two and Part Three with thanks for his many years of service to the Town and best wishes in his position as Town Justice;

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NOW, THEREFORE, BE IT RESOLVED, that the Town Board accepts the resignation of Mr. Curtiss as Town Attorney.
Motion carried unanimously

Resolution #409 - Accept Resignation of Town Planner Neil A. Wilson, Esq.

On a motion by Councilwoman McGlasson
Seconded by Supervisor Fleming

WHEREAS, by email dated December 7, 2017, Neil A. Wilson, Esq. informed the Town that he is resigning as Town Planner effective as of December 31, 2017; and

WHEREAS, the Town of Kent wishes to accept the resignation of Mr. Wilson as Town Planner with regret and thanks for his years of service to the Town;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board accepts the resignation of Neil. Wilson as Town Planner.
Motion carried unanimously

Resolution #410 - Authorizing Correction of Violation, Acceptance of Proposal & Charge to Property Owner

On a motion by Councilwoman McGlasson
Seconded by Supervisor Fleming

WHEREAS, the Code Enforcement Officer of the Town of Kent issued an Order to Remedy a Violation dated November 28, 2017 (the "Order to Remedy") directing the owner to remove debris and rubbish from the exterior of the property identified as 91 Salem Road, Kent, New York, Tax Map 33.34-1-43 (the "Property"); and

WHEREAS, the Order to Remedy requires the owner to correct the violations or respond to the Code Enforcement Office within ten days and, to date, the owner of the Property has not responded; and

WHEREAS, pursuant to Chapter 55A of the Town Code of the Town of Kent regarding "Property Maintenance", upon the failure of any owner to comply, the Building Inspector is authorized to correct a violation subject to the approval of the Town Board; and the Town Board wishes to authorize the Building Inspector to correct the violation; and

WHEREAS, consistent with the Town's Procurement Policy, the Town of Kent requested three written proposals from contractors to correct the violation on the Property and received two proposals in response, a copy of said proposals are annexed hereto and incorporated by reference; and

WHEREAS, F.I. Adams Incorporated has submitted the lowest bid proposal; and

WHEREAS, the Town Board of the Town of Kent wishes to accept the proposal submitted by F.I. Adams Incorporated in the amount of \$500;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby accepts the bid of F.I. Adams Incorporated for the correction of the violation at a cost not to exceed \$500; and

FURTHER RESOLVED, that the actual cost of the correction of the violation, plus the accrued legal rate of interest from the date of completion of the work, shall be charged to the property owner by the Town in accordance with Chapter 55A-12(B).

Motion carried unanimously

Resolution #411 - Authorize Town Clerk to Advertise for Real Property Data Collector

On a motion by Councilwoman McGlasson

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Seconded by Councilman Chin

WHEREAS, the Town of Kent is seeking to fill the position of Real Property Data Collector; and

WHEREAS, the Town Board of the Town of Kent wishes to advertise for applications to fill said position;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby authorizes its Town Clerk, Yolanda D. Cappelli, to advertise for applications for the position of Real Property Data Collector, and said applications shall be accepted by the Town Board until the position is filled.

Motion carried unanimously

Resolution #412 - Authorizing Carry Over of Vacation Time - Jonke

On a motion by Councilwoman McGlasson

Seconded by Councilman Chin

WHEREAS, by email dated December 6, 2017, the Town Assessor, Paul E. Jonke, IAO, requested that his remaining vacation time be carried over into 2018; and

WHEREAS, according to Mr. Jonke, the use of his vacation time before the end of year 2017 would greatly burden the operation of the Assessor's office; and

WHEREAS, the Town Board wishes to authorize that any remaining vacation time for the year 2017 due to Mr. Jonke be carried over into the 2018 calendar year.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board authorizes the carryover of any outstanding vacation time of Mr. Jonke as of December 31, 2017 into the 2018 calendar year.

Motion carried unanimously

Resolution #413 - Appoint Town Prosecutor

On a motion by Councilman Chin

Seconded by Supervisor Fleming

WHEREAS, consistent with the Town of Kent Procurement Policy, the Town Clerk advertised a request for proposals for Part Three Town Prosecutor services; and

WHEREAS, the Town received five responses to said request for proposals; and

WHEREAS, Laura Roberts & Kevin Irwin submitted the lowest bid for Part Three Town Prosecutor;

WHEREAS, the Town Board wishes to accept the proposal of Laura Roberts & Kevin Irwin and appoint Laura Roberts & Kevin Irwin to act as Town Prosecutor.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board accepts the proposal of Laura Roberts & Kevin Irwin and appoints Laura Roberts & Kevin Irwin as Town Prosecutor consistent with said proposal; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Kent hereby authorizes and directs the Supervisor to execute any and all documents necessary to give effect to this Resolution.

Motion carried unanimously

Resolution #414 - Authorizing Timothy J. Curtiss as Town Attorney to Execute the Consent Judgment for Garewal

On a motion by Councilman Chin

Seconded by Councilwoman McGlasson

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WHEREAS, tax certiorari proceedings were brought on behalf of KARAN GAREWAL, individually, for the tax years 2016 and 2017 affecting certain parcels of real property designated as Tax Map No. 42.2-42 (1241 Peekskill Hollow Road, Putnam Valley) of the Assessment Map of the Town of Kent; and

WHEREAS, the parties have agreed to settle the tax certiorari proceedings in accordance with the attached Consent Judgments prepared by HUGH D. FYFE, ESQ., attorney for the Petitioner; and

WHEREAS, the Town Board of the Town of Kent wishes to authorize its town counsel, Timothy J. Curtiss, Esq., to sign said Consent Judgment on behalf of the Town of Kent.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby authorizes its counsel, Timothy J. Curtiss, Esq., to sign the Consent Judgment on behalf of the Town of Kent.

Motion carried unanimously

Resolution # 415 - Authorizing Timothy J. Curtiss as Town Attorney to Execute the Consent Judgement for Sachakov

On a motion by Councilman Chin

Seconded by Councilwoman McGlasson

WHEREAS, tax certiorari proceedings were brought on behalf of NISIM SACHAKOV, individually, for the tax year 2017 affecting certain parcels of real property designated as Tax Map No. 22.82-1-58 (22 Arbor Court, Town of Kent) of the Assessment Map of the Town of Kent; and

WHEREAS, the parties have agreed to settle the tax certiorari proceedings in accordance with the attached Consent Judgments prepared by WILLIAM E. SULZER, ESQ., attorney for the Petitioner; and

WHEREAS, the Town Board of the Town of Kent wishes to authorize its town counsel, Timothy J. Curtiss, Esq., to sign said Consent Judgment on behalf of the Town of Kent.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby authorizes its counsel, Timothy J. Curtiss, Esq., to sign the Consent Judgment on behalf of the Town of Kent.

Motion carried unanimously

Resolution #416 - Lead Agency Request

On a motion by Councilman Chin

Seconded by Supervisor Fleming

WHEREAS, the Town Board has been asked by the applicant to consider declaring itself to be lead agency pursuant to the State Environmental Quality Review act ("SEQRA") with respect to a proposed project on Route 52 consisting of two hotels, a waterpark and a truck stop (the "Project"); and

WHEREAS, a lead agency is required under SEQRA when there will be a coordinated review of a proposed project by more than one involved agency within the Town; and

WHEREAS, the Town Planner has advised that although the Town will be an interested agency with regard to the Project, the Town Board will not be required to grant any permits or approvals related to the Project and is therefore not an involved agency; and

WHEREAS, the Town Planner has opined that the Planning Board will be the sole involved agency in the Project application and should therefore be the lead agency for SEQRA purposes;

WHEREAS, the Town Board wishes to accept the Town Planner's recommendation;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board declines to act as Lead Agency under SEQRA for the Project.

Upon Roll Call Vote

Councilman Denbaum – nay, he is unsure how much of this was discussed before his arrival. He received correspondence from the Planning Board that there may be some legal reasons why

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they not be able to act as lead agency. The email was received yesterday, he is not aware of any of these claims or legal findings or research done to determine whether that is a correct opinion or whether we are bound by that legal interpretation or not. He just thinks there is no reason to make this decision now when we can get an opinion from our attorney whether what the Planning Board thinks is proper and come back and make a final decision. There is no point to make a decision now we do not have to. Reliance upon an email from one member of the Planning Board, not their attorney, not anything else, he thinks it premature and stops us from doing our due diligence, can we be lead agency, yes or no, once we have that question answered than we can say do we want to be lead agency, he feels we are skipping one of the steps necessary to make the determination and voted no.

Councilwoman McGlasson – nay

Councilman Huestis – aye

Councilman Chin – aye

Supervisor Fleming – aye, she qualified the vote by saying this was brought to us two weeks ago and we said we would be taking a vote this evening and that board members should explore the meaning of becoming lead agency and had a two week opportunity to speak with our planner, to speak with counsel and she believes the two weeks is tonight and certainly has done that and feels comfortable voting yes to decline to be lead agency.

Motion carried

Resolution #417 - Add to the Agenda – Worker’s Compensation Liability Insurance

On a motion by Supervisor Fleming

Seconded by Councilman Huestis

Resolved: The town’s Worker’s Compensation Liability Insurance policy was added to the agenda.

Motion carried unanimously

Resolution #418 - Proposal for Worker’s Compensation Insurance

On a motion by Supervisor Fleming

Seconded by Councilman Chin

Resolved: The proposal submitted by Spain Agency for the 2018 NYS Workers’s Compensation Insurance with Comp Alliance not to exceed the amount of \$367,989 was accepted.

Motion carried unanimously

Resolution #419 - Approval of Vouchers and Claims

On a motion by Councilman Huestis

Seconded by Councilman Chin

1. Fred Adams	\$3,100.00	Property Clean Ups
2. Auto Craft Body & Collision	\$9,795.14	Police: Auto Body Repair
3. Cemco Water	\$2,024.30	WD#2
4. City Carting	\$6,259.92	Lake Carmel Garbage
5. Miracle Co.	\$149,875.00	Playground
6. NYCOMCO	\$2,622.00	Police 2 Way Radio
7. NYS Dept of Civil Service	\$217,325.80	Health Insurance
8. Peak Construction	\$5,180.00	Change Order: Recycling
9. Riverview Industries	\$11,273.57	Highway Trucks: Body Work
10. Royal Carting	\$3,438.15	Recycling Garbage
11. R.T.I. Industries	\$16,650.00	Grinder/Excavator: Landfill
12. Virtual Towns & Schools	\$3,500.00	Annual Website Hosting
13. Windstream	\$3,988.74	Telephone Service

2018

1. Brown and Brown of NY	\$72,429.18	Insurance Installment
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Motion carried unanimously

Resolution #420 - Adjournment

On a motion by Councilman Huestis

Seconded by Supervisor Fleming

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Resolved: The Town Board meeting of December 19, 2017 adjourned at 8:42 p.m.
Motion carried unanimously

Respectfully submitted,

Yolanda D. Cappelli
Town Clerk