

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

Resolution #371- Adjourn to Executive Session

On a motion by Supervisor Fleming

Seconded by Councilwoman McGlasson

Resolved: The town board adjourned to executive session at 6:03 p.m. to discuss the medical, financial, credit or employment history of a particular person or corporation and current litigation.

Motion carried unanimously

Resolution #372 - Adjourn Executive Session

On a motion by Councilman Huestis

Seconded by Councilwoman McGlasson

Resolved: The town board adjourned executive session at 7:17 p.m. no votes were taken.

Motion carried unanimously

Resolution #373 - Open Public Hearing – Amendment Town Code Chapter 77 “Zoning

On a motion by Supervisor Fleming

Seconded by Councilman Denbaum

Resolved: At 7:25 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 opened.

Motion carried unanimously

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

Councilman Denbaum stated since the last meeting there has been a proposed amendment to the local law which has been in discussion for a few sessions. He read the paragraph being added in the final version. He said the public hearing will remain open, to have this reviewed and to take any further comments. He read the law was “any individual or business that was lawfully engaged in the production of concrete in a certain district in the Town of Kent would upon the effective date of the law become a legal a nonconforming use and that nonconforming use would terminate no later than 2 years following the passage of the law. Based on some discussions and additional research, it would be in the best interest of the Town and prudent to add an application section for an extension of that 2 year period if warranted and to add that to the law to make the law comply with the issues they think may come up. He read the proposed amendment: *The section is entitled D. Extension. The Zoning Board of Appeals may extend the two-year amortization period for a limited period of time if the individual or business that is in engaged in a legal nonconforming use, pursuant to subsection C, applies to the Zoning Board of Appeals for an extension of time. The application of the extension time must be made at least 180 days before the date on which the use must terminate. The applicant must demonstrate that (i) it has made a substantial financial expenditure in the real property at issue prior to the enactment of this law; (ii) that the financial expenditure has not been substantially recovered by the end of the two-year amortization period; and (iii) the financial expenditure is not otherwise recoverable without engaging in the legal nonconforming use described herein. Nothing herein shall allow for an extension past the minimum period of time to allow for such a recovery. Any decision on extension application by the Zoning Board of Appeals may be appealed to the Town Board of the Town of Kent by the applicant or any other interested party within 30 days of the date of the entry of any extension decision in the office of the Town Clerk.* He explained that is the end of the paragraph, there will be no votes taken, he hopes that interested parties will read through it and come up with any questions and concerns and meet back here at the next meeting at which time we will most likely make a motion to adjourn the public hearing until the next meeting.

Town Attorney Tagliaferro stated distributed today was the proposed Negative Declaration pursuant to SEQRA and a full Environmental Assessment form they were going to consider a resolution adopting the Negative Declaration tonight but will be put over to the next meeting as it was just handed out today.

Charlotte Biblow, Esq. from FarrellFritz representing Titan Concrete asked if the revised documents have been referred to the Planning Board. Town Attorney stated they are planning on making all of the referrals again. Ms. Biblow asked if they got a response from the Planning Board to the original Town Attorney stated no, it is not required under town code. Ms. Biblow asked Councilman Denbaum since he drafted it and did additional research to add the extension provision; she asked what he looked at to add that. Councilman Denbaum said no. She asked when he came up with the 2year amortization period what it was based on. Town Attorney said this is starting to sounds like a deposition. Councilman Denbaum stated the time period was based on a reasonable idea of how much time is needed, the idea was brought up that maybe that should be a further fact based determination by a separate board that is what the additional section adds. The period is a one sentence period in the law, it is reasonable to

him based upon other statutes. The idea came up you may want to add a fact finding aspect to it so that is where it came from. Ms. Biblow stated the reason she's asking is they relooked at the cases and they see two-year amortization periods not applying to concrete plants but applying to such things as billboards. Councilman Denbaum stated if the Town passes this law, and they file suit and put that in the papers he is confident his attorneys will respond accordingly. Ms. Biblow asked how many concrete plants are there in this town. Councilman Denbaum stated none other than the plant operating right now. Ms. Biblow asked Supervisor Fleming, recalling that she reclused herself from this discussion of this local law and noticed she made a motion to open up the public hearing, she asked if she will continuing to reclude herself. Supervisor Fleming replied she is reclusing herself from the vote but she can open a public hearing. Ms. Biblow asked if she will be reclusing herself with any discussions on the law, trying to figure out the scope of her recusal. Town Attorney replied this is a public comment period.

Johanna Tavares stated she has attended previous board meetings and lives next door to the plant with her family and children. She has expressed her concerns about the silica dust situation and how harmful it can and will be. They moved here 2 years ago and the plant there looks nothing like the plant when they moved here. If it did she would not have moved here. She said the silica dust is her main concern, but now there is a situation with fumes and stadium lighting going she literally feels like she lives in prison. She thoughts she was moving to the countryside, to open the windows and to enjoy the beautiful scenery but her windows and curtains are closed. There was a fire situation at the plant while her children were running around and it was her son who reported it. It was very frightening she called the police numerous times she kept hearing explosion after explosion. She didn't know what to do, she didn't if she should evacuate or not. It's been a never ending nightmare and often difficult to attend meetings because of her children's activities but to have change she has to speak up and not to be intimidated. She hopes her presence and expressing her concerns that something will be done. Councilman Denbaum asked if she can elaborate on the fume issue. She said it is obvious it's coming from the trucks, it's very strong she thought it was within the house that is how strong the smell is, she realized outside is 10 times worst so she has to keep her windows closed. It is horrible. She is unable to enjoy her Christmas decorations as the blinds and curtains are closed due to the stadium lighting.

Bobby Addonizio stated he grew up in this town and graduated from Carmel High School. During Thanksgiving he drove around the Towns and looked at the businesses in the surrounding area, restaurants, boutiques, shops etc. and recently Katherine's Boutique, a bakery and some deli's and then he looked at the concrete plant. He feels it does not belong in the center of a community the woodpiles that are rotting and stumps decaying, the trucks that come at 6 o'clock in the morning to dump the sand and the gravel which bring dust and while the trucks are pulling up and getting ready to go on their daily routines their engines are running; when they come back and washout the engines are running constantly. That is where the diesel fumes are coming from. This is not a place for an industrial plant to be. This is a community of homes or residents that live here and it's a complete eyesore, it looks like a junk yard, a dump. They're on their best behavior right now because of what is going on if this goes through be prepared for the worst to come.

Bobby Palazzo reiterated everything Bobby Addonizio was saying and asked when does environmental get involved he asked, should we contact them he asked it is public safety. Councilman Denbaum agreed it is a matter of public safety and that is why the Town Board is considering the law before us tonight. He said if you think a different government agency that specializes in this should be further aware of the situation it probably wouldn't hurt to give them a call. Mr. Palazzo wasn't at the last meeting but he didn't appreciate the rhetoric spoken by the attorney for Titan. This is our town and county that they're invading. This is our town they are poisoning, littering and destroying. They have no regard for our laws, our town or citizens. They just work here we live here and have to deal with their mess. He wants to know if we are reaping any tax benefits. Supervisor Fleming replied there are taxes levied on their property. Councilman Denbaum he doesn't believe that they have applied for the commercial building exemption. They are paying taxes which is probably based upon an assessment before the construction and based on a level of taxation that it is not operating a concrete plant at this point. Mr. Palazzo feels if the law before us is enacted how long will Titan have to cease and desist and what would our liability be, if the Article 78 is decided in our favor what liability is ours and when will they cease and desist? Town Counsel Tagliaferro stated this is not a question and answer period and outside of the Town Board purview. Mr. Palazzo feels they have been sold out by the Zoning and why they all resigned now we suffered by the decision that cannot be reversed. He has a sewer treatment plant half a mile from his house. Whose idea is that to put it in a residential neighborhood? We, the homeowners loose the value of our homes because of the economic obsolescence that was approved by the Zoning, Planning and Kent Town Boards. People are talking about selling their homes because of what is going on Route 52 but it will not be an easy sell with the disaster in their backyards. Someone needs to give them answers and where they go from here.

John Veteri and adjacent neighbor elaborated on the diesel fumes and the point you cannot open a window. His property is adjacent to Joanna's and they too do not open their windows. They are playing right by the rules, since complaining about the lights some of their lights are not on but they're still there waiting to go back on. Last night somebody was in the yard at 2-3 o'clock in the morning dumping something. He hears machinery going in and out all the time trucks sit there and run all day long. There are 3, 4, 5 different businesses being run at the same time, trucks are running all day long. You cannot open your windows, you cannot do anything. Since they've moved in, they've cut every single tree, branch anything even remotely on their property the little bit of a buffer zone is gone. They don't care. He cannot walk to his shed; the new thing now is they all jump out of their machinery and waving, screaming, yelling and cursing. If they are not screaming and yelling at him they are screaming and yelling amongst themselves. The property is nothing like it was when he bought his house, they've destroyed everything around it somebody decided a little 6 foot fence was fine and they no longer need anything else as a barrier or buffer. It's not just the concrete factory there, there's also a landscaping, and they are dumping rock. At 7:00 am everything starts up to a point where there's such a cloud you cannot breathe, the diesel fumes are not good for you, there should be an exhaust systems. There's at least 6, 7, 8, 9 trucks, and machinery running all day long now, in case you haven't notice it's below freezing so they're not doing the business they're going to be doing when the weather warms up. In the spring and summer time comes all hell is going to break loose and when there's 20, 30 trucks sitting there ready to load. He questions how they can continue doing whatever they want; he would be slapped with violations. He is being told they are following a site plan, what site plan. No one seems to know anything, yet every morning he knows what they are doing, he invited anyone who is interested to come to his house to witness what goes on to hear and smell what is going on. His home is worth nothing now.

Resolution #374 - Adjourn the Public Hearing

On a motion by Councilman Denbaum

Seconded by Councilwoman McGlasson

Resolve: The Public Hearing was adjourned to December 5th, 2017.

Motion carried unanimously

Salute to the Flag

The board proceeded to open the Workshop Meeting with the Salute to the Flag.

Workshop Meeting

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

Public Comment

John Curzio, a member of the Carmel School Board addressed the board. He said his comments tonight are his own and not necessarily reflective of the other board members. He said his comments have a direct impact on the Town of Kent and its residents in regards to the upcoming Carmel Central School District Capital Project vote. When he ran for the board he promised the voters he would fight for fiscal responsibility and to be a good watch dog over the taxpayer's money. The project if approved will blow a hole right through the already heavy tax burden on the homeowners and businesses of the district. He said the \$128.00 average per year tax hike fails to mention it's on top of the yearly tax increase the board has considered. He said Carmel is already among the highest tax district in the nation and the project if approved will cement the status. The tax impact will hasten the exodus of the Senior Citizens. He said Kent taxpayers will take a double hit as commercial property will be removed from the tax rolls to fulfill the project. He strongly urged the voters of Kent and those within the Carmel Central School District to vote no on Monday, December 11, 2017. Councilman Denbaum thanked him asked the cost of the total Capital Project. Mr. Curzio replied \$85.6 million. He said the project is equivalent of the Town of Kent running for 5 years. Mr. Curzio stated \$40 million of the project is for an innovation center to be attached to the Library, some of the statements in favor has been we need more space, yet student population has decreased. The music and art building would be demolished, some field reconfigurations, and the purchase of the property of Route 52 in Kent to be the new transportation garage. There are roof replacements which can be placed into the annual budget, which aid can be received for the first year. He feels the cost is unsustainable for this community; school taxes comprise 70% of our local property tax bills. Councilman Huestis stated if this goes through the Town loses a significant property that would hopefully trigger economic development. He said the special districts will take on a double raise. He said there is a problem with abandoned and vacant homes within the town, there are 105, 43 – 75 of them are abandoned and vacant homes. These impact neighborhoods, and when he hears about the proposed proposition he is concerned what will happen. He said if the proposition is approved he is concerned it will trigger an operation budget, you will need more staff, etc. It is a hot topic and he is concerned about those on a fixed income. Mr. Curzio said the Carmel Central School District offers an education to our students that are second to none; please do not be tricked into

believing that not supporting this that it would be at the detriment to our education. He strongly encouraged a no vote on December 11, 2017. Councilman Chin thought it more important o taking care of the students that are not necessarily special needs but require special attention, perhaps a small portion can be addressed to children one on one

Roll Call

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

Also Present: Town Clerk Cappelli, Town Counsel Tagliafierro, Police Chief DiVernieri, Legislator Toni Addonizio and several members of the public.

Resolution #375 - Appoint Member to Zoning Board of Appeals

Councilman Denbaum asked if there is any statutory requirement that a formal application be submitted by an individual interested in the Zoning Board of Appeals. Town Counsel Tagliafierro replied none at all.

On a motion by Councilman Denbaum
Seconded by Councilwoman McGlasson

Whereas, the Town Board wishes to appoint, James Joy, Ronald J. Hansen, Sr., Gordon Moccio and Brett Harrison to the Zoning Board of Appeals.

Now, therefore, be it resolved, that, James Joy, Ronald J. Hansen, Sr., Gordon Moccio and Brett Harrison be appointed to the Zoning Board of Appeals, with terms to be expire on a date set at a future meeting.
Motion carried unanimously

Resolution #376 - Accept Resignation of Member of the Planning Board

On a motion by Councilman Denbaum
Seconded by Councilwoman McGlasson

Whereas, the Town of Kent wishes to accept the resignation of Michael J. McDermott as member of the Planning Board;

Now, therefore, be it resolved, that the Town Board accepts the resignation of Michael J. McDermott as member of the Planning Board, as of December 31, 2017, with thanks for his service.
Motion carried unanimously

Councilman Huestis stated he has known the McDermott’s and Mike for several years, he has watched him Chair the meetings in a professional way, and he thanked him on behalf of the board for 18 years of public service. Supervisor Fleming said he has done an excellent job as both a member of the planning board and as its steward as the chairman, it is going to be a big loss for the town.

Resolution #377 - Release of Erosion Control Bond Gipsy Trail Club TM#32.-1-25

On a motion by Councilman Denbaum
Seconded by Councilwoman McGlasson

Whereas, Gipsy Trail Club (the “Owner”) owns a parcel of land at 607 Gipsy Trail Road, Kent, New York, identified as Tax Map #32.-1-25 (the “Lot”); and

Whereas, the Owner posted a bond for erosion control to the Town of Kent in the amount of \$8,000 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 November 9, 2017, approved Resolution #18 of Year 2017 recommending the release of the erosion control bond in the amount of \$8,000 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 authorized the release of the erosion control bond in the amount of \$8,000.
Motion Carried unanimously

Resolution #378 - Release of Erosion Control Bond Alexandra Vaughn TM#43.-2-42

On a motion by Councilwoman McGlasson

Seconded by Councilman Chin

Whereas, Alexandra Vaughn (the "Owner") owns a parcel of land at 10 Smokey Hollow Court, Kent, New York, identified as Tax Map #43.-2-42 (the "Lot"); and

Whereas, the Owner posted a bond for erosion control to the Town of Kent in the amount of \$420 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 November 9, 2017, approved Resolution #21 of Year 2017 recommending the release of the erosion control bond in the amount of \$420 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 authorized the release of the erosion control bond in the amount of \$420.

Motion Carried unanimously

Resolution #379 - Release of Erosion Control Bond Hartshorn Property TM#12.-1-88

On a motion by Councilwoman McGlasson

Seconded by Councilman Chin

Whereas, Hartshorn Property (the "Owner") owns a parcel of land at 641 Ludingtonville Road, Kent, New York, identified as Tax Map #12.-1-88 (the "Lot"); and

Whereas, the Owner posted a bond for erosion control to the Town of Kent in the amount of \$7,000 and a Stormwater Facilities Performance Bond in the amount of \$10,000 and has submitted a request to the Planning Board that the erosion control bond and part of the Stormwater Facilities Performance Bond be released to the Owner; and

Whereas, the Planning Board, at their meeting held on November 9, 2017, approved Resolution #19 of Year 2017 recommending the release of the erosion control bond in the amount of \$7,000 and a release of \$8,000 of the Stormwater Facilities Performance Bond, 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 authorized the release of the erosion control bond in the amount of \$7,000 and a release of \$8,000 of the Stormwater Facilities Performance Bond, the remaining \$2,000 of said Stormwater Bond will be retained by the Town.

Motion Carried unanimously

Resolution #380 - Driveway Bond – Bene -226 Tibet Drive TM#30.20-1-16

On a motion by Councilwoman McGlasson

Seconded by Councilman Chin

Whereas, a driveway bond was previously approved and accepted by the Town of Kent from Joseph Bene in the amount of \$500 (the "Bond") regarding 226 Tibet Drive, Tax Map #30.20-1-16 (the "Premises:"): and

Whereas, Richard Othmer, Highway Superintendent, has inspected the Premises and submitted a report to the Town of Kent Town Board dated November 14, 2017, which report verifies that the work on the Premises has been completed; and

Whereas, Mr. Othmer therefore recommends the release of the Bond being held by the Town of Kent; and

Whereas, the Town Board of the Town of Kent wishes to follow the recommendation of the Highway Superintendent;

Now, therefore be it resolved, that the Town Board of the Town of Kent hereby releases the bond in the amount of \$500 to Joseph Bene for the property located at 226 Tibet Drive.

Motion carried unanimously

Resolution #381 - Accept Quote for Clean Up of Sediment Basins

On a motion by Councilman Chin

Seconded by Councilwoman McGlasson

Whereas, the Town of Kent has determined there is a need for the clean-up and removal of sediment and waste from four sediment basins; and

Whereas, in accordance with the Town's Procurement Policy, the Town made requests for quotes, and received 2 quotes in response to such request, as summary of which is annexed hereto and incorporated herein by reference; and

Whereas, FI Adams, Inc. of Holmes, New York has submitted the lowest quote in the amount of \$1,800; and

Whereas, the Town of Kent wishes to accept the quote of FI Adams, Inc.;

Now, Therefore, Be It Resolved, that the Town Board of the Town of Kent hereby accepts the quote of FI Adams, Inc., for the price set forth in the summary attached hereto in the amount of \$1,800; and

Be It Further Resolved, that the Town Supervisor is hereby authorized and directed to execute and all agreements and other documents necessary to give effect to this Resolution, consistent with the terms hereof, all in form satisfactory to the Supervisor and the Town Attorney.

Motion carried unanimously

Resolution #382 - Authorizing Christmas Tree Sale – Lakeview Community Church

On a motion by Councilman Chin

Seconded by Councilwoman McGlasson

Whereas, pursuant to Chapter 58 of the Code of the Town of Kent, no temporary sales event may be conducted in the Town of Kent without first applying for a permit from the Town Board; and

Whereas, Lakeview Community Church has submitted an application to conduct a temporary sales event to sell Christmas trees at its location at 387 Route 52 from November 29, 2017 to December 24, 2017; and

Whereas, the Town Board has reviewed the Application and supporting documentation and finds the Application complies with the requirements of the Town Code of the Town of Kent in all respects; and

Now Therefore, be it resolved, that the Town Board of the Town of Kent hereby authorizes the issuance of a permit to Lakeview Community Church to conduct a Christmas tree sale at its location at 387 Route 52 from November 29, 2017 to December 24, 2017.

Motion carried unanimously

Correspondence – Attached

Resolution #383 - Approval of Vouchers & Claims

On a motion by Councilman Huestis

Seconded by Councilman Chin

Resolved: All vouchers #200144198 - #200144387 and claims submitted by:

1. Cemco Water	\$3,615.89	WD#2 Operations/Repairs
2. City Carting	\$9,677.77	Lake Carmel Garbage
3. Timothy J. Curtiss, P.C.	\$5,302.50	September General
	\$8,051.33	October General
4. Heritagenergy	\$3,941.76	Diesel
	\$4,230.10	
5. Medicare Reimbursements	\$18,605.50	Reimbursements
6. NYS Dept. of Civil Service	\$200,554.80	Health Insurance
7. Peckham Materials	\$4,936.06	Blacktop: Playground
8. Royal Carting	\$4,000.00	Recycling Garbage
9. State Comptroller	\$33,854.00	Justice Court: Fines & Fees
10. Town of Kent Municipal Repairs	\$2,285.32	Chargebacks: Police
	\$18,936.48	Chargebacks: Highway

In the amount of \$358,862.35 may be paid.

Motion carried unanimously

Public Comment

Councilman Huestis placed a follow up email to NYSEG regarding the power outages and the possibility of a representative addressing the board. He said the Supervisor is also going to

follow up to get some answers. He is aware that equipment is outdated, but the frequency of the outages is concerning. He said Putnam County Emergency Services has been copied as well.

Resolution #384 - Adjournment

On a motion by Councilman Huestis

Seconded by Councilman Chin

Resolved: The Town Board meeting of November 28, 2017 adjourned at 8:25 p.m.

Motion carried unanimously

Respectfully submitted,

Yolanda D. Cappelli
Town Clerk