

TOWN BOARD MEETING/WORKSHOP DECEMBER 5, 2017

A regular meeting was held at on December 5, 2017 at 6:00 p.m. at the Kent Town Hall, 25 Sybil's Crossing, Kent Lakes, New York 10512.

Resolution #385- Adjourn to Executive Session

On a motion by Councilwoman McGlasson

Seconded by Councilman Chin

Resolved: The town board adjourned to executive session at 6:15 p.m. to discuss the medical, financial, credit or employment history of a particular person or corporation and current litigation.

Motion carried unanimously

Resolution #386 - Adjourn Executive Session

On a motion by Councilman Huestis

Seconded by Supervisor Fleming

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

Motion carried unanimously

Ceremony Honoring Town Justice J. Peter Collins

Supervisor Fleming stated many know, Justice Collins has been with the Town and on the bench for 17 years, he has done nothing but make us proud. She had the privileged before becoming Supervisor of appearing before Justice Collins in this Court and as an attorney people are nervous in Court especially their first time. She has never been in a court where it was handled so professionally and compassionately. Justice Collins sets forth the entire process in detail to assuage people's fears to feel less demonized by the process. He puts in a great amount of time to do that. People that appeared before him certainly have the feeling that they would get a fair shake, that the deck is not stacked against them. His reasoning is beyond reproach; his presence in our Court has been a feather in the cap of the Town of Kent. His term ends at the end of this month, he has decided not to run for reelection if he did, he would have easily swept into an additional term. He is going to be very surely missed in this Town.

Councilman Denbaum spoke stating he has only been before Judge Collins a few times before he came on the Town Board. One of the few times he was in front of him, he was defending himself for a speeding ticket and he was very fair. The other time was for a chicken complaint and he was briefing the definition of live stock and whether it consisted of chicken or roosters or which one is crowing and eventually it settled but he was disappointed because he was looking forward to an opinion on the definition of live stock in our town code. He can say as he travelled around as an elected official and more importantly an attorney he has always heard good things about the Kent Justice Court and Judge Collins and that's not always the case; it always made him proud as a member of this Town Board and this Town to know the Justice Court and the people who came in contact with this Town were in the very best of hands nobody is more respected as a judge in this County than Judge Collins or at least on the same level. He appreciates that as a member of the bar, as a member of this Town and a member of the Town Board.

Councilman Huestis was happy to report he was never before Judge Collins. He has known the Collins' family and followed the daughters in high school basketball, and PJ an excellent umpire who started with Kent Rec. and believes he got as far as double A, now he's a high ranking attorney down in Manhattan. He added Judge Collins is a pretty good golfer so he knows where he'll be. The whole Collins family is a model for what we're trying to do in Kent and the Communities that Care Coalition and he hopes in some way they'll stay active in some of the non profits to make Kent a first class town. He wished him well; when people talk about retirement make sure you have a plan. He thinks Judge Collins is organized and he's sure Marty and he will be involved.

Supervisor Fleming read and presented the Proclamation:

Whereas, the Honorable J. Peter Collins has served with distinction as Town Justice in the Town of Kent for 17 years, and

Whereas, Judge Collins has exemplified the best characteristics of a public servant including presiding over the Town of Kent Justice Court with honesty, integrity and a dedication to the rule of law, and

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Whereas, the Town of Kent and its residents have been the beneficiary of such public service and seek to recognize the extraordinary commitment and service of the Honorable J. Peter Collins for all these years.

Now, therefore, let it be resolved that the Town Board of the Town of Kent hereby gratefully recognizes the dedication, professionalism and years of distinguish public service to the Town of Kent of the Honorable J. Peter Collins and wishes him the best in all of his future endeavors. Signed by the Kent Town Board.

The Honorable J. Peter Collins started by saying he is truly humbled and honored to receive this proclamation. He is also truly humbled and honored by the kind comments mentioned tonight. He has always tried to conduct himself in a manner in court that would reflect honor on or upon the court, maintain the dignity of the court as well as the dignity of the individual and, also reflect honorably upon the Town as a unit. He thanked all those who are responsible for the efficient operation of the court which includes the court staff, Michele, Beth and Lucy. He also thanked Nick Balzano, his security man who has kept him safe for all of these years and also the Kent Police Dept. for the support they have provided in securing the court. He also thanked Judge Douchkoff for his assistance and cooperation; they do coordinate and work very well together. It was time to retire and he feels confident his successor, Tim Curtiss will distinguish himself with honor and reflect proudly upon his efforts that will reflect also honorable upon the town. He thanked all, although he'll be gone, he'll still be here and, lastly he thanked his wife, she's been supportive in everything he has ever done they are a unit. His wife, Marty, raised 5 children so he can practice law and has done a magnificent job. He has 5 healthy, happy adult children and to the great extent their success is attributable to her efforts as a Mom someone who put her endeavors aside so that he can be successful in the practice of law and explore those things he wanted to do. He expressed his thankfulness and love to her.

Resolution #387 - Open Public Hearing – Amendment Town Code Chapter 77 “Zoning

On a motion by Councilman Denbaum

Seconded by Councilwoman McGlasson

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 reopened.

Motion carried unanimously

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

Supervisor Fleming asked the board or attorney for comments before opening to the public. There were none.

John Stallakis from the Law Offices of FarrellFritz representing Titan Concrete, the tenants and operators at the plant on Route 52 asked confirmation of the correspondence of December 4th, 2017, it was confirmed. He asked if the SEQR Negative Declaration and the Environmental Assessment Form on the Town's website under the Agenda were the most updated documents with respect to the revised proposed law and it was confirmed. He asked who prepared the Environmental Assessment form or when it was prepared. Town Attorney Nancy Tagliaferro stated she did. He also asked when it was worked on. Town Attorney did not have the information available. He asked if it could be provided at her convenience. He asked if the Town Board referred the revised law to the Town Planning Board, it was confirmed yes. He asked when it was referred. Town Attorney stated they referred to the entire package again after the law was amended to both the Town Planning Board and the Putnam County Planning Dept. Town Clerk Cappelli stated the Town Planning Board received it on November 29th, 2017. He asked if the Town Board intend to vote on this proposed revised law this evening. Town Attorney stated no, that is why it does not appear on the agenda. He asked if referred to the Town Planning Board, is there a reason why it does not appear on their agenda. Town Attorney replied as she does not represent the Planning Board she cannot answer. He asked if the revised proposed law was referred to the County Planning Dept. Town Attorney confirmed yes. He asked the other interested agencies to which the documents were referred. Town Attorney replied the adjoining municipalities, the County Executive's office, the Clerk of the Putnam Legislature, NYS DEC, Taconic State Commission, Clerk of the Dutchess Legislature, Dutchess County Planning Board and the Dutchess County Executive. She suggested submitting a FOIL to the Town Clerk. Town Attorney asked Mr. Stallakis for comments regarding the local law. He noted the language of the Town Board's law would prohibit the manufacture and production of

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concrete anywhere in the town other than IOC district. If he wanted to put in a fence post or basketball hoop, fix the steps or anything like that it would be prohibited. He said the town law is targeting one premises on Route 52 where Titan produces concrete under the guise of applying to the whole town. He said the extension of time provision set forth in the revised proposed law doesn't set forth any standards by which an extension will be provided they contend that is more for vagueness and as unfitted discretion to deny or grant. He said if you want to appeal that Zoning Board decision it goes right back to the Town Board which is a conflict. This Town Board is trying to get rid of this concrete plant; it's an end all decision over that decision with respect to an extension under the revised law. He asked, with respect to Supervisor Fleming, you're recused yourself from the discussions or any motions related to the revised proposed law. Town Attorney stated she is recused herself from voting on the local law. Councilman Denbaum said Mr. Stallakis objects to the amortization period, the original 2 year period and the addition of time, sighting Titan Concrete at first expended more than \$3m in the plant and then later over \$5m, Councilman Denbaum asked if his client is willing to make a submission outlining those costs to the Town Board for consideration during this period because you have complained about the amortization period as it accounts for the costs, he wants to know if his client will be submitting backup for those costs. Mr. Stallakis replied the first part is the amortization period wouldn't apply to their client because it's not a nonconforming use, it's a permitted use but for argument sake, if applied the 2 year amortization period is unreasonable in itself. With respect to the concrete plant, the tenant, Titan's expenditures, Kent Investors' expenditures is over \$5m and in the industry itself the capital standard costs are high. Councilman Denbaum asked is that actual costs or industry costs. Mr. Stallakis replied actual costs. Councilman Denbaum asked if his client is willing to submit those costs for the Town Board's consideration when they are determining the language to put in the local law regarding the amortization period. Mr. Stallakis said he'll discuss that with his client.

Tom O'Leary stated as far as Mr. Stallakis' statement regarding pouring concrete that it should be allowed and it would be safe, he said pouring concrete, fixing the steps etc. would be perfectly fine. The problem with the plant is everything they mix from the plant goes into the atmosphere, like the diesel smoke. He saw a video earlier with machines running all day long, nonstop whether they're using them or not, should not be allowed. He mentioned previously he worked in constructions all his life and presented a document used as a tool to teach them in their safety meetings. He read the document: Silica, they use what is called crystalline silica and it basically means it's not good for you. "Why it's deadly? You can be endangered even if you don't see the dust. When you breathe the dust that contains silica the particles damage your lungs. Silica can form in your lungs in as little as a few weeks. A very high dust exposure even breathing small amounts over time can cause disease years later and by the time it gets hard to breath you are already sick and there is no cure for silicosis. Silica can be found in many building materials including concrete, mortar, some paints, sand, rock and masonry. Some of these things are going in and out of the yard all day long; these dusts are emitted in the air into the neighbors, especially those with kids. He apologized for being redundant he provided the information from OSHA for further research.

Maureen Guido a resident residing across the street from the plant for 45 years stated it was not always the way it is now. Everyone tells her "well you moved here and the plant was there first", it was a very small place then and now it's huge and the noise is ridiculous that they tolerate. She doesn't normally speak but today has just had it. She has taken a video from her front yard of the factory making mulch. She understood that cannot happen any longer so she called Mr. Looney but was told there is nothing he can do and referred her to Bill Walters. She spoke to Bill Walters previously regarding the lights 2 weeks ago and Bill told her to speak to Mr. Looney. She felt she got the run around and proceeded to call the police and was told it's not an emergency but the sergeant will call her back. Chief Divernieri called back after 2 hours and explained they are in court and received permission to mulch they have 10 days in which to work on it they are allowed to work 5 of the 10 days from 8am until 4pm not including the weekends. She asked why the taxpayers did not know that information; they live right next to the plant and didn't know they have permission to make mulch. Last November she had vinyl siding installed on her house her house was covered in red silt from the mulch they made. She

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had to power wash her home siding that is brand spanking new. They are back making mulch again so she'll now have to pay for the power washer to come again. Something has to be done. Supervisor Fleming interjected stating the law this public hearing is with regard to the production of concrete. This law is not talking about the whole plant. Supervisor Fleming stated the Building Inspector is present this evening and can address her concerns at the public comment period. She explained the board will not be taking a vote tonight. Councilman Denbaum stated we will be taking a vote on the SEQRA determination tonight.

Bob Addonizio takes his evening walks with his dog enjoying his neighborhood environment since 1979. He invested money in his home, as a taxpayer he pays his taxes on time every year. As he walked to the circle the past few nights all he hears is how Titan wants to be good neighbors, Titan wants to do the right thing, they want to be friends with their neighbors so the owner told them one day when he approach them, when his workers jumped the fence. In the past few evenings, he witnessed the concrete trucks being washed down and not in a washed down area, that's a good neighbor, with the engine running spewing diesel fumes. When he invested money in his home back in 1979, if he had known this was going to be such a big operation he would not have bought his home. To Mr. Stallakis, when Titan invested \$5m don't you think he should have waited before he invested his money for this to clear up so that he wouldn't have invested \$5m. He finds it hard to believe he invested \$5m. There is not much infrastructure or building, he has a tower and he has a mobile unit which he might have owned already. It's a totally mobile operation that can be moved out whenever he gets kicked out hopefully soon because it's a total disgrace.

Resolution #388 - Adjourn the Public Hearing

On a motion by Councilman Huestis

Seconded by Councilman Denbaum

Resolve: The Public Hearing was adjourned to December 19, 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.

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, Building Inspector William Walters and several members of the public.

Resolution #389 – Authorizing Determination of Non-Significance Adoption of LL# of 2017 for the Production of Concrete

On a motion by Councilman Denbaum

Seconded by Councilwoman McGlasson

WHEREAS, the Town Board of the Town of Kent hereby finds and determines that it has considered the action, reviewed the full environmental assessment form, reviewed the criteria set forth in 6 NYCRR 617.7(c), thoroughly analyzed the relevant areas of potential concern, and has duly considered all of the potential impacts of the proposed Local Law No. __ of 2017; and

WHEREAS, because the Town Board is the only agency with the authority to approve, modify or reject changes to the Town Code it is the only potential Lead Agency as that term is defined in 6 NYCRR 617 of the implementing regulations of the State Environmental Quality Review Act; and

WHEREAS, for the reasons set forth above and for the reasons set forth in the Negative Declaration, a copy of which is attached hereto, the Town Board hereby determines that the adoption of Local Law No. __ of 2017 will not have a significant adverse impact on the environment;

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NOW THEREFORE BE IT RESOLVED, that the Town Board hereby authorizes the preparation and adoption of the attached Negative Declaration and hereby authorizes and directs that the Town Clerk file the attached Negative Declaration in the office of the Supervisor and the Town Clerk.

Poll Vote

Supervisor Fleming – abstained Councilman Denbaum – aye
Councilwoman McGlasson – aye Councilman Huestis – aye
Councilman Chin – aye
Motion carried

Resolution #390 - Authorizing Offering Portion of Philipse Road for Sale

On a motion Councilman Denbaum
Seconded by Councilwoman McGlasson

WHEREAS, the Town of Kent received an offer from Peter Warren to purchase a portion of a “paper road” known as “Philipse Road”, which road is adjacent to his residence, a map showing the portion of said road is annexed hereto and hereby made a part hereof; and

WHEREAS, by email dated July 24, 2017, the Town Highway Superintendent confirmed that the portion of Philipse Road is unneeded by the Town or the Highway Department and that he would recommend the sale of said portion; and

WHEREAS, the Town Board wishes to accept the recommendations of the Highway Superintendent;

NOW, THEREFORE, BE IT RESOLVED, the Town Board find that the portion Philipse Road shown on the map annexed hereto is unneeded by the Town and that the Town will offer said portion for sale; and

BE IT FURTHER RESOLVED, that the Town Supervisor is hereby authorized to issue any documents necessary to give effect to this Resolution, consistent with the terms hereof, all in form satisfactory to the Supervisor and the Town Attorney. The town will offer for sale but not committed to the sale price, sale person or any other specifics.
Motion carried unanimously

Resolution #391 - Installation of Inclusive Playground

On a motion Councilwoman McGlasson
Seconded by Supervisor Fleming

WHEREAS, the Town of Kent duly advertised for bids for inclusive playground equipment at Town Hall located at 25 Sybil’s Crossing, which included bids for the installation of the playground; and

WHEREAS, Pettinelli Recreation, Inc. was the lowest bidder at \$34,000 and has offered to lower the installation price to \$25,000 and

NOW THEREFORE, BE IT RESOLVED, the Town Board of the Town of Kent hereby authorizes Pettinelli Recreation, Inc. to install the Inclusive Playground Equipment to be located at Town Hall at a cost not to exceed \$25,000; and it is

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.

Roll Call

Councilman Denbaum – No, as previously indicated, he wants the record to reflect his objection here is no way against special needs children, he is uniquely aware of the challenges and other things that special needs children in this town and other towns face. He can say for certain he has been to a special needs, all inclusive playground a town or two away and the thing he noticed at our regular old playgrounds, where everyone is playing the normal equipment seemed actually more enjoyable to everyone. When you go to these specific playgrounds for all inclusive but with special needs kids in mind it did not seem very natural, will all that said, he

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thinks the bigger issue here is he feels this process played out for a long time and a lot of planning went into it, we rebid twice, the location discussed and argued, a lot of things discussed and argued and here he is without backup in his file. He comes to the meeting tonight and either approve an additional expenditure which moves money around which he does not quite understand, right now because the ground is going to freeze and there is equipment all over the ground. It just doesn't seem like how the process should go. While he hopes the playground goes off without a hitch and he hopes it is enjoyed by the members of the town and he is very thankful and grateful for the gifts given, those gifts by Mr. Patel and the Monastery. We should be grateful for any gift in that amount of money is a real sincere and positive development. It is not about that, it is about the process, it is about the plan and where we are right now and voted no.

Councilwoman McGlasson – aye

Councilman Huestis – aye

Councilman Chin – aye

Supervisor Fleming – aye absolutely

Motion carried

Resolution #392 - Waiver of 30 Day Municipal Notice to NYS Liquor Authority

On a motion Councilwoman McGlasson

Seconded by Councilman Chin

WHEREAS, the Town of Kent has been notified that Three Brothers Restaurant Pizzeria Inc. (the "Applicant") has applied to the New York State Liquor Authority for a license to sell liquor, wine, beer and cider, for on premises consumption, at its Pizzeria/Restaurant located at 1100 Route 52, Suite 101, Carmel, New York; and

WHEREAS, the NYS Liquor Authority requires that any applicant for a license for on premise consumption of alcoholic beverages provide the Town with thirty (30) days' notice prior to filing such application, which a Town may waive; and

WHEREAS, by letter dated November 10, 2017, a representative of the Applicant requested that the Town waive the thirty (30) day notice in order to expedite the process;

WHEREAS, the Town Board wishes to waive the thirty (30) day notice; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent waives the 30 day notification period and has no objection to the issuance of the license at said location; and

BE IT FURTHER RESOLVED, that the Town Supervisor and Town Clerk are hereby authorized to issue any 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 #393 - Virtual Towns and Schools Service Agreement

On a motion Councilman Chin

Seconded by Councilwoman McGlasson

WHEREAS, the Town of Kent has a service agreement with Virtual Town Hall Holdings, LLC to provide service to the Town's website; and

WHEREAS, the Town wishes to amend said agreement in order to redesign the look and navigation of the website; and

WHEREAS, the Town Supervisor has negotiated an amendment to the agreement, a full and complete copy of which is annexed hereto and hereby made a part hereof, and the cost of the service will not exceed \$2,400; and

WHEREAS, the Town Board wishes to approve the amendment to the agreement and authorize the expenditure; and

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NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby approves the amendment of the service agreement and authorizes the payment of up to \$2,400 to Virtual Town Hall Holdings, LLC to redesign the look and navigation of the Town website; and

. **BE IT FURTHER RESOLVED**, that the Town Supervisor is hereby authorized to issue any documents necessary to give effect to this Resolution, consistent with the terms hereof, all in form satisfactory to the Supervisor and the Town Attorney.

Roll Call

Councilman Denbaum – nay, he said it is a similar situation, he feels all of a sudden we are put over a barrel to vote for an increase again. He was here not two years ago when we went out to bid for a new website we had a year long process and spent all this money and time and two years later we are changing our whole interface so pay us \$3,000 seems unfortunate.

Councilwoman McGlasson – aye

Councilman Huestis – aye

Councilman Chin – aye

Supervisor Fleming – said in all fairness the email about the change in pricing was sent to the board well in advance of this meeting. It was sent on October 17th, there was ample opportunity for board members to question and explore this, this was not fostered upon the board at the last minute. The only thing provided to the board more recent than October 17th was a price reduction that she was able to negotiate with the company and voted aye.

Motion carried

Resolution #394 - Kent Investors Protest Petition

On a motion Councilman Chin

Seconded by Councilwoman McGlasson

WHEREAS, in connection with a proposed local law to amend Chapter 77 of the Kent Town Code, the Town of Kent received a Protest Petition pursuant to Section 265 of the Town Law signed by Donald A. Flood, the Co-Manager of Kent Investors, LLC; and

WHEREAS, Section 265 of the Town Law provides that when a Town Board is considering an amendment to the zoning code to change the use in any district, upon presentation of a petition signed by 20% or more of the property owners of the area of land “included in the proposed change”, then the law may not be adopted without a “super majority” vote in favor of adoption; and

WHEREAS, the proposed change to Chapter 77 of the Town Code would include the area of land in all zoning districts within the Town except the Industrial-Office-Commercial Zoning District; and

WHEREAS, the Town Board has reviewed the Protest Petition and determined that it does not include the signatories of 20% of owners of the areas of land included in the proposed zoning change as Kent Investors, Inc. is the sole signatory

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby find that the Protest Petition void as it lacks the statutorily required signatures of 20% of owners of land included in the proposed change.

Poll Vote

Councilman Denbaum – aye

Councilwoman McGlasson – aye

Councilman Huestis – aye

Councilman Chin – aye

Supervisor Fleming – abstained

Motion carried

Resolution #395 - Add to the Agenda

On a motion Supervisor Fleming

Seconded by Councilwoman McGlasson

Resolved: The salary of the part-time Recreation Assistant was added to the agenda

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Motion carried unanimously

Resolution #396 - Salary of the Part-time Recreation Assistant

On a motion Supervisor Fleming

Seconded by Councilman Denbaum

Resolved: The salary for the part-time Recreation Assistant, previously authorized was set at the salary of \$15.00 per hour.

Motion carried unanimously

Resolution #397 - Vouchers & Claims

On a motion Councilman Huestis

Seconded by Councilman Chin

Resolved: All vouchers #200144391 - #200144507 and claims submitted by:

- | | | |
|---------------------------------------|--------------|---------------------------|
| 1. Barney Zipkin Tree Service | \$6,000.00 | Tree Removal Ryan's Park |
| 2. Carmel Animal Hospital | \$3,474.21 | Impound Fees/Dog Services |
| 3. City Carting | \$6,907.89 | Lake Carmel Garbage |
| 4. Hogan & Rossi | \$5,416.63 | Legal Services: December |
| 5. Insite Engineering | \$10,615.38 | Lake Carmel Dam |
| | \$6,850.00 | |
| 6. NY State & Local Retirement System | \$1,015,445. | 2018 Annual Retirement |
| 7. Patrick Partenio | \$3,072.00 | Medicare Reimbursements |
| 8. Pettinelli Recreation | ,\$12,500.00 | 50% Deposit Playground |

In the amount of \$1,108,933.60 may be paid,

Motion carried unanimously

Public Comment

Maureen Guido stated she didn't know she wasn't supposed to talk about the mulch. She said the concrete plant should not be in the area it is in. They have children, pools and the silica dust is invading their properties, the lights are like Yankee stadium, her property is just looking at lights. This is not what she moved here for. The noise, the diesel fumes, something needs to be done and hoping the Town Board will vote to make this law go into effect.

Mr. Addonizio said his peace on the concrete plant but wants to address the mulching operation. Originally the logs and the stumps got brought there in a dump truck or however, he doesn't understand why they can't be taken out that same way, why do they have to be mulched. He now has 10 day to do 5 days work, today is day number 2 he has 3 more days to complete his operations. What happens after that? Everything goes away? Can someone answer that? Town of Kent Building Inspector Bill Walters explained originally there was a citation issued to remove the violations the logs there. They appeared before Judge Collins and had 30 days to rectify the violations on the property at the end of the 30 days there were still violations there. They did remove a lot of the dirt and corrected a lot of the problems. He did a sight inspection prior to going to court, the site looked probably the best he has seen in a long time, a lot of the dirt is gone but a lot of wood remained that has been separated out. A meeting took place between Town Attorney Tim Curtiss and Hickory Homes and they came to an agreement their point of view was presented to the court and Judge Collins approved a grinding operation for a total of 5 days that they can grind within a 10 day period of time in case the weather became a problem or equipment issues. They had a 10 day window to do the grinding. They grinded on Monday and today Tuesday so they have 3 days left. Mr. Addonizio asked if the rest of the material and equipment will be taken out after that. Building Inspector Walters stated if those violations have not been corrected at that time, they'll have to come back to court and those will have to be addressed to the Judge.

John Veteri said originally when they took over the property they sent out certified letters to all the homeowners for the material that was on the property to ask for a special permit. They were trying to be good neighbors and didn't argue and allowed them to mulch whatever was already on the property and they weren't supposed to do it anymore. They were told they weren't going to bring in logs they weren't going to do anything, it was a onetime deal so be it. Overtime for which he has pictures and videos, their trucks keep coming and dropping wood

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the pile has become unbearable. They negotiated a deal and are doing the same exact thing he was told by the Planning Board, the Zoning Board actually said the day made their proposal Bill actually asked them is this for the concrete only and they said yes it's not industrial and they cannot do anything else on their property. So here they made another deal and he has to live 5 days for which he has video showing diesel fumes coming out and the noise is 10 times worst now because that's running and the cement trucks are running and the landscaping business is running and everything seem to be running and, of course, there's no leaves and no buffer zones so he can see directly into this. He wants to know what's there to stop them after this is over for them to do it all over again. They were fined, paid the fine, laughed and didn't really care about it. They built the pile, there is now 8 hours of machinery running. The Planning Board and Zoning Board of Appeals gave him assurance they cannot do it and will not do it again. If this is zoned for non industrial industry how are we industrializing this he asked? Are they just going to go to a Judge again and the Judge is going to say whatever they want and change it he assumes. Councilman Denbaum realizes that they're neighbors and come to these meetings for 3 hours not because you want to come and cause problems but because you're experiencing something making the health and safety situation around your homes unbearable. As an attorney he understands when you get to the violation process you don't just say oh yeah you're right I shouldn't just have it here let me fix it and go about my way you have your day in court and the only thing he would say is that the neighbors and neighborhood potentially are an interested party or interested person in the court proceedings and he doesn't want to tell them to go to another meeting or court appearance but the idea is that when the town code is made and the building inspector who is the enforcer puts a violation in place they'll get their day in court and that's where that particular matter is and they are more than welcome to sit there and hear the complaints and detailed situation but they can only legislate, they cannot judge or enforce or do those types of things. It's not a good answer but if there's a violation which was enforced and they're in court defending them however that processed goes, whoever the judge maybe this time or next time the ball is in their court at that time. He hasn't read the transcripts or understand what the negotiations or what the settlement has been and he's not sure he wants to go there.

Town Attorney Tagliafierro added once the violation is dealt with the owner of the property will be obligated to submit an application for site plan approval to the Planning Board. They are right now operating without an approved site plan and this whole judicial process is going on to give them an opportunity to clear the violations because the Town cannot submit any applications from a property that is in violation. Once these violations are cleared the idea is Kent Investors can submit a site plan for approval to the Planning Board at which time you will have an opportunity to let the Planning Board know the conditions there and how you feel about it and what should be allowed to be done there. John Veteri understands that, he was told that a year ago when they did the same process, there were violations they had to get rid of; the Planning Board said that they needed to do this and clean up their property because they're going to submit a site plan. A year and a half went by, they didn't submit a site plan and the violations have reoccurred again and they're letting them do the same thing and he's basically hearing the same answer. The Town Attorney Tagliafierro stated this time we're going to have to start violating them for not having a site plan. We've given them this chance to clean out and they failed to do it, they will start giving additional violations. Potentially, if they keep operating without a site plan a stop work order which the Building Inspector can address that. John Veteri suggested they put little more teeth into it changing the fees or penalties he's out there writing the violations it doesn't mean anything to these guys.

Building Inspector Walters stated last time Kent Investors did apply for a special permit through the Planning Board, in this particular case, due to the violations we have been trying to get them to come back to the Planning Board so they can amend their site plan. The Planning Board will not entertain any other proposals until all the violations have been cleared up. We're working to get them to the Planning Board so we could address issues dealing with screening, setbacks, lighting, with the site to get them back into compliance.

Resolution #398- Adjournment

On a motion by Councilman Huestis
Seconded by Councilman Chin

TOWN BOARD MEETING/WORKSHOP DECEMBER 5, 2017

Resolved: The Town Board meeting of November 28, 2017 adjourned at 9:43 p.m.
Motion carried unanimously

Respectfully submitted,

Yolanda D. Cappelli
Town Clerk