

## **TOWN BOARD MEETING OF JUNE 3, 2014**

A regular meeting of the Kent Town Board was held on June 3, 2014 at 7:00 p.m. at the Kent Town Hall, 25 Sybil's Crossing, Town of Kent, New York.

### **Public Hearing – Sewer Use Law**

Supervisor Fleming said the comment period for the Sewer Use Law had been left open until today. Additional comments have been received and not yet reviewed. She explained Item #7 Approve Sewer Use Law will be tabled until the new comments are reviewed.

### **Resolution #247- Close Public Hearing Sewer Use Law**

On a motion by Supervisor Fleming

Seconded by Councilwoman Osborn

Resolved: The Public Hearing on the Sewer Use Law was closed.

Motion carried unanimously

### **Recognition of Emergency Responders**

Supervisor Fleming began stating she receives a lot of letters, some are suggestions for things we could do some are complaints but on the 27<sup>th</sup> of May she received a letter that was so wonderful. It was a letter praising people in this Town and praising our Emergency Responders. She proceeded to read the following summary which was prepared by Police Chief DiVernieri:

On the morning of April 28, 2014 shortly before 7:00 AM a frantic call for help was received by Dispatchers Brendan Stevens and Brian Neary at the Putnam County 911 Center. Jeanne Strittmatter reported that her 21 year old daughter, Elizabeth Kafalas, had collapsed on the floor of their Lake Carmel home and had stopped breathing. As CPR instructions were being given over the phone the Lake Carmel Fire Department and the Kent Police Department were dispatched to the scene. Within just a couple of minutes members of both departments had arrived at the Kafalas residence to render what would become lifesaving aid. Lake Carmel Fire Department Captain Patrick Ryan, Firefighter Candice Telesco and Kent Police Officer Alexander Vanderwoude performed CPR on Elizabeth while Kent Police Officer Thomas Varbero retrieved an AED (Automated External Defibrillator) from his patrol vehicle. Officer Varbero used the AED to administer an electrical shock to Elizabeth in an effort to get her heart pumping again. A few seconds after the shock was administered Elizabeth took a deep gasp but did not yet regain consciousness. Additional members of the Lake Carmel Fire Department including Lieutenant and Emergency Medical Technician (EMT) Lisa Madsen, Firefighter and Emergency Medical Technician (EMT) Ryan Morin, and Firefighter Eric Ment arrived on scene with the ambulance. Joined by Trans Care Paramedic Beth Bodnar the Lake Carmel Ambulance crew continued to render aid until they and Elizabeth arrived at Putnam Hospital Center. Elizabeth was flown to Westchester Medical Center via Stat Flight helicopter where she was admitted to the cardiac care unit. Elizabeth was released from the hospital a week later and is making a fantastic recovery. I would like to take this opportunity to commend all of the emergency services providers and first responders who answered the call of duty that April morning. Their heroic efforts were instrumental in saving the life of a fellow human being.

Supervisor Fleming invited them and the family to the front where they received a standing ovation.

### **2013 Audit Report**

Domenick Consolo, of O'Connor Davies presented the Audit Report for the Town of Kent for the year ending December 31<sup>st</sup>, 2013 stating the major funds of the Town are the General Fund and Highway Fund. He referred to Page 42 the schedule of revenues, expenditures and changes in Fund Balance for both Budget and Actual for the year end, noting on Page 43 the comparative amounts, a 4 column presentation, the original Budget adopted by the Board in November, 2012. The final Budget which takes in consideration any changes made to the original budget during 2013, approved by the Board, the Actual result of operations which show the revenues received and the expenditures made for the year and the variance column the difference between the final budget and the actual. The 3<sup>rd</sup> line from the bottom of the original budget column, is a negative number of \$300,000.00 which means when the Budget was adopted for December 31<sup>st</sup>, 2013 it was anticipated the expenditures for the year would exceed the revenues, since you are required to have a balance budget the methodology used to balance that budget was the Town return surplus funds that accumulated in previous years. If the surplus funds were not available the Town would have several options, increase property taxes or other fees, cut expenditures or a mixture of both. In the final budget column, the 3<sup>rd</sup> line from the bottom, the anticipated use of fund balance did

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not change during the year. You anticipated the results of the operations for 2013 were done your Fund Balance should be reduced by \$300,000.00. In the actual column, you'll see the Fund Balance was reduced but by \$122,000.00 in actual comparison the Town did almost \$178,000.00 better than anticipated; a very positive note. That budgetary surplus of \$178,000.00 comes from, 2 sides to your Budget, a Revenue side and an Expenditure side; you see total revenues and the final Budget anticipated total revenues at \$9.6m. Total revenues came in at \$9,616,000 from the Revenue side of the Budget small positive variance of \$16,000. You see positive numbers and negative numbers, the other tax items which is interests and penalties from taxes were short by \$11,000.00; the non-property taxes were short almost \$14,000.00 and the departmental income was positive by \$27,000.00; the small deposit make up that small variance of \$16,000.00. The Revenues, property tax is set there's not much you can do. However, on the Expenditure side of the Budget, the Town has control over those expenditures and you were able to save \$321,000, about 3% of your Budget a good number. The largest 3 numbers General Government Support area of \$141,000 that's the various departments, the Public Safety area is, Police at \$71,000 and Culture and Recreation programs almost \$90,000. Going to the Actual column, the 3<sup>rd</sup> from the bottom, as mentioned before you did use \$122,000 in Fund Balance in the current year; you started the year with \$4,689,000 in Fund Balance and end the year with a total Fund Balance of \$4,567,000. That is made up of several components, back to page 41 the Balance Sheet reflecting Assets, Liabilities, and Fund Balance as they were on December 31<sup>st</sup>. There was a total Assets of \$4,894,000, total Liabilities of almost \$327,000 and total Fund Balance \$4,567,000 in 4 categories. The first category being the non-spendable made up of inventories of \$149,000 and \$264,000 of prepaid expenditures most being your state retirement bill which you pay in December but is for 3 months of the next year and goes through to March of the next year that's \$413,000 of non-spendable. The Restricted Fund Balance of \$186,000 are funds that are restricted to the Payment Debt Services; the Assigned Fund Balance is made up of \$101,000 of Recycling money for their use and \$400,044 is being used to balance the 2014 Budget. The Town used \$300,000 to balance the 2013 Budget and using \$400,044 to balance 2014. That money was given back to the taxpayers during the budget process which leads you the Unassigned Balance, that is your free and clear Fund Balance, contingencies, cash flows and future budgets and that is \$3,422,000. That is approximately 34% of your \$10m budget; it shows the Town of Kent is in excellent financial condition at December 31<sup>st</sup>, 2013. He asked if there were any questions. Supervisor Fleming stated speaking to Michelle Summers, Finance Director on how to gage a healthy fund balance for the budgeting process there doesn't seem to be a magic number. Mr. Consolo stated if you speak to NYS they'll say anything over 20% is excessive, the public they may say 0%, Moody's or Standard & Poor, the rating agencies, important people because they rate your bonds when you're borrowing money, tell you the more the merrier, it's a difficult number to put your finger on. In the Town of Kent you raise your property taxes in the month of January, in Westchester, the towns don't get their property taxes until April so they need 3 to 4 months of cash flow, you don't have that but he would not go below 20%, that's his opinion. More important to get down to that 20% number do not use the Fund Balance for Operations if you use it for Operations, once you get down to the 20% where will you make up the difference from. The Fund Balance should be used for 1 time item such as a capital projects or items that won't recur otherwise you'll need to fill that gap. Councilman Denbaum asked the State's reasoning for 20%. Mr. Consolo stated it's a number they chose not too small and not too large in the middle. Councilman Denbaum asked what our percentage is. Mr. Consolo said 34%. He referred to page 50, the 2<sup>nd</sup> most important fund the Highway Fund, the 3<sup>rd</sup> number from the bottom, is your clear and free money in the Highway Fund approximately \$2m that is a very large percentage of your budget. It's actually 54%, looking at the number doesn't tell the true story, if you look at the month of January, February and even March of the current year, he would venture to guess that some of that if not a nice chunk of it is probably gone by now. You certainly have enough to whether the storm which is very important. All in all you are in really fine shape. Cliff Narbey, resident of Kent, asked the Chief Financial Officer Fleming about a note in financial statements that reflects generally accounting principles related to the disclosure of unfunded liabilities for promises made to employees who have retired, who will retire in the future, he asked if she understood it and knows what it means. He stated it's a good thing except in spite of the surplus in the Town's accounts nothing is put aside for that every year. As people retire there's a current expenditure for that and that number has been growing fast over he's not sure what that is year ending December 31<sup>st</sup>, 2013 he guess at least half a million dollars for that obligation. There is nothing being set aside for people currently working. The taxpayers of 2013 paid the health care benefits as compensation to people who are no longer working for the Town. It should have been paid for by the taxpayers when those employees were working, in his opinion. It rolls forward getting bigger and bigger. He thinks the Unfunded Liability, done by an actuary is a lot of guess work they

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guess when people are going to retire, how many are going to retire, their average income and what it's going to cost for health insurance payments the last time he looked at the obligations it's \$26m in today's dollars. Michelle Summers, Director of Finance, addressed his point and the fact we don't fund it, she said we are not allowed to fund it. The State has said you have to recognize this is a liability. If someone retires from the Town, at a certain point you're allowed these benefits, in 2009 the Town changed the time you can have until retirement from 10 years prior to 2009, to 20 years making movements to reduce the liabilities. The State does not allow you to keep funds but requires you to show what that liability is, an actuary calculations of what that is, it's about \$29m. Every year in our budget, there's an amount for the current retirees the people no longer working for the Town but are collecting health insurance a benefit given, we pay it as we go, the only way allowed. Our fund balance is at 34% to your point of reserve although it's not a reserve for that we do have funds that will offset that, potentially. Mr. Narbey said \$3.4m is not going to cover \$29m, this obligation is getting bigger all you're doing is paying current cost for people that have left putting aside nothing for those who will leave this year, and so forth. The 34% number is the percentage the current unrestricted reserve added to the total expenditure of the Town which is about \$10m of budget which covers police, library, Town Board, Supervisor's Office, Assessor's, etc. It doesn't relate to this one single unrecorded liability. If there was a proper balance sheet the Town would be insolvent. Ms. Summers said this is not unique to the Town of Kent, its government wide and something you cannot change, you made promises to people who retired and cannot say to them you've been promised this package and we're going to take away your insurance. Mr. Narbey said many private corporations have done that the City of Detroit and California are facing this very problem it's out of control. It's no justification that the Town of Kent is not alone with this problem. A promise is made that cannot be kept. There's an obligation to keep promises but there's also an obligation to be financially responsible about providing for it he's been told over and over by Chief Financial Officer that the State doesn't allow it. He thinks we should be lobbying for it or make the reserve 134% to cover that obligation in the future or say to the taxpayers "we want more money from you" so we can fund this obligations. Mr. Consolo stated Michelle is right, the State is not allowing you to fund this, you are not allowed to set up a trust fund, reserve, you cannot put aside money for this large liability, to fund the amount in the current year was \$2,771,000, your total tax levied in the general fund is \$7.6m, you can see how much more you would have to raise taxes just to fund that piece for 2013 alone. You are funding it as you go the people today are paying for the past people who retired and the people tomorrow will pay for the people who retire then. This concept disclosing this amount came up in the last 5-6 years before that nobody even thought about disclosing this on the governmental fund level. He said there are 2 separate financial statements, the financial statement which is known as the modified accrual which is the general fund; in that fund you are now allowed to record these liabilities, then we have the government wide liability on page 9, the 2<sup>nd</sup> line from up from the bottom, the cost of the OPEB that is being taken in for past service costs for over 30 year period you have a deficit of \$5.9m town wide, all funds, special districts, general, highway, that would be the additional amount of property taxes you would have to raise to fund this liability, again, you cannot do that. Councilman Denbaum asked we are talking about retirement and health care. Mr. Consolo replied, just health care. Councilman Denbaum asked if you don't chose health care you get a stipend, are you aware of anything that doesn't allow us to increase that stipend to encourage people not to take the health care. Ms. Summers said that really wouldn't matter because you can change at any point. We could increase that amount and get people off insurance for that year have a savings for that year in terms of the OPEB future look anybody at any point change so if somebody's spouse provides it and then not they're still entitled to the full benefit from Town, you still have to account for them. Increasing the allowance could help us yearly but wouldn't change our liability. Councilman Denbaum doesn't take health insurance nor pension or anything from the Town. Ms. Summers explained he would still be in calculation. Councilman Denbaum said we have Obama Care now can we send everybody into the exchanges and be happy with the new federal health care and take it off our backs. Mr. Consolo said the Town can reduce its liability while negotiating future contracts to increase contributions. Councilman Denbaum asked if you can just end the idea of offering health care as part of the benefit package. Mr. Narbey said for future employee it's possible or renege on promises made, but you will be held legally. IBM, Union Carbide to cure this problem has made the pension plan a separate issue. The pension promises made to Kent are filtered in the hands of the State every taxpayer in the State is facing Detroit's problem in that respect. Mr. Consolo said not in NYS, it's probably the only state in the country that is fully funded. Mr. Narbey said it depends on the evaluation of the assets and actuary's assumption. He has a suspicion the Town Board is not aware of it; these are difficult statements to read. Councilman Tierney stated he is mistaken and our track record shows the Town Board is aware in the past made changes through

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contract negotiations, has made changes to our non union employees going forward, NYS instituted a new pension tier for uniform services, it is being controlled going forward, we can't undo what was done in the past, promises were made to these employees, going forward newly hired employees are contributing to their health insurance, you have to work for the Town longer to get benefits, more changes will be made going forward in negotiations with our unions.

Mr. Narbey asked the Chief Financial Officer, in the revenues of the General Funds, inter-departmental revenues which represent internal charges made by Municipal Garage. Municipal Garage exists to service the departments having vehicles and machines like the Highway Department, Police Dept, Lake Carmel Sanitation, Parks & Rec, and Park Districts. Those revenues never equal the costs of the garage. For the 2014 Budget the total costs of the Municipal Garage is \$1m and the budget's recovery, a charge up to its department of \$300,000; the difference between the total cost of the department should be allocated to the users but it isn't, it either represent mechanics sitting around which he doubts, he thinks they are probably hard working guys or it represents a poor cost accounting system and deliberate attempt to under charge the use of the department. If that's the case, the Police Dept. is not reporting the proper costs of its vehicle maintenance; the Highway Dept. is not, the Sanitation, which means it falls on all the taxpayers of Kent if they are subsidizing Lake Carmel Sanitation. He's asked this question of Tullipane, Nordstrom, and Doherty and now he's asking this of Supervisor Fleming. Supervisor Fleming stated she doesn't have that answer and would have to look into it. We keep an inventory in stock we expend before we charge back; she will look into why the gap is so large. She signs Municipal Repairs charge backs on a weekly basis and checks the codes and the vehicles to which the parts are going if we have to do special repairs she's very cognizant of the Lake Carmel Sanitation Department and Lake Carmel being a separate district which although we're budgeting is charged back. She thinks all the Board members asks those questions when it comes to Municipal Repairs but we could certainly look into it if there's a large discrepancy between what their budget is and what is charged back. She's not aware that being the case but she's only been in office for 5 months. Mr. Narbey said the Supervisor Fleming will have to accept the responsibility of the budget set for last year. In that budget he said there is a difference of \$600,000 between the costs and what it bills to its clients/department simple because it says revenue in one place \$300,000 and costs in another of \$900,000. He doesn't know if the independent auditor even bothers to look at costs accounting system, they're not required to and it probably doesn't matter, a inter-department should recover all of its costs from its in town customer. Mr. Consolo said except for Lake Carmel which is separate tax base all of that is costing the town it's a small section of town; except for that it doesn't matter because the rest is being paid by the entire town. It's a matter of allocation which is important, some departments are under charged and the revenue isn't there so between the revenues and the expenditures you're still zero which is why we won't look at that from the audit stand point because it has no affect on the financials. The hourly rate set by the garage charge out to the departments probably doesn't take in consideration supervisory salaries, electric, heat and everything else for the garage it's just a labor rate that's set and it's not set to a point that's high enough to cover all expenses. Ms. Summers agrees with the fact that is just a cost allocation. In terms of Lake Carmel and Sanitation, the billing you're seeing the revenues is just the parts. Previously, the Town Board decided it would just be parts and the labor would remain at the bottom so we would know exactly how much it cost to run that department. It was an entry that didn't seem necessary that was the Town Boards decision in terms of Lake Carmel and Sanitation at the end of the year the total hours worked on those vehicles for those 2 department and the hourly rate is billed out at the total sum including the retirement expenses for that department for that year, the rate was like \$60.00 an hour last year that is included we are 100% charging the different taxing districts for the costs for giving us vehicle repairs but in terms of what Dominick was saying for Highway and General Fund it's the same taxing district and it's just about how you want to allocate costs. The Town Board decided they were going to bill out for parts and the labor would remain separate that's certainly the decision you can revisit. Supervisor Fleming asked at the end of the year if we wanted to see real numbers we could do that labor costs for totaling town labor and see how close it came to the total budget. Ms. Summers said Nick knows how much he spent on police and different departments it's all there they can figure it out. Mr. Narbey said it would be useful for you to know that, how to charge out; if it were done on the conventional cost accounting basis, all costs taken into account and figured to an hourly charge of rate plus costs and material you would then know if that's comparative with private sector to see if it might be worth contracting out some of those repairs or all of those repairs. Ms. Summers said \$60.00 per hour is a good rate. Mr. Narbey said his mechanic charges \$92.00 per hour he's covering his costs making a profit. He said if what Michelle is telling him that the true costs per hour for Municipal Garage is only \$60.00 that covers every expense, utilities, heat, supervisory costs benefit, the \$900,000 should be divided by the number of working hours that are available and come up with an hourly charge. Ms. Summers said we do know they are charging out every time and are busy during the hours they are working not just sitting around all 4 employees including the supervisor are working so it's not a question utilizing our department correctly. Mr. Consolo added when you go out to a mechanic to have a job done, the time they are charging you are not the actual time they are working on it, it's an hourly time; he brought his car in for 5 hours and they charged him 8 hours.

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

**Pledge of Allegiance** – At 9:12 p.m. Supervisor Fleming called the meeting to order with the Salute to the Flag.

### **Roll Call**

Supervisor Maureen Fleming – present    Councilman Paul Denbaum – present  
Councilwoman Penny Osborn – present    Councilman Bill Huestis – present  
Councilman Mike Tierney – present

Also Present: Town Counsel Tim Curtiss, Police Chief Alex DiVernieri, Director of Finance Michele Summers, Lieutenant Oster and other members of the Kent Police Department & Lake Carmel Fire Department.

### **Advertise for RFP for Attorney Services**

On a motion by Councilman Tierney

The board discussed the day of opening the bids allowing time for the bidder's to submit and time for the board to review. Also needed to be determined was the term of the contract which had not been discussed.

Councilman Tierney rescinded his motion.

### **Resolution #248 - Table the Increase Highway Department Spending**

On a motion by Councilman Tierney

Seconded by Councilman Huestis

Resolved: Increase Highway Department spending tabled until the Procurement Policy is amended to match.

Motion carried unanimously

### **Resolution #249 - Property Clean up**

On a motion by Councilman Tierney

Seconded by Councilman Huestis

Resolved: Upon the recommendation of the Code Enforcement Officer, the Town Supervisor is authorized to contact Putnam Handyman to address property maintenance issues on 70 Putnam Drive, 34 Larchmont Road and 35 Larchmont Road.

Motion carried unanimously

### **Resolution #250 - Sidewalk Construction Grant- Letter of Support**

On a motion by Councilwoman Osborn

Seconded by Councilman Tierney

Resolved: The Town Board of the Town of Kent authorizes the Kent Town Supervisor to send a letter of support to the Putnam County Department of Planning, Development for a TAP Federal Grant Application for Sidewalk Construction, from Shoprite Plaza to the Putnam County Savings Bank.

### **Roll Call**

Councilman Denbaum- nay, sidewalks could be beneficial for the town, maybe not, he received the information today, there are still many questions, does not know if it's the best use for Putnam County's money as a taxpayer, or Federal taxpayer.

Councilwoman Osborn – aye            Councilman Huestis – aye

Councilman Tierney – aye            Supervisor Fleming – aye

Motion carried

### **Resolution #251 - Table Local Law # \_\_\_/2014 Sewer Use Law**

On a motion by Supervisor Fleming

Seconded by Councilman Huestis

Resolved: The adoption of Local Law #\_\_\_/2014 Sewer Use Law was tabled.

Motion carried unanimously

### **Resolution #252 - Table – Set Date Public Hearing Term Limits**

On a motion by Supervisor Fleming

Seconded by Councilman Huestis

Resolved: Setting the date for a public hearing on Term Limits was tabled.

Motion carried unanimously

### **Resolution #253 - Add Item to the Agenda**

On a motion by Councilman Denbaum

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Seconded by Councilwoman Osborn  
Resolved: Add extension of beach passes to the agenda.  
Motion carried unanimously

**Resolution #254 - Extension of Beach Passes Lake Carmel Park District**

On a motion by Councilman Denbaum  
Seconded by Supervisor Fleming  
Resolved: Lake Carmel Park District residents have a four (4) week extension from the date of the opening of the beaches to obtain their beach passes.  
Motion carried unanimously

**Resolution #255 - Employee Handbook Section 501 Summer Hours**

On a motion by Councilman Huestis  
Seconded by Supervisor Fleming  
Resolved: Section 501 of the Town of Kent, Employee Handbook be revised to read Summer Hours of operation are 8:00 am to 4:00 p.m. starting June 5, 2014 following each year, summer hours will be in effect beginning the first Monday of June through the first Friday of September that follows Labor Day.  
Motion carried unanimously

**Resolution #256 - Approve Vouchers & Claims**

On a motion by Councilman Huestis  
Seconded by Councilwoman Osborn  
Resolved: Voucher #200128813 - #200129026  
And claims submitted by:

1. Mr. & Mrs. Fredrick Adams	\$2,600.24	Tax Certiorari
2. Broadview Networks	\$2,600.74	Telephone Service
3. City Carting	\$5,085.21	Lake Carmel Garbage
	\$5,025.63	
4. Global Montello Group	\$6,686.19	Diesel
	\$7,306.75	Gas
	\$7,334.50	Gas
5. H.O. Penn Machinery	\$4,506.37	Auto Parts
6. Mid Hudson Mack	\$3,802.24	Truck Parts
7. Pine Bush Equipment	\$5,775.00	Hitch Blower
8. State Comptroller	\$23,664.27	Justice Court Fines & Fees
9. Tire Buys	\$2,404.41	Tires
10. Town of Kent Municipal Repairs	\$3,458.72	Chargebacks: Sanitation
	\$22,868.72	Chargebacks: Highway
	\$3,069.31	Chargebacks: Police
11. Jim Williams Welding	\$3,120.00	Sanitation Trucks

In the amount of \$134,672.55 may be paid.  
Motion carried unanimously

**Public Comment:** There were no comments.

**Resolution #257 - Adjournment**

On a motion by Councilman Huestis  
Seconded by Supervisor Fleming  
Resolved: The Town Board meeting of June 3, 2014 adjourned at 9:25 p.m.  
Motion carried unanimously

Respectfully submitted,

Yolanda D. Cappelli