

## TOWN BOARD MEETING/WORKSHOP SEPTEMBER 5, 2017

A regular meeting was held at 7:00 p.m. on Tuesday, September 5, 2017 at the Kent Town Hall, 25 Sybil's Crossing, Town of Kent, New York, 10512

### **Resolution #283 - Adjourn to Executive Session**

On a motion by Supervisor Fleming

Seconded by Councilman Chin

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 #284 - Adjourn Executive Session**

On a motion by Supervisor Fleming

Seconded by Councilman Chin

Resolved: The town board adjourned to executive session at 7:09 p.m.

Motion carried unanimously

### **Public Hearing – Surety Bonds & Letters of Credit**

Supervisor Fleming explained this regards a town code change regarding the acceptance of surety bonds. This law would allow the town to accept a surety bond or letter of credit in addition to a cash bond. Councilman Denbaum thanked John Watson of Insite Engineering. He appears on behalf of applicants before the Planning Board who apprised him of the situation. Kent is the only town in the vicinity that requires a cash bond for their projects. A developer essentially has to deposit a large sum of money, often unable to complete the project. Hopefully we will revise the code to allow for surety bonds in lieu of cash deposits, allowing for projects before the planning board to move faster toward completion. Supervisor Fleming did correspond with the Planning Board Chairman who also supports this change to the law. Councilman Huestis also supports the change.

### **Resolution #285 - Adjourn Public Hearing – Surety Bonds & Letters of Credit**

On a motion by Supervisor Fleming

Seconded by Councilwoman McGlasson

Resolved: The Public Hearing on Surety Bonds & Letters of Credit is adjourned to September 26, 2017, for written comments.

Motion carried unanimously

### **Public Hearing – Authorize Sale/Conveyance of Property Adjacent to 29 Amawalk Road**

Mike Caruso addressed the board representing Mr. & Mrs. Hansen. His clients would like the board to consider for a nominal consideration the purchase of a strip of land already incorporated into their property and orientation of their home and driveway. Their property 29 Amawalk Road consists of 5 lots, 3457-3461. The tax map and some title documents indicate that Amawalk Road at one time did terminate on a property south of his clients. The town records show that Amawalk was to terminate at Elmsford Road, his clients property lie on the outside of this corner, as the corner goes south and then east. He explained what was a paper road lies in the driveway in what is his clients driveway and the walkway that attaches to it. The property is orientated in such a way the house could face no other direction but Amawalk as that road would have been created but never was created. This is an application for the town to convey their interest for this for gone town road to his clients. Since 1979 and earlier their predecessor in title utilized the driveway and the current configuration just as it is today for 30-40 years. He has been advised that the use has been consistent. This is a case where a portion of the paper road never came to fruition, there has never been a dedication from his research, and by all accounts it has no meaning to anyone except his clients. It is known as Lot #1. Councilman Huestis asked if the neighbors have any issues with this. Mr. Caruso replied he knows of no issues, there has never been a right to claim the driveway consistent to his client's use of the driveway. Councilman Huestis supports Mrs. Hansen's request as long as there is no conflict. There were no comments from the public.

### **Resolution #286 - Adjourn Public Hearing – Authorize Sale/Conveyance of Property Adjacent to 29 Amawalk Road**

On a motion by Supervisor Fleming

Seconded by Councilwoman McGlasson

Resolved: The Public Hearing on the Sale/Conveyance of Property Adjacent to 29 Amawalk Road is adjourned to September 26, 2017, for further written comments.

Motion carried unanimously

**Pledge of Allegiance-** Supervisor Fleming called the Workshop Meeting to order at 7:23 p.m. with the Salute to the Flag.

The board continued to review and discuss the items on the workshop agenda.

**Public Comment**

Highway Superintendent Rich Othmer explained the rodent problem at the garage and wanted to obtain a temporary construction office while building an addition. He analyzed the figures already sent to the board concluding it will cost the same to rent one as it would to purchase. He asked for the board to fund it and the money transferred back from his 2018 budget his concerns are for the health risks of the employees. Councilwoman McGlasson thinks some action needs to be taken and asked if there is someplace Nick can go tomorrow. Highway Superintendent Othmer explained the location of parts which need to be monitored as Nick is responsible. The department recently went through a state audit and did well. Supervisor Fleming thought everyone was in favor of moving forward on this just uncomfortable having just received the information and quotes this morning. They need time to review them and view alternatives. She had no problem moving his work station. Highway Superintendent Othmer thought it a minimal amount of money to invest, when we will be saving so much by building the addition in house. Councilman Denbaum asked the board allocated funds for the addition, if we did not have this rodent issue were we intent on obtaining a trailer. Highway Superintendent Othmer replied no, we would have remained there until the addition was complete. A resident questioned why the town did not have rodent control in place; there are many different procedures that can be done.

Kathy Kahng, representing the Hill & Dale property owners, read a letter into the record sent by their attorney Alyse Terhune to the Town Board on September 1, 2017. (Attached)

John Haran a resident at 25 Hampton Drive addressed the board concerning a tree on an abandoned property behind him being foreclosed. The large oak tree is hanging over his home; he has been to the building inspector and the county and would like an answer as to whom he should be speaking to. Town Counsel said whoever owns the property is responsible. Mr. Haran replied the county states otherwise. He explained how long this has been going on. Councilman Denbaum explained if the county is foreclosing on a property they usually go to judgment, after judgment they work out the sale with whoever purchased it at auction. They may be where they have a judgment but haven't deeded it yet. Mr. Haran said he is actively trying to purchase the property. He has been told it just came through. He asked if it is the county's problem. Councilman Denbaum said he can check for sure and get back to him. He said you have a right to take the tree down and discuss it with your insurance company and make a claim against the owner of the property since your concern it may not be the worse course of action. Supervisor Fleming would speak with the Code Enforcement Officer as well.

Councilman Huestis said he has received an email and wants to address it possibly relieving some tension. He said as board members they receive calls to address many needs and concerns, attempting to address the challenges as they relate to the quality of life throughout the town. Community matters to all of them and a process to address when significant concerns arise, bound by municipal laws, etc. A request was made for assistance for toxic algae, lake quality on ten of our lakes. The issues of the Sewer and Water District. The health and safety of town employees. Road paving, pot holes, dock issue, neighborhood conflicts, tractor trailers parked on the road, a moving van parked on town property and much more. We are hostages to the on again off again Patterson Crossing. No matter how you feel about Patterson Crossing how do you plan our untraditional Main Street? He remembers the Route 52 corridor and many of those businesses are gone. We have 17 or more hot spots, eyesores, environmentally sensitive property, vacant buildings, burned out properties etc. Many are present tonight to express a concern on the problems of our town. We can add Lake Carmel, Palmer Lake the Lake Carmel Dam & Dill's Best. Zombie Homes affect the quality of life, crime, homelessness, health and safety. We have over 100 Zombie Homes. He took note of the loss of the county senior center, sidewalk funds, the economic development possibilities, NYCDEP restrictions, traffic safety, we have a Master Plan but do we have a vision. He was advised the main street assessment opportunity was going to be favorable and the revitalization committee would be revitalized possibly forming a non-profit to attract money. We need community minded people to step up to make a difference; we have vacancies on our boards. He said he hears the residents loud and clear but we need to go through a process. We need to unite the community to address the issues at hand and build upon the legal process. He thanked all for their patience.

Councilman Denbaum said he has been going through options on what the town may or may not be able to do in regards to safety, health and environmental concerns on the potential plant on Route 52. By the next town board he should be able to present a proposed local law that would essentially try to

## TOWN BOARD MEETING/WORKSHOP SEPTEMBER 5, 2017

remove the use of certain activities damaging to the environment, health and safety of the residents of Kent from all zoning districts. Everyone wants answers immediately, but it has to be done right. He knows the residents have hired an attorney and fighting the decision of the Zoning Board. The Town Board is not a quasi judicial body as the Zoning Board and do not get to weigh in on this decision. They do get to put forth the local laws and policies we think best. He hopes to have a draft local law alleviating a lot of concerns of the type of use allowed in any zoning district. He said they are also directing counsel to appear at the next Zoning Board meeting to once again encourage the reopening of the hearing pursuant to the legal research done.

Bobby Palazzo asked the process after the local law is drafted, do we stop the business in place. Councilman Denbaum said his position is he wants to assure the town laws reflect that the uses allowed in any zoning district will not negatively affect the health and safety environment of the residents. He said the board is policy making, the residents are challenging a specific zoning decision the board cannot be involved with. He does not get to overturn the zoning board.

Mr. Veteri asked what the rules are right now. At 5:00 a.m. he should not be hearing trucks running, nor should he see trucks at 8:00 p.m. lying concrete. The Police Chief did not know the specific times, but has received complaints from residents. Councilman Denbaum read the noise ordinance to those present and encouraged them to contact the Police, Building Inspector and Code Enforcement Officer when they witness the noise outside the scope of the law.

Mr. Modelson said there are repeated documented violations, when does the town issue a cease and desist and shut them down. Town Counsel was not aware of a number in the code. Police Chief DiVernieri has seen complaints about the business in question, sometimes there is no activity being witnessed, other times they have been asked to cease. He has a meeting with his staff and he will bring it to their attention that any violations are addressed. Mr. Veteri has been on the property and brought to their attention they have police scanners and know exactly when you're coming. Mr. Addonizio has made calls himself, this Sunday beginning at 7:30 am. until 5:00pm. There was a diesel generator running and fumes nonstop, he attempted entering but could not as the gates were shut and locked.

Supervisor Fleming said the violations cannot be condoned. She thinks the video tape should be shown to the Building Inspector and Code Enforcement Officer.

Chris Poulin asked what does the ordinance state if it is violated, what is the remedy. Councilman Denbaum replied if found guilty it is a fine of not less than \$100 or more than \$1,000 or imprisonment not to exceed 15 days. Mr. Poulin doubts the fines are going to be any impediment to them, they are ignoring you and the entire town making fools out of you. He asked if the environmental regulation are in place what impact will that have on the plant. Councilman Denbaum did not have that specific answer; the local law will be independent and separate he should have something by the end of the month. Councilman Huestis asked Counsel if they will have to go before the Planning Board. Nancy Tagliaferro replied she was not sure but would find out.

Mr. McPartland has lived in the town for 50 years he sees the health and welfare of the residents who pay high taxes decreasing. He owns two companies an electrical and engineering firm. As of October 1, 2016, NYS no longer controls the codes; it all goes through the IBC and the ICC. The people on the boards are not qualified to make decisions of this magnitude. In most towns you have footages required; if it is a residential neighborhood within 500' you cannot have over 85 decimals at 7:00a.m. The law has to be rewritten reflecting that. He is sick of the lack of enthusiasm, the whole situation should have been sent to the ICC for review and a decision at their cost. It also protects the town from litigation. He had to sue Suburban Carting when they wanted to place a depot; People's Oil now has all types of trucks. We have on the books you cannot have a depot, but it is a depot. Changes have to be made, if you have a violation, you issue a ticket, bring them in and fine them, after the third fine you stop the work. Stop playing games, Route 52 is a dump; he is embarrassed to say he lives in this town. Send the items to the people who know what they are doing. The police are doing a good job but they need to ticket them, stop it.

Mr. Veteri asked who the Zoning Board answers to. Councilman Denbaum replied the board has appointment power, Chairman power, and budgetary power. The main way the town board affects the Zoning Board is by yearly appointments and upon vacancy. Issues before them jurisdictionally are on their own by state law. Councilman Denbaum thought the terms were either 5 or 7 years thinking the Chairman's term is up in January. Supervisor Fleming explained the board has the power to appoint the Zoning Board is a quasi judicial group, when someone is not pleased with Zoning Board's decision it does not come to the Town Board but the Supreme Court. Councilman Denbaum said the town board can remove any member of the Planning or Zoning Board for cause after a public hearing. Mr. Veteri asked

## TOWN BOARD MEETING/WORKSHOP SEPTEMBER 5, 2017

if the board was aware of the comments that were made at the July Zoning Board meeting and asked what the board is going to do. Councilman Denbaum thought the Chairman should be removed of his chairmanship, but there are aspects if linked to a specific decision therefore could create an issue. He is going to attempt to gain the emails from the attorney and Mr. Rogers. The board needs a full slate of wrong doing before a public hearing.

Supervisor Fleming thanked all, their voices are being heard, it is not that simple. She encouraged all to attend the next town board meeting and zoning board meeting. Mr. Veteri asked why he would attend the zoning board meeting if it is in the hands of a judge. Town Counsel said at the last meeting she made a request for them to reopen the 1948 public hearing where a use variance was granted, she will be there to reiterate the same. Councilman Denbaum and Supervisor Fleming explained the procedure in place for public comment and public comments allowing residents the opportunity to speak, suggesting the Zoning Board do the same.

### **Town Board Meeting was called to order with roll call:**

Supervisor Fleming –Present	Councilman Denbaum-Present
Councilwoman McGlasson-Present	Councilman Huestis- Present
Councilman Chin- Present	

Also present: Town Clerk Yolanda Cappelli, Town Attorney Nancy Tagliafierro, Highway Superintendent Othmer, Police Chief Alex DiVernieri, Recreation Director Lou Fernandez and several members of the public.

### **Resolution #287 - Approve 207-C Benefits**

On a motion by Councilman Denbaum  
Seconded by Councilwoman McGlasson

**WHEREAS**, an employee of the Town of Kent identified as Employee C has applied to the Town for benefits pursuant to General Municipal Law §207-c; and

**WHEREAS**, the Town Board believes that Employee C has demonstrated that he/she should be entitled General Municipal Law §207-c status; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Kent hereby authorizes General Municipal Law §207-c status for Employee C.

**BE IT FURTHER RESOLVED**, that the Town Board of the Town of Kent hereby authorizes the Supervisor to execute any and all documents necessary to give effect to this resolution.  
Motion carried unanimously

### **Resolution #288 - Start Smart Soccer Personnel**

On a motion by Councilwoman McGlasson  
Seconded by Supervisor Fleming & Councilman Chin

**WHEREAS**, the Town of Kent is seeking to fill five seasonal positions as Assistants in the Start Smart Soccer program; and

**WHEREAS**, the Director of Recreation has recommended hiring Andrew Fernandez, Kaylie Mallegol, MaryEllen Kelly, Reese Wong, and Brian Mirchin to fill the positions; and

**WHEREAS**, the Town Board believes it to be in the best interests of the Town to accept the Director's recommendations;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Kent hereby authorizes the hiring of Andrew Fernandes, Kaylie Mallegol, MaryEllen Kelly, Reese Wong, and Brian Mirchin as assistants to the Start Smart Soccer Program for the Recreation Department at a rate of \$140 for the season; and

**BE IT FURTHER RESOLVED**, that the Town Board of the Town of Kent hereby authorizes the Supervisor to execute any and all documents necessary to give effect to this resolution.  
Motion carried unanimously

### **Resolution #289 - Creation of Recreation Advisory Committee**

On a motion by Councilwoman McGlasson  
Seconded by Councilman Huestis, he asked the board to not weaken the advisory board.

## TOWN BOARD MEETING/WORKSHOP SEPTEMBER 5, 2017

WHEREAS, the Town Board has considered creating a Recreation Advisory Committee, as authorized under Town Law Section 51, consisting of volunteer members of the community, for the purpose of advising the Recreation Department; and

WHEREAS, the Town Board finds it to be in the best interests of the Town to establish a Recreation Advisory Committee;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby establishes a Recreation Advisory Committee to consist of 12 members to be appointed by the Town Board; and it is

BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized to advertise candidates to apply to be members of the Recreation Advisory Committee.

Motion carried unanimously

### **Resolution #290 -Authorizing Correction of Violation – Accept Proposal & Charge Property Owner**

On a motion by Councilman Chin

Seconded by Councilwoman McGlasson

WHEREAS, the Code Enforcement Officer of the Town of Kent issued an Order to Remedy a Violation dated January 23, 2017 (the “Order to Remedy”) directing the owner to remove all rubbish from the exterior area of the property identified as 386 Route 52, Tax Map 33.18-1-42 (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 one proposal in response from FI Adams, at the cost of \$1,300.00 a copy of said proposal is annexed hereto and incorporated by reference; and

WHEREAS, the Town Board of the Town of Kent wishes to accept the proposal submitted by FI Adams Inc.;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby accepts the bid of FI Adams Inc. for the correction of the violation not to exceed \$1,300.00; 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 #291 - Add Item to the Agenda**

On a motion by Supervisor Fleming

Seconded by Councilwoman McGlasson

Resolved: The promotion of two highway department employees was added to the agenda.

Motion carried unanimously

### **Resolution #292 - Promotion of Highway Employees**

On a motion by Supervisor Fleming

Seconded by Councilman Denbaum

Resolved: Christopher Morris was promoted to fill the vacant position of Crew Chief and Robert Ulman Jr. to fill the vacant position of Construction Equipment Operator in the Highway Department effective September 1, 2017.

Motion carried unanimously

**Resolution #293 - Approve Vouchers & Claims**

On a motion by Councilman Huestis

Seconded by Councilman Chin

Resolved: All Vouchers # - # and claims submitted by:

1. City Carting	\$5,443.82	Lake Carmel Garbage
	\$5,424.99	
2. Timothy J. Curtiss, P.C.	\$2,025.00	June Traffic
3. Hogan & Rossi	\$5,416.63	September Legal Services
4. NYSEG	\$2,185.58	Electric: Police Dept.
5. PCSB Bank	\$57,519.83	Loan Payment: Highway
6. Purchase Power	\$2,000.00	Postage
7. State Comptroller	\$31,498.50	Justice Court Fines & Fees
8. Tire Buys	\$6,346.48	Tires
9. Town of Kent Municipal Repairs	\$19,237.16	Chargebacks: Highway

In the amount of \$ may be paid.

Motion carried unanimously

**Public Comment**

Bobby Ulich asked the next step on a request for a dock he made three months ago. He asked if there is anything he can do to push the investigation along or a board member that he should be in better communication with. He would like to have a dock for next season. Supervisor Fleming said Counsel is looking into a few concerns hopefully by next meeting.

**Resolution #294 - Adjournment**

On a motion by Supervisor Fleming

Seconded by Councilman Chin

Resolved: The Town Board meeting of September 5, 2017 adjourned at 9:15 p.m.

Motion carried unanimously

Respectfully submitted,

Yolanda D. Cappelli  
Town Clerk