

TOWN BOARD MEETING NOVEMBER 16, 2021

A regular Town Board Meeting was held on Tuesday, November 16, 2021 at 6:00 p.m. at the Kent Town Hall, 25 Sybil's Crossing, Town of Kent, New York. To see the full meeting visit the Town of Kent's website at www.townofkentny.gov under Video's on Demand.

Resolution #354- Adjourn to Executive Session

On a motion by Supervisor Fleming

Seconded by Councilman Ruthven

Resolved: The Board adjourned to executive session at 6:09 p.m. to discuss, the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.

Motion carried unanimously

Resolution #355 – Adjourn Executive Session

On a motion by Supervisor Fleming

Seconded by Councilman Ruthven

Resolved: Executive Session adjourned at 6:50 p.m.

Motion carried unanimously

Pledge of Allegiance

Supervisor Fleming called the meeting to order with the Salute to the Flag at 7:00 p.m.

Present:

Supervisor Fleming, Councilman Denbaum, Councilwoman McGlasson, Councilman Huestis and Councilman Ruthven

Also present: Town Clerk Cappelli, Town Counsel Tagliafierro, Chief Owens, Recycling Co-Chair Kotzur, John Andrews of Rohde, Soyka & Andres, Stormwater Consultant Bruce Barber, Town Planner Liz Axelson and several members of the public.

Mining Presentation

Supervisor Fleming said some months ago a meeting was held with our consultants about drafting new code addressing the issues. Attached are the draft documents prepared by the consultants for this meeting. John Andrews's consultant to the Planning Board prepared a conceptual modification to the Town Law. He addressed whether the town wants mining at all, and within your rights to prohibit mining. He explained the town only has controls over a small portion of mining, DEC controls mining above a certain limit. He said conditions exist in Kent that some forms of mining may be warranted. Perhaps limited within certain districts, locations and situations to maximize your control to allow for continued growth. He referred to the attached documents to be part of Zoning Code which prohibits mining in all areas except your Commercial zone and IOC zone, with steps to be followed, a special use permit issued by the Town Board, a phased development for the approved plan for future use, you cannot mine the property all at once and develop later on. He said they tried to implement control and balance it with the needs of the town so that if and when DEC gets involved the town has to grant them the special use permit, and deliver a DEC mining permit. He said the rest is a way to put it into effect. He talked about the procedure. The procedure is made to the town board, you evaluate it, determine the appropriateness, if considered the application is accepted, a concept development plan with an intended use is established and referred to the Planning Board. They do their review and make a report back to the town board. If you decide to pursue it you hold a public hearing and rule on the special use permit and site development plan. He said any safeguards and conditions could be added to a special use permit. He said there is additional work to be done on the law once town input is received. Protections would remain in effect bond etc. as well as enforcement provisions. Councilman Ruthven had an issue with the fact that presently the Town of Kent does not allow mining at all and felt they went into this saying our intention is the same we do not want mining and would be working on the soil excavation code so mining wasn't happening under the guise of site development. He said mining jumped out at him when he read the document provided. John Andrews said there will always be back doors and said they were going to lock them through the front door. He said the problem arises with the multiple acre projects. Councilman Ruthven thought it a different approach to regulate it head on. Councilman Denbaum asked if we accomplish everything in the first section. John confirmed it would be a one or two page modification. A discussion took place about different amounts of cubic yards to be removed and controlled, how to still have development without scalping the land. Bruce Barber explained the special use permit and the addition of many conditions to it and the fact it can be revoked if non-compliant and it can have a term as well. He also advocated identifying areas that you might want to create a balance of commercial development with preservation of the resources in the IOC and

TOWN BOARD MEETING NOVEMBER 16, 2021

Commercial by changing of zoning. Liz Axelson discussed the need for local conglomerate for construction projects and marginal land for development and the land available having constraints like rock and wetlands. She felt the mechanism of prohibiting mining and possibly allowing phased development which would allow a certain amount of soil removal but followed immediately by a certain amount of site development before any more excavation or soil removal could occur.

Henry Boyd of Boyd Well Drilling, suggested limiting the mining by eliminating blasting. He explained Nitrates in water is harmful to expecting mothers and their children. He said nitrates derive from farmland, animal feces, urine from septic systems and dynamite. He said blasting causes environmental problems, he spoke of a recent well drilling that had extensive blasting, the well tested was full of nitrates, surrounding wells were tested as well and nitrates were present. He recommended prohibiting blasting and using a method of drilling holes and adding a chemical or a hammer on an excavator.

Eileen Civitello said in the current IOC zone as written by the Planning Board by necessity any development would have to be blasted to be developed. She said that fact and the fact that 100% of Kent is on well water. She said we have to protect our town not only for the beauty but environmentally, if only concerned about development we no longer have a town. She suggested a new comprehensive plan and new zoning designations. She appreciates the conceptual code but doesn't hear anything different from what did not protect us the first time, we had phased development, and we had bonds.

Kathy Doherty said the original project on Route 52 was to be a contractor's yard supposed to be phased in three different levels and not sure when it was changed to clearing it. She said when he went to DEC for the last permit it was for the bus garage before the vote was taken. She asked if the Planning or Town Board get those permits and see the application. She asked if there is some way we can go to NYS asking that our commercial locations not be taken over by tax exempt applicants. She also recommended the fines be increased.

Liz Axelson said you still have environmental issues on a site that is cut and fill, she thought the main issue is the town being left with a barren site, is that avoidable and can we come up with a mechanism. She explained their concept is enforced phasing, another mechanism is the business of prohibiting on site processing.

Bob Ulich asked when the moratorium expires. Supervisor Fleming replied March 3 and said it could be extended but hopes the process can be moved along. John Andrews explained to develop a local law, referrals, SEQRA etc., if all went well you might be able to make March 3, but comments need to be incorporated quickly, it will be close. The board and the consultants discussed zoning variances, referrals to the town board, eliminating blasting, legislation to protect the town and tools to control the mining process. Mr. Andrews suggested proposing a no mining draft law for review and improve upon the law in front of the board now so the board can make a reasonable choice between the two. He asked comments be presented to them. He said he would also do some research on prohibiting blasting he thought it might fall under certain Federal categories.

Resolution #356 - Authorize Advertising for Bids for Materials & Services

On a motion by Councilman McGlasson

Seconded by Councilman Ruthven

WHEREAS, the Town of Kent Highway Superintendent wishes to advertise for annual bids for services and materials regularly used by the Highway Department; and

WHEREAS, the Town Board of the Town of Kent wishes to authorize its Town Clerk, Yolanda D. Cappelli, to advertise for bids for Highway Services and Materials;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby authorizes its Town Clerk, Yolanda D. Cappelli, to advertise for annual bids for Highway Services and Materials.

Motion carried unanimously

Resolution #357 - Accept Grant from NYSEDA & Funds from Ampion for Community Solar Campaign

On a motion by Councilman Ruthven

Seconded by Councilwoman McGlasson

TOWN BOARD MEETING NOVEMBER 16, 2021

WHEREAS, NYSERDA has awarded a grant to the Town of Kent in the amount of \$5,000 (the “NYSERDA Grant”) for a successful Community Solar Campaign; and

WHEREAS, in connection with the successful Community Solar Campaign, the Town has been awarded \$5,500 from Ampion (the “Ampion Funds”); and

WHEREAS, the Town Board desires to accept the NYSERDA Grant and the Ampion Funds and to approve and ratify any and all prior action taken by Town Officials in connection therewith;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby gratefully accepts the NYSERDA Grant in the amount of \$5,000 and accepts the Ampion Funds in the amount of \$5,500; 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.

BE IT FURTHER RESOLVED, that the Town Board of the Town of Kent hereby approves and ratifies all acts heretofore taken by the Town Board, Town Supervisor, and any and all other Town Officials in connection with the subject grant.
Motion carried unanimously

Resolution #358 - Approve Proposal from Ampion for Electricity to Town Owned Buildings & Facilities

On a motion by Councilman Denbaum

Seconded by Councilman Ruthven

WHEREAS, the Town of Kent has received a proposal in the form of a Community Solar Savings Report from Ampion to provide solar electricity to Town owned buildings and facilities which will result in an annual cost savings to the Town of approximately \$3,700; and

WHEREAS, the Town Board wishes to accept the proposal of Ampion for electricity to Town owned buildings and facilities, with the understanding that the cost for such service will be less than the cost of electricity supplied through NYSEG;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby accepts the proposal of Ampion to provide electricity service to Town of Kent owned buildings and facilities; and

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

Resolution #359 - Appointing Assessor

On a motion Councilwoman McGlasson

Seconded by Councilman Ruthven

WHEREAS, pursuant to Town Law 64(5), when a vacancy occurs in any town office, the Town Board of the Town of Kent may appoint a qualified person to fill the vacancy; and

WHEREAS, pursuant to Real Property Tax Law §310(2), assessors are appointed for a six year term, and the current Assessor Term is set to expire on September 30, 2025;

WHEREAS, the Town Board of the Town of Kent wishes to appoint Seth Plawsky as Town Assessor;

Plawsky as Assessor of the Town of Kent, for the term ending September 30, 2025.
Motion carried unanimously

December Town Board Meeting Dates

The meetings for December will be the 7th and the 21st.

Resolution #360 - Add IMA with Town of Patterson for Basketball Program

On a motion by Councilman Denbaum

Seconded by Supervisor Fleming

Resolved: An IMA with the Town of Patterson for a Basketball Program was added to the agenda.

TOWN BOARD MEETING NOVEMBER 16, 2021

Motion carried unanimously

Resolution #361 - To Approve Inter-Municipal Agreement with Town of Patterson for Basketball Program

On a motion by Councilwoman McGlasson
Seconded by Councilman Ruthven

WHEREAS, pursuant to New York General Municipal Law, Article 5-G, local governments are authorized to enter into municipal cooperation agreements for the performance among themselves or one for the other of their respective functions; and

WHEREAS, the Town of Patterson Recreation and Parks Department and the Town of Kent Recreation and Parks Department wish to organize and run a youth basketball program for residents of Kent and Patterson (the “Program”) to be held at the Patterson Recreation Center located at 65 Front Street, Patterson, New York, as further detailed on that certain Intermunicipal Agreement between the Town of Patterson and the Town of Kent, a copy of which is annexed hereto and incorporated herein (the “Agreement”); and

WHEREAS, the Town Board of the Town of Kent wishes to approve the Program and authorize the Town Supervisor to execute the Agreement.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby approves the Inter-Municipal Agreement with the Town of Patterson for a joint youth basketball program; and

BE IT FURTHER RESOLVED, that the Town Supervisor is hereby authorized and directed to execute any 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 #362- Approval of Vouchers & Claims

On a motion by Councilman Huestis
Seconded by Supervisor Fleming
Resolved: All Vouchers #200161324 - #200161401 and claims submitted by:

1. BSN Sports	\$2,569.68	Soccer Goals
2. City Carting	\$6,626.84	Lake Carmel Garbage
3. Clark Equipment Co.	\$9,196.40	Truck Parts
	\$49,975.20	Excavator
4. Edmunds GovTech	\$4,200.00	Tax Collection Annual Maintenance
5. F.I. Adams, Inc.	\$51,000.00	Balance for Retaining Wall
	\$2,800.00	Telephone Pole & Fence
6. Global Montello Group	\$5,264.60	Fuel
7. Kevin Irwin	\$2,493.00	Prosecutor
8. Magna5	\$3,885.68	Telephone Service
9. Peckham Materials	\$80,835.12	Blacktop
10. State Comptroller	\$32,545.00	Justice Court: Fines & Fees

In the amount of \$295,871.59 may be paid
Motion carried unanimously

Announcements

-The Kent Historical Society will have an Open House at the One Room Schoolhouse, 407 Farmers Mills Road on 11/25/21 from noon to 3:00 p.m.

-The Kent Library will participate in Food for Fines from 11/1 – 11/24, anyone with overdue fines can have \$1.00 waived for every non-perishable item they donate to the library.

Public Comment

Kathy Doherty asked if Verizon can be contacted to take care of the wires hanging at Arts on the Lake.

TOWN BOARD MEETING NOVEMBER 16, 2021

Bob Ulich asked again about the removal of the dock that was approved by the board four years ago and is still there. Councilwoman McGlasson said the Crew Chief has spoken with the Chief about walking on someone's property.

Resolution #363

- Adjournment

On a motion by Councilman Huestis

Seconded by Supervisor Fleming

Resolved: The Town Board Meeting of November 16, 2021 adjourned at 9:00 p.m.

Motion carried unanimously

Respectfully submitted,

Yolanda D. Cappelli
Town Clerk