

A Town Board Meeting was held on Thursday, August 17, 2023 at 9:00 a.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](http://www.townofkentny.gov) under Video's on Demand.

At 9:00 a.m. Supervisor McGlasson called the meeting to order with the Pledge of Allegiance.

**Roll Call**

Supervisor McGlasson- present	Councilman Tompuri- present
Councilwoman Campbell- present	Councilman Ruthven- present
Councilman Boyd –present	

Also present: Town Clerk Cappelli, Town Counsel Spillane, Police Chief Owens, Recycling Chair Kotzur and several members of general public.

**Resolution #263 - Open Public Hearing – Excavation Law**

On a motion by Supervisor McGlasson

Seconded by Councilman Ruthven

Resolved: The Public Hearing on the Soil Removal and Excavation Law was opened.

Motion carried unanimously

**Public Hearing – Soil Removal and Excavation**

Councilman Ruthven stated originally we had the public hearing open for public comment and extended it for written comment. The board did receive a request to extend the written comment period and thus having to do that the mining moratorium will need to be extended to allow for additional written comment. He thought they would not be extending it for the 6 month period. Supervisor McGlasson replied that needs to be discussed. Town Counsel Spillane asked holding it open for written comment. Councilman Ruthven explained we want to extend the moratorium for a shorter period of time for written comment only. Town Counsel Spillane suggested holding the public hearing open for at least two weeks for written comment only. She said you can certainly keep it open until September 11<sup>th</sup> giving everyone time. Councilman Ruthven clarified the time frame; extending written comment until the 11<sup>th</sup>. He said the moratorium would need to be extended. Counsel Spillane said you can extend your moratorium for 3 or 6 months if you feel it is no longer needed because you have passed your regulations you can always end the moratorium at that point. She suggested for the written comment if you close it the date of the public hearing you might not have the time to review all the written comments. She suggested allowing for enough time to review the comments. The board discussed possible dates and the time frame for having the law on the board's desk.

**Resolution #264 - Introducing LL# -2023 & Providing for Public Notice & Hearing**

On a motion by Councilman Ruthven

Seconded by Councilman Tompuri

BE IT RESOLVED a local Law Extending A Temporary Land Use Moratorium Prohibiting Mining within the Town of Kent is hereby introduced by Chris Ruthven, as Introductory Local Law #\_\_ of the year 2023 before the Town Board of the Town of Kent in the County of Putnam and State of New York, and

BE IT FURTHER RESOLVED, that copies of the aforesaid proposed local law, which is attached hereto, be laid upon the desk of each member of the Board, and

BE IT FURTHER RESOLVED, that the Town Board will hold a public hearing on said proposed local law at the Town Hall, in the Town of Kent, New York at 7:00 o'clock P.M. on August 29, 2023, and

BE IT FURTHER RESOLVED, that the Town Clerk publish or cause to be published a public notice in the official newspaper of the Town of Kent of said public hearing at least ten (10) days prior thereto.

Motion carried unanimously

Town Counsel Spillane explained that currently the public hearing on the Soil and Excavation Law is still open, you will continue until September giving additional time frame to submit written comments. Councilman Ruthven said the board will extend the time to receive written public comment to September 5, 2023.

**Resolution #265 - Set Time Frame to Receive Written Comment on Soil Removal & Excavation Law**

On a motion by Councilman Ruthven

Seconded by Councilman Tompuri

Resolved: Written comment for the Soil Removal and Excavation Law is extended to September 5, 2023.

Motion carried unanimously

**Resolution #266 - Authorizing Installation of Window Lake Carmel Park District Office**

On a motion by Councilman Tompuri

Seconded by Councilman Ruthven

WHEREAS, the Town of Kent has received a request dated August 2, 2023 from the Heidi Link, the Lake Carmel Park District Clerk, requesting the installation of a window at the Lake

## TOWN BOARD MEETING AUGUST 17, 2023

Carmel Park District Office (the "LCPD"); and

WHEREAS, in accordance with the Town's Procurement Policy, the Town obtained proposals from businesses which provide this service, and received two written proposals in response to such request, copies of which are annexed hereto and incorporated herein by reference; and

WHEREAS, Jim Liebler Inc. has submitted the lowest proposal in the amount of \$4,800; and

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

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Kent hereby accepts the proposal of Jim Liebler Inc. to install a window at the LCPD office for the price set forth on the proposal annexed hereto; 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 #267 - Hire Lake Carmel Park District Lifeguards

On a motion by Councilman Ruthven  
Seconded by Councilman Tompuri

WHEREAS, the Town of Kent is seeking to fill two summer positions of lifeguards in the Lake Carmel Park District ("LCPD"); and

WHEREAS, James Garbarino, the LCPD Lifeguard Supervisor, has recommended the hiring of Jeremy Smith and Ashley Webber as shown on the email dated August 16, 2023, annexed hereto and incorporated herein by reference, for the remainder of the 2023 season; and

WHEREAS, the Town Board desires to accept the recommendations of Mr. Garbarino.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Kent hereby authorizes the hiring as further detailed on the annexed email for the remainder of the 2023 season at the rates described therein; 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 #268 - Accepting Erosion Control Surety Bond & Escrow for Inspection Fee

On a motion by Councilwoman Campbell  
Seconded by Councilman Tompuri

WHEREAS, the Planning Board, by Resolution No. 8 of the Year 2023, dated August 2, 2023, has recommended that the Town Board accept: (i) an Erosion Control Bond in the amount of \$3,900; and (ii) inspection fees in the amount of \$1,000; from the owner of the property located at 26 Grey Oaks Court, Kent, New York 10512 as shown on the Town of Kent Tax Map as 33.41-1-14; and

WHEREAS, the Town Board wishes to accept the recommendations as set forth in Planning Board Resolution No. 8 of the Year 2023; and

**NOW, THEREFORE BE IT RESOLVED**, that the Town Board of the Town of Kent hereby accepts the recommendations of the Planning Board that an Erosion Control Bond and inspection fee escrow be accepted from the Owner of 26 Grey Oaks Court as set forth above. Motion carried unanimously

Resolution #269 - Appointing Member & Alternative Member to Planning Board

On a motion by Councilman Ruthven  
Seconded by Councilman Tompuri

WHEREAS, there is currently a vacancy on the Town of Kent Planning Board; and

**WHEREAS**, by Resolution # 10 of the Planning Board dated August 7, 2023, said Board has recommended that the vacant position be filled by Richard Morini, who has been serving as an alternate member to the Planning Board; and

**WHEREAS**, the Town Board wishes to appoint Mr. Morini to fill the unexpired term of Phil Tomach, said term to expire on December 31, 2025; and

**WHEREAS**, the appointment of Mr. Morini as Planning Board member results in a vacancy in the position of alternative member on the Planning Board; and

**WHEREAS**, by Resolution # 9 of the Planning Board dated August 7, 2023, said Board has recommended appointing Kathy Doherty as alternate member to the Planning Board; and

**WHEREAS**, the Town Board wishes to appoint Ms. Doherty consistent with the Planning Board recommendations

**NOW, THEREFORE, BE IT RESOLVED**, that Richard Morini be appointed member of the planning board to fill the unexpired term of Phil Tomach until December 31, 2025; and

**BE IT FURTHER RESOLVED**, that Kathy Doherty be appointed an alternate member of the planning board.

**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 #270 - Hire Mechanic for Town of Kent Municipal Repairs**

On a motion by Councilman Tompuri

Seconded by Councilman Ruthven

**WHEREAS**, there is an open position of mechanic in the Town of Kent Municipal Repairs Department; and

**WHEREAS**, the Town Board of the Town of Kent has interviewed Jason Rush Blennis and believes that he has the necessary qualifications to fill said position; and

**WHEREAS**, the Town Board of the Town of Kent wishes to hire Jason Rush Blennis as Full Time Mechanic for the Municipal Repairs Department.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Kent hereby authorizes the hiring Jason Rush Blennis as Mechanic in the Municipal Repairs Department subject to any and all required background checks and pre-employment drug screening; 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 #271 - Assessor – Reject Bids for Town Wide Reassessment & Authorize Advertising for Town Wide Reassessment**

On a motion by Councilman Ruthven

Seconded by Councilwoman Campbell

Resolved: The Bid received for the Town Wide Reassessment Project was rejected, permission is given to the Town Clerk to Advertise for Bids for a Town Wide Reassessment Project.

Motion carried unanimously

**Easement for Sunberry Properties LLC**

Town Counsel Spillane explained there was a presentation before the board a number of months ago this property adjoins the Kent Town Hall the owner of the property does not have driveway street access because of various topographical features of the property including wetlands. A number of years ago a contract vendee on the property had come before the

board requesting an easement over the land where the Kent Recycling Center has their facilities in order to access the property and develop it. She said the Town and the County had gone through the process of approving the easement. She said the property where the Kent Recycling sits initially was owned by Putnam County and when deeded to the town it had a reversionary interest that if the town was not using it for town purposes it would revert back to the County but the County had the right to waive that interest. She said they went before the County obtaining written approval. In 2018 that easement was approved for the contract vendee of the property. The new owner of the property recently came before the town and requested the same easement arrangement. It has gone before the County who has agreed to waive their interest in the easement with certain minor changes to the easement agreement the main being the development of the property would not be for residential purposes. The owner has agreed. At this time this is not for actual development but granting the easement so the property owner can do what they need to find a developer for the property, advertise for it and come up with a plan for the development of the property to be consistent with our Zoning Code and would have to obtain approvals for the development. The easement is for granting potential access so they can do that. There is also an agreement for a swap of land between the town and the developer, giving the town a smooth line at the back of the property because there is a cut out that is not beneficial to the town and they would have access over the drive when it is eventually installed to have further access to the Town of Kent property that they will get in exchange for the land being swapped. She said the owner is present tonight with their engineer and counsel, the presentation has not changed since originally presented. The board opened it up to public comment.

George Baum a resident of Kent for 27 years was concerned with any actions that might have an impact on the operations of the Kent Recycling Center. He's been a volunteer at the Kent Recycling Center since he moved to Kent from when located at the Kent Fire Station, the Disposal Field on Rensselaer St and at the current center until recently because of physical capabilities. He was involved with the Kent Conservation Advisory Committee and Chairman for 13 years he became a member and Chair of Putnam County Environmental Management Consult for 6 years. He has been active and cares a lot for the town operation particularly the Recycling Center. He said the Bakers were extraordinarily active setting up the Recycling Center requiring extensive negotiations with NYSDEP. A special permit was granted by NYSDEP for the access road because the roadway passed over wetlands, to him DEP needs to be involved, apprised of the change in the use of that particular access road. He thought the NYSDEC might have interest in the change of the operation of that access road too. He has not heard any discussions of what that impact may be on the operation of the Kent Recycling Center, he said Saturday's are busy for the center a lot of traffic and does not know what Sunberry plans or what kind of trucks will be used, there must be a weight limit and also wondered legally if there should be a public hearing granting an easement of public land to a private party. He said the discussions between the Town and the Kent Recycling Center as to what the agreements are between them and rights to the property is probably buried in town records. He is concerned of the impact on the operation of the Recycling Center. He hopes it does not lead to the Recycling Center having to access the center through the main entry to the town property and perhaps you would consider Sunberry access their property through the main town access road which is bigger, two ways and would accommodate larger vehicles and trucks. He is concerned about the impact on the Recycling Center and he has not heard any discussion on what is being proposed. He does not believe granting an easement is a simple decision and should have careful consideration. Towns Counsel Spillane responded at this time there is not a development planned for the land, granting the easement is not going to mean trucks and vehicles will be going over the drive, that is a process which includes public hearings before the planning board and town board because it will be in the overlay district at the expense of the developer. The easement specifically states it cannot interfere with the operation of the Recycling Center and would have to propose alternatives, DEC, DEP, timing, traffic etc. will be addressed. This is the first step. George Baum asked if the agreement could be temporary until the issues are discussed. Town Counsel Spillane explained the site essentially having no access or agreement for access cannot have development until in place. All of that development will be subject to public hearings, the future developer will have to show the town this is not going to interfere with the use of the Recycling Center, they will have to show traffic, improvements to the road if trucks are using it, and it will be a use consistent with the zoning code.

Cliff Narbey who lives at 120 Nimham Road since 1989 is an active member and has volunteered at the Kent Recycling Center. He expressed concerns as it came up before in 2005 or 2006 when the late Arne Nordstrom was the Supervisor. He tried to do a behind closed door deal similar to this. The public activity in response to that caused the deal to fall through. He said in doing the research at the time he remembers the owner of the property the one subject to this proposed easement owned two other properties adjacent to it. He said all three are land locked, they have no access to Bowen Road or to Route 52 because the town owns the strip, the culvert is there which is subject to NYCDEP regulations. He is curious to know if by giving this easement to the current owner of the property you are going to raise the value of the property considerably as at the moment it is landlocked and cannot be developed. Its value is impaired, granting the easement will significantly increase the value. If you are aware would you consider in the interest of the town making a more lucrative arrangement for the town by granting this easement. If the property could be developed it could be wonderful for the town, similar to the I- Park in Dutchess providing good high paying technical jobs not trucks, contractors and trailers like previously approved. He thought maybe the town could deal with Sunberry in such a way that the town gets a part interest in any future development. He said all three properties in the past were owned by Vincent Cappelletti, he asked if you did any research on Sunberry, is it a NYS Corporation, and is Mr. Cappelletti involved. He echoed George's concerns about the operation of the Recycling Center, the presentation made earlier by Sunberry talked about putting in an access lane on Rt. 52 he questioned that as there is not enough room. He thought the last thing wanted is a line of vehicles trying to get into the property when in operation at the Recycling Center. Counsel Spillane replied the town cannot take a direct interest in the development of the parcel as far as a business interest but from a tax perspective if the parcel is developed it is going to be assessed at a higher value and will bring tax revenue into the town.

Julie Boyd resident of Kent, said she is not a member of Recycling but a business owner. She said as a business owner we make decisions if you buy a land locked piece of property offer to negotiate with NYCDEC and NYCDEP on how to make your own access road. As a business owner it worries her when government gets involved in benefiting another business over another. If they want an access road let's see what they are going to bring to Kent as a business opportunity, then we can deal with this. You're referring back to a 2018 letter which Jaime was the only board member currently on the board that signed that letter. This board is the one who should have signed this letter, it is a new board a totally different town since 2016. She is confused are you representing the town or Sunberry, she is not questioning your ethics but it is a little mucky here, you're getting the history but from an outsider listening in it is a little confusing. She agrees with the last gentlemen if we are going to do something it should benefit the town, this is something that should not be given away, this is a value, the Baker's and other volunteers have given their lives and their investment making this community have things of value she thinks you are giving away the store.

John Neff a 46 year resident of Kent, is a volunteer at the Recycling Center. He asked how many board members have actually gone there to see what you're planning on voting on. He has seen Ann Campbell but asked the others. He said he has gone on occasion to where you are talking about and has opened the gate. It is classified as a wetland area not because of the plants that are growing there but actual running water on both sides of the entrance way. He heard rumors you are going to widened and extend that. He said if that is the case you will be working in a wetland area. He asked do you need a permit to do that, and if you are going to have to go through the permit process why not just make a brand new driveway do not interrupt the operation of the Recycling Center to accommodate a land owner, let the landowner go through the permit process and build his own driveway. He is amazed how much water flows there. He said no government funding put that driveway in took a lot to get that put in. He said you are essentially penalizing a few of the taxpayers in Kent who did participate in funding that, by allowing another use.

Mr. Narbey asked for a copy of the memorandum. The board said the memorandum will be available on the website. Town Counsel explained the memorandum specifically pertaining to the lots that are involved with the swap. Councilwoman Campbell said it also has clauses in there about the impact to the Recycling Center that would be beneficial to have available.

Sue Kotzur, Chairwoman of the Recycling Center stated she was made aware of this item to be placed on the agenda at 2:00 p.m. yesterday afternoon giving her only 3 business hours by phone, email, texting to gather some people to defend their road. She was advised by the Supervisor when texted that representatives would be present from Sunberry and televised. She said a county legislator questioned at their meeting whether counsel is representing the town or the property owner. She does not call this open government, this is not transparent for her to get an email yesterday, not even from their liaison, no contact whatsoever. She said the resolution says Sunberry or its successor in interest will grant to the town an access easement over the town parcel to be conveyed to Sunberry or its successor in interest for access to the existing town property. She said she is confused, there is a lot of stuff going on here. She said the property is also zoned residential has it been rezoned for commercial overlay. Is there anything in the process, how can you sell a property for commercial if it is residential. She said the DEC, DEP, SEQRA should be redone, the DOS study should be done about roads, turning lanes, will there be a traffic light. This should be done before and easement is granted. She has said this over and over again even the legislature is tired of hearing it and said just move it forward. She is not ready to move it forward and neither should the board. It needs to go to a public hearing, the town does not know what is going on, only those in this room and people on TV. She presented a petition with 197 signatures opposing the use of the current entrance for any other use except for the use of the Kent Recycling Center. Town Counsel Spillane clarified she represents the town board, and has represented the town board in every aspect of this matter. They have actually met with the Recycling Center before going to the County Legislator to see if there was any items they would like included in this, the property is zoned residential but the town has a business overlay district that can be applied for by an applicant. That business overlay district has certain light commercial activities that can happen on a parcel if approved by the town board. She said before there can be development on this parcel in addition to planning board, zoning board they would have to apply to the town board to be in the business overlay district and provide their use of the property. She said there are numerous checks and balances that are going to happen before development of the property. When there is a plan they will have to go through any wetlands requirements with DEP, DEC and they would have to operate and maintain that easement area so in addition to improving it in any way they would also have to maintain it moving forward. It would shift the burden of maintaining the area from the town, to the owner of the parcel. Sue asked who will be doing the construction of the road. Town Counsel replied there is not a plan yet, they will be answered when developed. It will be highly regulated.

Jennifer Gray a partner with the law firm of Keane & Beane said Jamie Spillane does represent the town, her firm represents the property owner. She said Jamie has summarized the facts objectively and accurately and not slanted one way or another. She said a year ago they presented to the board their proposal for an easement and a land swap, at that time members of the Recycling Center voiced their concerns and met with them on site afterwards. She said specific revisions to the agreement have been made in response to those concerns, they see it as an opportunity to improve the operations of the Recycling Center. They do not want this to be a burden or an impediment in anyway. They propose to improve access, a possible que lane, landscape screening from the easement area and a possible second means of ingress and egress, those three points are specific in the easement agreement as factors for consideration when and if a proposal comes before the Kent Planning Board. She said there is a rigorous review process undertaken by the eventual developer, the current property owner is not a developer he is trying to market it to a developer if and when that happens all of these factors for improving the operations of the Kent Recycling Center will have to be undertaken, the Planning Board, DEC, DEP will all be involved. She sees this as being beneficial to the town because increased property value will happen as result of the easement agreement an increase in tax revenue it will also provide an opportunity for economic development and jobs within the town. She said the town is receiving from Sunberry several acres of land and some town hall property will be given to Sunberry. She said the access given by Sunberry to the Town is with respect to an offer from Sunberry to provide access to the new property to be acquired by the Town from Sunberry for ease of access to the property. She said a public hearing is not required for this action by the town board, however there has been robust public comment on the matter. Councilwoman Campbell said this has been a challenge, the Recycling Center is near to her heart and has been a member since it opened. She has been on the KCAC until elected to the town board. She has been involved early on to make sure that the easement has wording protective of the center. She said the prior easement agreement said there was no impact on the Recycling Center which has been changed. There are improvements to traffic

flow at the Center, she has found close to closing time it gets wild with the looping through and not following the one way so there is potential to address some of those issues if and when a development project does go through. She said the driveway access and the nature of the wetland, she thinks adding a separate driveway as proposed would have a greater impact yet another incursion as opposed to either using the existing culvert or having to possibly expand and widen the road which would mean a longer culvert if and when that was done we could ensure that the culvert is placed in the manner recommended to prevent habitat disruption, using a box culvert or set more deeply so that might also be improved. She said the benefit of the land swap to the town the question is what would happen to this acreage that is now adjacent to this complex and accessible through the Recycling driveway. She said the original ability to put in that road was granted because DEC thought here was a clear environmental benefit to having the Recycling Center. A goal of the Climate Smart Taskforce is to implement food waste recycling. It has been abundantly clear the Kent Recycling Center does not have the space or the capacity for that operation being a voluntary transfer program for food waste, we do not have a place for yard waste composting presently and are no longer able to use the landfill on Ressique Street a place for that waste is needed. She thought the acquired acreage would be a place to have those two operations, yard waste composting and transfer of food scrapes which in turn would reduce costs for garbage pickup and be beneficial to all town residents reducing greenhouse gases. She said the potential benefit in her mind counterbalances the fact there would be commercial traffic over this roadway. She did not know this was on the agenda until the same time everyone else knew as she would have contacted Sue earlier. She suggested postponing the vote on this until the next meeting to allow for more public response even though there has been a lot of comment already this happened very quickly. Councilman Ruthven said this is the second proposal for this easement, one fell apart a few years ago, he thinks the old and new town boards concerns has always been the impact on the Recycling Center, they keep that first and foremost while trying to balance what is good for the town for our tax base and future growth and how to balance the two. Many of the questions are questions that get vetted through the planning process, until a proposal is presented the board does not know those answers this is the step that needs to take place to get to that. He asked if a developer comes before the board with a project will the town have another opportunity to have the developer offer something to the town again. Town Counsel replied if a developer is open to a different donation of land that conversation can happen, there are certain requirements for open land in large residential developments, they don't have an obligation but if it's something beneficial to everyone it can happen. Councilman Boyd looked for an as built on the culvert and could only locate the proposed build. He looked at it, it is 60' wide, made of concrete 7" thick, he is unable to tell if it is reinforced with rebar, it is heavily oval in shape which is used when you cannot dig deep into the ground because of bedrock, the width was required for the amount of flow that would come through during a storm, oval is the weakest, the potential for the bridge is commercial traffic. Questions he raised is it capable for that, does it have a weight limit. Councilman Ruthven said it goes back to the planning process and vetted for future uses. Ms. Gray said part of the development proposal would be to ensure as it exists or in a proposed condition, that it can handle the traffic generated by the commercial development on the Sunberry property. As it exists now it might not be able to handle the commercial traffic associated with that development. It would be the developer's responsibility to make improvements and go through the process. Richard O'Rourke of Keane & Beane thinks the board understands the proposal, when it comes forward that developer will have to go through the entire SEQRA process before any approvals. They must demonstrate and address all the environmental factors, considerations and mitigate them to the maximum extent practicable. The process is exhaustive, the issue is that is not here now, this is just providing an opportunity for that to happen. The review process in terms of the impact on the Recycling Center the possibility of expansion for the center, the recreational opportunities may be a factor in terms of the analysis, what is the impact of the development of this property, how is that developer addressing all of those impacts to the extent practicable, they want to get there, the last thing any developer will want to do is to negatively impact the Recycling Center. This is an opportunity for the town not a detriment. Supervisor McGlasson said the board needs to focus on what is in front of them right now, after this there is still many agencies and planning board that they have to go to. There are a lot of other things that need to fall into place.

**Postpone the Vote on the Easement for Sunberry Properties LL.**

On a motion by Councilwoman Campbell

Seconded by Councilman Boyd

Resolved: The vote on the Easement for Sunberry Properties be postponed until the next meeting.

The board took a poll vote as follows:

Councilwoman Campbell – aye      Councilman Tompuri – nay

Councilman Ruthven – nay      Councilman Boyd – aye

Supervisor McGlasson – nay

This motion was not carried

**Resolution #272 - Authorizing Supervisor to Execute Access Easement & Maintenance Agreement**

On a motion by Councilman Ruthven

Seconded by Councilman Tompuri

**WHEREAS**, the Town Board of the Town of Kent has received a proposed Access Easement and Maintenance Agreement from Sunberry Properties LLC (“Sunberry”) showing a proposed Easement upon, under and across premises shown on the Tax Map of the Town of Kent as 22.-1-23.2 (“Town Parcel”); and

**WHEREAS**, Sunberry is the owner of the parcel of land located in the Town of Kent shown on the Tax Map of the Town of Kent as 22.-1-21 (“Grantee Parcel”); and

**WHEREAS**, said Access Easement and Maintenance Agreement would grant Sunberry, and any present or future owners of the Grantee Parcel, permission to gain access to the Grantee Parcel for the development of the parcel, including without limitation the construction and installation of all improvements necessary or convenient thereto, and conducting its business thereon, ingress to and egress from the Grantee Parcel from and to NYS Route 52, and for the installation, use, repair, replacement and maintenance of utility lines and appurtenances, upon, over, under and across a certain portion of the Town Parcel; and

**WHEREAS**, the said Access Easement and Maintenance Agreement would obligate Sunberry, and any present or future owner of the Grantee Parcel, to maintain the easement area granted therein;

**WHEREAS**, the County of Putnam (the “County”) granted and conveyed the Town Parcel to the Town of Kent by a deed dated December 12, 1990 and recorded in the Putnam County Clerk’s Office on December 18, 1990 (the “County Deed”), and in said Deed the County (i) reserved a right-of-way and easement across the Town Parcel; (ii) granted a right-of-way and easement to the Town across the Town parcel; and (iii) created a reversionary interest for its benefit providing that the Town Parcel shall revert to the County in the event that the Town Parcel is used to provide a right-of-way or other access to any lands other than those owned by the County without the County’s express written consent, or in the event that the Town Parcel is used for other than a public purpose and benefit.

**WHEREAS**, by Resolution No. 163 of 2023 of the Putnam County Legislature, the County of Putnam Legislature consented to and approved the Access Easement and Maintenance Agreement; and

**WHEREAS**, the Town Board wishes to grant the easement memorialized by the Access Easement and Maintenance Agreement;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Kent hereby authorizes and directs the Supervisor to execute the Access Easement and Maintenance Agreement, and all other documents necessary to give effect to this Resolution, consistent with the terms hereof and in such form as is satisfactory to the Town Planner and Town Attorney; and be it further

**RESOLVED** that this resolution is subject to Permissive Referendum as provided by New York State Town Law.

UPON ROLL CALL VOTE:

Councilwoman Campbell: abstain      Councilman Tompuri: aye

Councilman Ruthven: aye      Councilman Boyd: nay

Supervisor McGlasson: aye

Motion carried

**Resolution #273 – Authorizing Supervisor to Execute Memorandum of Understanding**

On a motion by Councilman Ruthven

Seconded by Councilman Tompuri



TOWN OF KENT LOCAL LAW NO. \_\_\_\_ of 2023  
A LOCAL LAW EXTENDING A TEMPORARY LAND USE MORATORIUM  
PROHIBITING MINING WITHIN THE TOWN OF KENT

BE IT ENACTED by the Town Board of the Town of Kent, Putnam County, New York, as follows:

Section 1. Legislative Intent.

This local law is intended to extend the temporary prohibition on the issuance of permits for the excavation of sand, gravel, topsoil, rock or other natural material within the Town of Kent, for an additional period of up to six (6) months, pending the further development and adoption of local laws and/or ordinances prepared to regulate and govern such excavation.

By resolution dated March 3, 2020 the Town Board adopted Local Law #1 of 2020 temporarily prohibiting the issuance of permits for the excavation of sand, gravel, topsoil and rock or other natural material within the Town of Kent for a period of six (6) months from the effective date of said Local Law #1 of 2020.

On March 7, 2020, Governor Andrew Cuomo issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York due to the COVID-19 pandemic. The COVID-19 Pandemic is an outbreak declared a "public health emergency" for the entire United States by the United State Health and Human Services Secretary on or about January 31, 2020. Further, by Executive Order effective as of March 22, 2020, Governor Cuomo instituted "NY PAUSE" which closed all non-essential businesses and prohibited non-essential gatherings of individuals of any size for any reason, with such operations being reopened in phases. Although Town government was deemed an essential business, the pandemic itself and NY PAUSE presented numerous other, more pressing, challenges for the Town Board.

Due to the mandatory restrictions instituted by NY PAUSE and for the health and safety of residents, guests, and employees of the Town, the Town Board deemed it necessary to enact four six (6) month extensions on the moratorium by Resolution dated September 1, 2020, March 2, 2021, August 3, 2021 and February 15, 2022, August 17, 2022 and February 7, 2023. Said extension expires on August 18, 2023. The Town has diligently worked to draft suitable legislation for proper and authorized regulation of mining, however, due to the ongoing limitations and restrictions caused by the COVID-19 pandemic, it is deemed necessary to enact this additional six (6) month extension of the moratorium in order to permit the Town Board adequate time in which to draft suitable legislation to address mining within the Town of Kent. During the term of the extended moratorium, the Town of Kent shall work to prepare and eventually adopt additional land use provisions and regulatory processes to provide for the benefit, health and general welfare of the residents of the Town of Kent.

The objective of this moratorium is to allow the Town of Kent to assess and address its



Code to promote community planning values by properly regulating such excavation. During the pendency of the moratorium, the Town Board will consider how best to permit excavation in certain areas so as to harmoniously integrate such with the existing community and landscape. Moratoria are useful in controlling or temporarily inhibiting development until satisfactory final regulations are adopted.

For these reasons, the Town Board finds that an extension of the temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to further develop and adopt necessary zoning and land use changes to the KentTown Code, thus protecting and furthering the public interest, health and safety.

## Section 2. Scope of Moratorium.

There is hereby adopted in the Town of Kent a moratorium on the consideration, receipt or grant of temporary permits, pursuant to Chapter 63 of the Town of Kent Town Code entitled "Soil Removal", for the excavation of sand, gravel, topsoil, rock or other natural materials for an additional six (6) month period commencing on the effective date hereof.

During the term of the moratorium, the Town Board intends to develop, consider and adopt changes to its land use local laws so as to regulate Soil Removal and ensure that any mining conducted within the Town is consistent with the terms and goals of the Town's Comprehensive Plan.

While the moratorium is in effect, no applications pursuant to Chapter 63 shall be accepted and no temporary permits issued or approvals given by the Town Board except as authorized pursuant to Section 3, below.

## Section 3. Exemptions, Variances and Appeals.

This moratorium does not apply to residential activities requiring permits on residential properties.

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this Local Law following a noticed public hearing before the Town Board. It is specifically intended that this moratorium shall supersede New York State law which would otherwise confer variance applications exclusively to the zoning board of appeals.

Following a written request for hardship variance relief, within sixty (60) days of receipt of such request, a noticed public hearing shall be held, at which hearing the Town Board may, but is not limited to consider:

A. The proximity of applicant's premises or the subject of applicant's request for relief to natural resources, including but not limited to prime agricultural soils, wetland areas, conservation districts and other areas of environmental concern.

B. The impact of the proposed application on the applicant's premises and upon the surrounding area.

C. Compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community.

D. Compatibility of the proposed application with the recommendations of any administrative body charged with such review by the Town of Kent.

E. The written opinion of the Town of Kent Planning Board and the Town of Kent Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.

F. Evidence specifying in detail the nature and level of any alleged hardship imposed on the property owner(s) as a result of this moratorium.

G. Such other considerations and issues as may be raised by the Town Board.

In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be helpful with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner (or if there are multiple property owners, a determination that each such owner shall suffer an unreasonable hardship) which is unique to the property owner(s), a finding that there are sufficient existing regulations to adequately govern the application for which a hardship waiver is being requested, and a finding that the grant of an exemption will be in harmony with, and will be consistent with the existing Town of Kent Zoning Ordinance and the recommendations of the Comprehensive Plan as such may exist.

An application for relief from the prohibitions of the moratorium shall be accompanied by a fee as set forth by resolution of the Town Board, together with the applicant's written undertaking, in a form to be approved by the Attorney for the Town, to pay all of the expenses of the Town Board and any agent or consultant retained by the Town Board to evaluate and consider the merits of such application, including but not limited to any fees incurred by the Town for services provided by the Attorney for the Town.

#### Section 4. Penalties.

A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Dollars (\$1,000) or imprisonment for not more than 10 days, or both for the first offense. Any subsequent offense within a three-month period shall be punishable by a fine of not more than

Two Thousand Dollars (\$2,000) or imprisonment for a period of not more than 30 days, or both. For purposes of this Clause A, each day that a violation of this Local Law exists shall constitute a separate and distinct offense.

B. Compliance with this Local Law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the Town by the Town Board.

C. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all costs incurred by the Town relative thereto, including but not limited to attorney's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the property(ies) within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

#### Section 5. Application.

The provisions of this local law shall apply to all real property within the Town of Kent, and all applications for the excavation of sand, gravel, topsoil, rock or other natural materials pursuant to Chapter 63 of the Town Code.

#### Section 6. Conflicts with State Statutes and Local Laws and Authority to Supersede.

To the extent that any provisions of this local law are in conflict with or are construed as inconsistent with the provisions of the New York State Town Law or any local ordinance, law, or regulation, this local law supersedes, amends, and takes precedence over the Town Law and such local ordinances, laws or regulations, pursuant to the Town's municipal home rule powers pursuant to Municipal Home Rule Law § 10 and § 22 to supersede any inconsistent authority. Pursuant to the same powers, and without limiting the generality of the foregoing, this local law supersedes the provisions contained in (a) Article 8 of the Environmental Conservation Law (known as the State Environmental Quality Review Act) and the regulations thereunder to the extent that such provisions require that an agency determine the environmental significance of an application within certain specified timeframes; and (b) Town Law § 267 and § 267-a through c, pertaining to the variance authority of the board of zoning and appeals.

#### Section 7. Validity and Severability.

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstance, and the Town Board of the Town of Kent hereby declares that it would have passed this local law or the remainder thereof had such

invalid application or invalid provision been apparent.

Section 8. SEORA Review.

The adoption of a moratorium constitutes a Type II action under 6 NYCRR Part 617, and Therefore requires no further review under the State Environmental Quality Review Act (SEQRA).

Section 8. Effective Date.

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and shall remain in force for a consecutive period of six (6) months from its effective date, unless extended by local law adopted after public hearing upon no less than five (5) days public notice.

Dated: \_\_\_\_\_, 2023

BY THE ORDER OF THE TOWN BOARD  
OF THE TOWN OF KENT

# Honey\*Do\*Men

HOME RENOVATION & REPAIR

www.HoneyDoMen.com

(914) 837-0411

1995 Route 6  
Carmel, NY 10512  
(914) 837-0411  
service@honeydomen.com

## Estimate

ESTIMATE NUMBER	1023619358
DATE	07/14/2023
PO#	

CUSTOMER
Town of Kent 25 Sybils Crossing Kent Lakes NY 10512 (845) 306-5802

SERVICE LOCATION
Town of Kent 25 Sybils Crossing Kent Lakes NY 10512 (845) 306-5802

DESCRIPTION	New Window Install
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Window		
Description	Rate	Total
<p>New Window Where Non-Exists</p> <p>Cut open the wall:</p> <ul style="list-style-type: none"> <li>- Cut out the brick wall</li> <li>- cut out the wall wall board (sheetrock)</li> <li>- cut out the walls studs</li> <li>- install new headers and new bottom sill plate</li> <li>- install new jack studs and wall stud to frame out new opening</li> </ul> <p>- Remove the insulation board, vapor barrier, and plywood or anything in the way</p> <p>New Construction Window:</p> <ul style="list-style-type: none"> <li>- purchase and deliver new construction window to match as close as the other window on the same wall outside</li> <li>- install new window into the new opening and secure with manufactured nailing flange</li> <li>- spray foam insulate and tape the exterior frame</li> </ul> <p>Exterior Rebuild:</p> <p>Interior Rebuild:</p> <ul style="list-style-type: none"> <li>- install extension jams (if needed)</li> <li>- install new traditional window casement moldings</li> <li>- wood putty nail holes and caulk the moldings</li> <li>- cut and install new sheetrock to fill in where missing</li> <li>- tape and compound, 3 coats, dry time and sanding between applications</li> <li>- prime and paint the repair areas, 2 coats, paint supplied by owner, feather into surrounding areas</li> <li>- Purchase and install granite slab to match as close as the others in the office .</li> </ul>		8,500.00

CUSTOMER MESSAGE
Terms & Conditions
The Agreement:

Estimate Total: **\$8,500.00**

JIM LIEBLER INC.  
235 NIMHAM ROAD  
CARMEL, NEW YORK 10512

July 25, 2023

Town of Kent Town Hall  
25 Sybil's Crossing  
Kent Lakes, New York 10512

Re: Window Install

1. Install windows to match as close as possible to existing windows.
2. Cut brick outside and pourage sides to try and match existing brick return.
3. Position window outside to fall under granite stone, to act as a header. No lintel needed.
4. If wires or plumbing in wall need to be re-routed, this would be extra.

All materials and labor \$4,800.00

Jim Liebler Inc. is fully licensed, insured and bonded



**WHEREAS**, the Town Board of the Town of Kent has received a proposed Memorandum of Understanding from Sunberry Properties LLC ("Sunberry") concerning the contemplated development by Sunberry or a successor in interest to Sunberry of the parcel of land located in the Town of Kent shown on the Tax Map of the Town of Kent as 22.-1-21 ("Grantee Parcel"); and

**WHEREAS**, Sunberry is the owner of the Grantee Parcel; and

**WHEREAS**, in consideration of a certain easement granted by the Town to Sunberry pursuant to the Access Easement and Maintenance Agreement considered and approved in conjunction herewith, the Town and Sunberry have discussed, and desire to confirm, that in the event Sunberry or its successor in interest to the Grantee Parcel proceeds with development of the Grantee Parcel, (i) the Town and Sunberry or the successor in interest will each convey and exchange portions of their respective Parcels to the other as described in the Memorandum of Understanding ; and (ii) Sunberry or its successor in interest will grant to the Town an access easement over the Town Parcel to be conveyed to Sunberry or its successor in interest for access to the existing Town Center property;

**WHEREAS**, Sunberry desires to confirm his obligation to incorporate the land exchange and access easement into any design plan for the development of the Grantee Parcel, and its agreement and understanding that site plan approval for any such development will be subject to and conditioned upon the delivery to the Town of a fully executed deed to the portion of the Grantee Parcel to be exchanged, and a fully executed access easement;

**WHEREAS**, the Town Board wishes to authorize the Town Supervisor to execute the Memorandum of Understanding;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Kent hereby authorizes and directs the Supervisor to execute the Memorandum of Understanding, and all other documents necessary to give effect to this Resolution, consistent with the terms hereof and in such form as is satisfactory to the Town Attorney; and be it further

**RESOLVED** that this resolution is subject to Permissive Referendum as provided by New York State Town Law.

UPON ROLL CALL VOTE:

Councilwoman Campbell: abstain      Councilman Tompuri: aye  
Councilman Ruthven: aye      Councilman Boyd: nay  
Supervisor McGlasson: aye  
Motion carried

**Town Board Meeting**

There will be a Town Board Meeting on Tuesday, August 29, 2023 at 7:00p.m.

**Resolution #274 - Approval of Vouchers and Claims**

On a motion by Councilman Ruthven

Seconded by Councilman Tompuri

Resolved: All Vouchers #00168741 - #200168872 and claims submitted by:

1. Aquarius Capital Solutions Group	\$5,000.00	GASB75
2. Barton & Loguidice	\$8,510.00	Water System PFOA
3. Cemco Water	\$3,342.76	WD#1 Monthly Operations
4. Cornerstone	\$3,500.00	Stormwater/Excavation Law
5. F.I. Adams Inc.	\$18,200.00	Rock Drilling
	\$20,000.00	Excavator
6. Global Montello Group	\$5,503.00	Gas
	\$4,327.20	Diesel
7. Goosetown Communications	\$24,300.00	Radio System: Semi Annual
8. Hogan & Rossi	\$5,416.63	Legal Services: August
9. Magna 5 MS	\$7,288.77	Network Services
10. NYCOMCO	\$2,972.00	Communication System: Police
11. NYS Dept. of Civil Service	\$239,163.29	Health Insurance: August
12. PKF O'Connor Davies	\$28,650.00	Audit Services
13. Laura Roberts	\$2,475.00	Prosecutor: June
14. Summit Bobcat	\$6,551.59	Equipment Parts
	\$3,574.88	

## TOWN BOARD MEETING AUGUST 17, 2023

15. Tifco Industries	\$4,393.13	Truck Parts
16. Transaxle	\$4,447.53	Truck Parts
17. Win Waste	\$11,531.99	Lake Carmel Garbage
18. Royal Carting	\$6,481.09	Recycling Garbage

In the amount of \$489,707.69 may be paid.

Motion carried unanimously

### **Announcements**

- Saturday, Oct. 7, 2023 the Caitlin Rose Savio Foundation Day at Camp Kiwi, Noon – 5:00 \$10.00 per car allows access to tennis, mini golf, gaga and more.
- Kent Soccer begins September – November ages 2 – 12 go on the website for more information.
- Tactical Laser Tag will begin this fall for information go to the website, spots fill fast.
- Kent Library is having a lecture on Cosmology the fate of the Universe this Monday the 21<sup>st</sup> at 6:00 at the library or Via - Zoom
- Kent Library has Paws to Reading Program on August 23<sup>rd</sup> from 4:00 pm. - 5:00
- The Draft of the Natural Resource Inventory is on the Town's website for your reading pleasure and ready for feedback.
- Councilman Boyd was speaking with Congressman Lawler and the funds for the Lake Carmel Dam has been included in a recent bill. He hopes it will be passed.
- NY Forward is due at the end of September the Town will be making another attempt for this grant.

### **Public Comment**

A resident of Old Forge Drive, who is president of the Sagamore Lake Community Association a community of 75 homes. They have met with Highway Superintendent Othmer trying to deal with the traffic issues around the lake. They have many people walking around their lake in their neighborhood. There are two main roads Old Forge Drive which is a dirt road and Sagamore a recently paved road. He said an unintended consequence of the paving is speeding cars and a concern for those walking. New state legislation allows towns to reduce the speed limit from 30 to 25, he thinks their roads qualifies and would like to get the process started. The board was in agreement this item be placed on the September 5<sup>th</sup> agenda.

Julie Boyd said the town has been consistent having evening meetings, most residents work during the day out of town. She suggested having workshops, non-voting meetings during the day. She reached out to people who wanted to attend but couldn't because of work. She said lets go back to evening meetings. The short notice of this Thursdays meeting and agenda she expressed concern about extending the moratorium she recalled our attorney stating extending the moratorium was not necessary. She said it looks sneaky and knows the board is not and wants to do the best for the town she asked voting meetings take place at evening meetings. Supervisor McGlasson explained the 2<sup>nd</sup> meeting in August is always a daytime meeting. Julie replied it has been but all you did was sign vouchers you didn't do any major town business. Supervisor McGlasson said the board didn't think we needed an extension but a request was received to extend it for additional written comments.

### **Resolution #275 - Adjourn to Executive Session**

On a motion by Councilman Ruthven

Seconded by Councilman Tompuri

Resolved: The Town Board adjourned to executive session to discuss potential litigation.

Motion carried unanimously

### **Resolution #276 - Adjournment**

On a motion by Councilman Ruthven

Seconded by Councilman Boyd

Resolved: The Town Board adjourned at 11:10am

Motion carried unanimously

Respectfully submitted,

Yolanda D. Cappelli

Town Clerk