

TOWN BOARD MEETING DECEMBER 4, 2018

A regular meeting was held on Tuesday December 4, 2018 at the Kent Town Hall, 25 Sybil's Crossing, Town of Kent, New York, 10512.

Resolution #431 - Adjourn to Executive Session

On a motion by Supervisor Fleming

Seconded by Councilwoman McGlasson

Resolved: The Town Board adjourned to Executive Session at 6:11 p.m. to discuss the medical, financial, credit or employment history of a particular person or corporation and current litigation.

Motion carried unanimously

Resolution #432 – Close Executive Session

On a motion by Councilman Huestis

Seconded by Supervisor Fleming

Resolved: Executive Session adjourned at 7:08 p.m. no action was taken.

Motion carried unanimously

Resolution #433 - Re-Open Public Hearing – Kent Town Code for the Regulation & Licensing of Food Trucks

On a motion by Supervisor Fleming

Seconded by Councilwoman Woolley

Resolved: The Public Hearing on Kent Town Code for the Regulation & Licensing of Food Trucks was reopened.

Motion carried unanimously

Supervisor Fleming explained this public hearing began at the last meeting. Town board members commented and it was open to those in attendance and left open for additional comments through email and regular mail. Additional comments have not been received. She asked for comments there were none.

Resolution # 434– Close Public Hearing Kent Town Code for the Regulation & Licensing of Food Trucks

On a motion by Supervisor Fleming

Seconded by Councilman Denbaum

Resolved: The Public Hearing on Kent Town Code for the Regulation & Licensing of Food Trucks was closed.

Resolution #435 – Adopt Local Law #3/2018 Kent Town Code for the Regulation & Licensing of Food Trucks

On a motion by Supervisor Fleming

Seconded by Councilman Denbaum

WHEREAS, a local law to amend the Kent Town Code to remove the operation of Food Trucks from the Town Code Chapter regarding Peddling and add a new Chapter entitled “Food Trucks” to provide for the regulation and licensing of Food Trucks, was introduced as Introductory Local Law #3 of the year 2018 before the Town Board of the Town of Kent on November 33, 2018 and

WHEREAS, a public hearing was held on November 27, 2018 and continued to December 4, 2018 and the public was invited to attend and be heard on the matter;

NOW THEREFORE, BE IT RESOLVED, that Introductory Local Law #3 of 2018 is hereby enacted by the Town Board of the Town of Kent and;

BE IT FURTHER RESOLVED, that a true copy of the law is attached hereto and made a part hereof.

Motion carried unanimously

TOWN OF KENT
AMENDMENT TO
CHAPTER 39B OF THE KENT TOWN CODE

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

Section 1. Chapter 39B entitled “Peddlers and Solicitors”, is amended as follows:

Chapter 53. Peddlers and Solicitors

§ 53-10 Exemptions.

- A. A. No part of this chapter shall be enforced so as to conflict with Article 4, §32, of the General Business Law of the State of New York, providing for exemption for veterans.
- B. B. The requirements of this chapter shall not apply to the following, provided that official uniforms, clothing or other suitable identification is displayed:
 - (1) Any recognized nonprofit, religious, charitable, educational, civic or political organization.
 - (2) Any such organizations as the Boy Scouts, Girl Scouts or local volunteer firemen.
- C. C. The provision of this Chapter shall not apply to operators of Food Trucks which possess a license pursuant to Chapter 39B of the Town Code.

Section 2. Chapter § 39-B shall be added to the Town Code, entitled “Food Trucks”, as follows:

Chapter 39B. Food Trucks.

39B-1. Definitions.

As used in this article, the following terms shall have the meanings indicated:

APPLICATION

The form and supporting information or documentation prescribed by the Town Board seeking the issuance of a food truck permit.

FOOD TRUCK

A vehicle from which food for human consumption is sold or dispensed. Such vehicle may be self-propelled or towed by another vehicle.

FOOD TRUCK PERMIT

The permit or license issued by the Town Clerk which shall be proof that a particular food truck has met the qualification requirements and that the location endorsed thereon has been approved by the Town for the purpose stated therein.

FOOD TRUCK PERMIT, SECONDARY

A second permit which may be issued to an existing food truck permit holder which would allow such permit holder to locate his or her food truck at a secondary location on municipally owned property.

LOCATION

The particular physical site, approved by the Town Code Enforcement Officer, where the food truck shall be parked and operated during permitted hours.

VETERAN

Any veteran of the United States military service or coast guard who has been discharged from service for other than cause. Any veteran applicant shall submit a copy of his or her Form DD-214 as part of the application package.

§ 39B-2. Permit; fees.

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- A. No more than one permit shall be issued to any individual or qualifying business entity.
- B. Such permit shall be issued to an applicant who has completed the requisite application on the prescribed form provided by the Town Clerk, paid the requisite fee(s) and provided such additional information as may be required in the application, including, but not limited to, proof of general liability insurance with limits of liability not less than \$1,000,000 per occurrence; current vehicular registration, inspection and insurance; proof of permission to locate the food truck at the particular location; and, in the case of prepared food sales, a current food vendor's permit issued by the Putnam County Department of Health. The Town of Kent shall be listed as an additional insured on the policy of general liability insurance.
- C. Permits shall be issued on a calendar year basis running from January 1 to December 31. Applications for such permits shall be available to residents or established businesses located within the Town of Kent from November 1 through November 30 of each year for the following year. From December 1 on, applications, to the extent permits are still available, shall be accepted from nonresidents.
- D. The annual fee for a food truck permit shall be set by the Town Board and included in the annual fee schedule adopted by the Town Board, as the same may be amended from time to time. Any permit issued after July 1 shall be 1/2 of the annual permit fee and shall run for the balance of the calendar year. Any permit issued to a veteran shall be exempt from the payment of the annual fee. To be exempt from the payment of the requisite permit fee, such veteran shall actually be engaged in the operation of the food truck and shall be present at the location at all times the food truck is in operation.
- E. Food truck permit holders and any employee(s) shall be issued a photographic identification card by the Town of Kent. Such identification shall be maintained on the person of the permit holder and employee at all times that the food truck is in operation and shall be open to the inspection by the Town Code Enforcement Officer.
- F. Secondary permits shall be made available to existing food truck permit holders who wish to provide food vending services on municipally owned properties on a monthly, weekly or daily basis. Such secondary permits shall only be issued to existing food truck permit holders. The fee for such secondary permit shall be set forth in the annual fee schedule, as the same may be amended from time to time.
- G. Notwithstanding the foregoing, any licensed or permitted food truck shall be allowed to operate on private property within the Town at a specific function and at the specific request by such private property owner for the purpose of catering or providing food service for such special function.

§ 39B-3. Location.

- A. Except as otherwise provided for herein, a food truck permit shall allow the holder thereof to conduct the business vending food from a specific, stationary location. Such location shall be on private property or within or on a public thoroughfare or right-of-way. No vending or soliciting of food sales shall occur by the permittee at any location within the Town other than that which is declared on the permit.
- B. A permitted location shall be within a commercially zoned area and shall be subject to the prior approval of the Town Code Enforcement Officer to ensure that such location is safe for use by both vehicles and pedestrians.
- C. An applicant for a food truck permit shall provide proof, in writing, signed by the owner of the particular location or, with respect to state, county or other municipal thoroughfares, signed by the authorized permitting authority, that the applicant has permission to park or locate the food truck at that particular location. Such document shall be signed and acknowledged before a notary public.

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- D. A permitted location shall have an improved parking area and shall have not less than two parking spaces available for patron use. Such parking spaces must be in addition to any parking spaces that are committed to other uses and/or occupancies that are served by the site as specified in the Town's zoning regulations or as set forth on any current site plan for the location.
- E. A permitted location shall not be closer than 500 feet to any existing restaurant, delicatessen, fast food establishment, or other food service establishment.
- F. There shall be no outdoor seating or other accommodation for on-site consumption of food or other vended products. The food truck permit holder shall provide adequate refuse receptacles for patron use and shall provide that refuse deposited therein is removed from the permitted location on a daily basis.

§ 39B-4. Hours of operation.

- A. Food trucks may be operated during the hours of 5:00 a.m. through 9:00 p.m. on any given day.
- B. Food trucks shall be removed from the permitted location within one hour after closing and shall not be returned to the permitted location more than one hour before the permitted opening time on any given day. There shall be no overnight parking of food trucks at any permitted location.

§ 39B-5. Penalties for offenses; revocation.

- A. Any person who violates any provision of this article shall be guilty of an offense and upon conviction thereof shall be subject to a fine of not less than \$100 nor more than \$250 for each violation, or by imprisonment not exceeding 15 days, or both such fine and imprisonment.
- B. Conviction of three violations of any provision of this article shall result in the immediate revocation of the food truck permit.

Section 3. This local law shall take effect immediately.

December 4, 2018

Pledge of Allegiance Supervisor Fleming called the Workshop Meeting to order with the Salute to the Flag.

Workshop Meeting

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

Public Comment

Susan Kotzur was confused about the total cost of Magna5 phone system. Councilwoman Woolley replied \$16,101 which includes the library portion. She asked what our present provider Windstream charges and how often is the \$16k paid. A representative from Magna5 explained the \$16,101 includes all the 75 or so new phones, it is an equipment fee, after that there is a monthly payment for service, the firewalls, data backup is provided as a service. He said the monthly savings on the phone would justify the onetime fee. Mrs. Kotzur asked if this falls under the Procurement Policy. Town Counsel replied it is a specialized technical service; we don't have to follow the Procurement or bidding requirements. She said they did get two quotes but it is not comparing apples to apples.

Mr. Ulich asked for clarification on Item 6 on the workshop agenda. Supervisor Fleming explained we received a quote for the tree that was already down and the tree that has to come down. Three vendors were approached and bids received. The tree that was down was removed already; we now have only the tree that has to be taken down, so we need new bids for that as it is a new scope of work. Town Counsel explained the bids received were not broken down for the

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down tree and the broken tree. Mr. Ulich implored the board to take action because of the property's history.

Councilman Denbaum thinks the board should consider adopting a resolution or local law essentially stating stormwater projects that involve real property of the Town of Kent need Town Board approval not just a quasi approval from a department head.

The Town Board Meeting was called to order with Roll Call

Supervisor Maureen Fleming – present	Councilman Paul Denbaum – present
Councilwoman Jaime McGlasson – present	Councilman Bill Huestis – present
Councilwoman Woolley – present	

Also Present: Town Clerk Yolanda Cappelli, Police Chief Kevin Owens, Building Inspector Bill Walters and Co-Chairperson of Recycling Sue Kotzur, Town Attorney Nancy Tagliafierro, and Director of Finance Yulia Kelly, Recreation Director Jared Kuczenski, Lake Carmel Community Center Board Member Janice Capra and Environmental Consultant Bruce Barber.

RESOLUTION #436 - APPROVE MAGNA5 PROPOSAL

INTRODUCED BY: Councilman Denbaum

SECOND BY: Councilwoman McGlasson

WHEREAS, the Town of Kent has received a proposal to provide telephone and internet services from Magna5, a copy of which is annexed hereto and hereby made part hereof; and

WHEREAS, the services provided are specialized services, and as such, do not require the Town to obtain additional proposals under the Town of Kent Procurement Policy; and

WHEREAS, the Town Board wishes to retain the services of Magna5 consistent with the Proposal.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby approves the proposal of Magna5; and

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

RESOLUTION #437 -ACCEPTING EROSION CONTROL SURETY BOND (TAX MAP 30.20-1-15)

INTRODUCED BY: Councilman Denbaum

SECOND BY: Supervisor Fleming

WHEREAS, the Planning Board, by Resolution dated November 8, 2018, has recommended that the Town Board accept: (i) an Erosion Control Bond in the amount of \$7,730, and (ii) an escrow for inspection fees in the amount of \$1,000, from the owner of the property located at Tibet Drive, Kent New York, identified as Tax Map No. 30.20-1-15 (the "Lot"); and

WHEREAS, the Town Board of the Town of Kent wishes to follow the recommendations of the Planning Board;

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Kent hereby accepts the recommendation of the Planning Board and approves the posting of (i) an Erosion Control Bond in the amount of \$7,730, and (ii) an escrow for inspection fees in the amount of \$1,000.

Motion carried unanimously

RESOLUTION #438 - AUTHORIZING RELEASE OF EROSION CONTROL BONDS

INTRODUCED BY: Councilman Denbaum

SECOND BY: Councilwoman Woolley

WHEREAS, Joseph Bene (the "Owner") owns a parcel of land at 226 Tibet Drive, Kent,

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New York, identified as Tax Map No. 30.20-1-16 (the “Lot”); and

WHEREAS, the Owner posted a bond for erosion control to the Town of Kent in the amount of \$ 8,035.52 and has submitted a request to the Planning Board that the erosion control bond be released to the Owner; and

WHEREAS, the Planning Board, at their meeting held on November 8, 2018, approved Resolution #20 of Year 2018 recommending the release of the erosion control bond in the amount of \$8,035.52 and the Town Board of the Town of Kent wishes to follow the recommendation of the Planning Board;

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Kent hereby authorizes the release of the erosion control bond in the amount of \$8,035.52.
Motion carried unanimously

RESOLUTION #439 - TABLE AUTHORIZING CORRECTION OF VIOLATION, ACCEPTANCE OF PROPOSAL, AND CHARGE TO PROPERTY OWNER TM # 33.65-1-36 & APPROVE CONTRACT FOR GENERATOR MAINTENANCE

INTRODUCED BY: Councilwoman McGlasson

SECOND BY: Councilman Denbaum

Resolved: Authorizing Correction of Violation & Acceptance of Proposal to Charge to Property Owner TM#33.65-1-36 and Approve Contract for Generator Maintenance were tabled.

Motion carried unanimously

RESOLUTION #440 -APPROVING SETTLEMENT OF TAX CERTIORARI PROCEEDING IN THE MATTER OF THE APPLICATION OF ROBERT AND KATHERINE DOHERTY v.THE TOWN OF KENT

INTRODUCED BY: Councilwoman Woolley

SECONDED BY: Councilwoman McGlasson

WHEREAS, the Town of Kent is currently a party respondent in a certain tax certiorari proceeding entitled **ROBERT AND KATHERINE DOHERTY V. TOWN OF KENT, ET AL**, currently pending in the Supreme Court, State of New York, County of Putnam, in which the total assessed valuation of premises shown on the Kent Tax Map as Section 33.48, Block 1, Lot 18 as listed on the 2015, 2016, 2017 and 2018 Assessment Roll are being contested; and

WHEREAS, a proposed settlement of said matter has been negotiated by and among the Assessor of the Town of Kent, the Kent Town Attorney and Counsel to Petitioner, and the Town Assessor has recommend acceptance and approval of the proposed settlement, the terms of which are set forth in a proposed Consent Judgment, a full and complete copy of which is annexed hereto and hereby made a part hereof; and

WHEREAS, the Assessor of the Town of Kent and the property owner have agreed to settle the proceeding by reducing the assessed valuation of the subject premises as follows:

<u>Assessment Roll Year</u>	<u>Original Assessment</u>	<u>Reduced Assessment</u>	<u>Amount of Reduction</u>
2015	267,475	225,000	42,475
2016	267,475	225,000	42,475
2017	267,475	235,000	32,475
2018	267,475	235,000	32,475

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby approves and ratifies the settlement of the above described proceeding as recommended by the Town Assessor as set forth above; and

BE IT FURTHER RESOLVED, that Jamie Spillane, Esq. of the Firm of Hogan & Rossi, the Kent Town Attorney, or any other member of said Firm, is hereby authorized and directed to sign, on behalf of the Town of Kent, said Consent Judgment in the form annexed

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hereto or, if hereinafter modified or amended, in such form as may be deemed satisfactory to the Town Attorney.

Motion carried unanimously

RESOLUTION #441 – ADD TO THE AGENDA

INTRODUCED BY: Supervisor Fleming

SECONDED BY: Councilwoman McGlasson

Resolved: Approve Agreement for Reimbursement of Stormwater Retrofit Expenses and Authorize correction of Violation and Acceptance of Proposal & Charge to Property Owner TM#21.17-1-40 were added to the agenda.

Motion carried unanimously

RESOLUTION #442 - RESOLUTION APPROVE AGREEMENT FOR REIMBURSEMENT OF STORMWATER RETROFIT EXPENSES

INTRODUCED BY: Supervisor Fleming

SECOND BY: Councilwoman McGlasson

WHEREAS, the Town of Kent is in receipt of an Agreement for Reimbursement of Stormwater Retrofit Expenses from the East of Hudson Watershed Corporation (EOHWC) which provides for EOHWC to reimburse the Town for certain expenses associated with compliance with the Municipal Separate Storm Sewer Systems Permit; and

WHEREAS, the Town of Kent wishes to enter into the Agreement for Reimbursement, a full and complete copy of the proposed agreement being attached hereto and hereby made a part hereof;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby approves the attached Agreement for Reimbursement of Stormwater Retrofit Expenses and authorizes the Town Supervisor to execute the attached agreement and any documents necessary to give effect to this Resolution.

Motion carried unanimously

RESOLUTION #443 - AUTHORIZING CORRECTION OF VIOLATION, ACCEPTANCE OF PROPOSAL & CHARGE TO PROPERTY OWNER TM # 21.17-1-40

INTRODUCED BY: Supervisor Fleming

SECOND BY: Councilman Huestis

WHEREAS, the Code Enforcement Officer of the Town of Kent issued an Order to Remedy a Violation dated October 25, 2018 (the “Order to Remedy”) directing the owner to remove a fallen tree and repair a fence around an inground pool of the property identified as 8116 Chief Ninham Court, Kent, New York, Tax Map No. 21.17-1-40 (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.

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 for the dangerous tree remaining on the Property; 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, Inc. in the amount of \$500, a copy of said proposal is annexed hereto and incorporated by reference; and

NOW, THEREFORE, BE IT RESOLVED, the Town Board of the Town of Kent hereby accepts the proposal of FI Adams, Inc. for the correction of the violation at a cost not to exceed \$500; and

FURTHER RESOLVED, that the actual cost of the correction of the violation, plus the

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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 #444 – APPROVE VOUCHERS AND CLAIMS

INTRODUCED BY: Councilman Huestis

SECONDED BY: Supervisor Fleming

Resolved: All Vouchers #200148677 - #200148772 and claims submitted by:

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1. Durante Rentals	\$3,415.00	Backhoe Rental: Lake Tibet
2. Hogan & Rossi	\$5,416.63	Legal Services: December
3. Insite Engineering	\$2,272.50	Lake Carmel Dam
4. Medicare Reimbursements	\$25,279.72	Medicare Reimbursements
5. NYS & Local Retirement System	\$1,002,454.00	2019 Annual
6. RTI Industries	\$20,400.00	Landfill Excavator/Grinder

In the amount of \$67,089.13 may be paid.

Motion carried unanimously

PUBLIC COMMENT- There was none.

RESOLUTION #445 – ADJOURNMENT

INTRODUCED BY: Councilman Huestis

SECOND BY: Councilwoman McGlasson

Resolved: The Town Board meeting of December 4, 2018 adjourned at 8:55 p.m.

Motion carried unanimously

Respectfully submitted,

Yolanda D. Cappelli
Town Clerk

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