

## TOWN BOARD MEETING/WORKSHOP AUGUST 1, 2017

A regular meeting was held at 7:00 p.m. on Tuesday, August 1, 2017 at the Kent Town Hall, 25 Sybil's Crossing, Town of Kent, New York, 10512

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

### **Police Officer Swearing In – Ryan Piekarski**

Supervisor Fleming stated Officer Ryan Piekarski was appointed at a special town board meeting held on Friday July 28<sup>th</sup> because the Police Academy started today. Police Officer Piekarski was sworn in by Supervisor Fleming.

### **Police Sergeant Swearing In – Joseph Fleishman**

Supervisor Fleming explained Police Officer Joseph Fleishman was recommended by the Chief of Police to be promoted to fill the position of Sergeant due to the retirement of Sergeant Ron Yeager. She thanked Ron Yeager for his years of service and asked for a round of applause.

### **Resolution #267 - Promotion of Joseph Fleishman to Sergeant**

On a motion by Supervisor Fleming

Seconded by Councilwoman McGlasson

Resolved: On the recommendation of Police Chief DiVernieri, Joseph Fleishman was promoted to the rank of Sergeant in the Kent Police Department.

Motion carried unanimously

Sergeant Fleishman was sworn in by Supervisor Fleming.

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

### **Public Comment**

Shauna Denkensohn, a resident of Hill & Dale addressed the board on the proposed opening and the Zoning Boards approval of a Zoning Variance for a cement plant on Route 52 . (Please see attached statement). Town Attorney Nancy Tagliaferro clarified that the Zoning Board of Appeals did not grant a variance for the construction or the maintenance of a concrete plant they found there was an existing use variance from 1948 which is permanent and runs with the land. Ms. Denkensohn asked if it hasn't been used for a period of time does it go away. Town Attorney answered no, not if it's a use variance if it's a pre-existing non conforming use then yes. If they don't carry on that use for a period of 2 years or 18 months or 18 months within 2 year aggregate then they would have lost the use. But the Zoning Board found that they've always had the use and that it was permanent, meaning that it runs with the land. Supervisor Fleming said that is the Building Inspector's position. Town Attorney continued stating that the residents should know that the Town Board supported the Building Inspector and paid legal services to attend Zoning Board of Appeals meeting and put written submissions supporting his determination. Shauna asked can the Zoning Board change a zoning of an area. Town Attorney answered no, only the Town Board can change the zoning of an area and that would require a change to the town code that is different from use variance. Shauna changed her recommendation she asked for the Town Board to use its powers and creativity to make sure this neighborhood and Town is not impacted by what is considered to be one of the dirtiest industries in this county, according to the government agencies and environmental groups. A resident stated this is the most important decision the Town Board will make. He wants to know if the Town Board is using all of its power to fight it. Councilman Denbaum stated he admonished the Zoning Board at the last meeting and supported hiring legal counsel to go against it they have been in executive sessions fighting it the whole time. He believes the Zoning Board was wrong and the Town Board should make every effort within its legal rights. Erica Nitz of Hill and Dale Board also listed her credentials, representing 140 homes, 200 plus voters and wants the Town Board to know they vehemently oppose allowing this cement plant. Aldo Vitagliano, an attorney representing some of the neighbors stated his credentials and believes the Zoning Board made the wrong decision in their 12 page decision. Kent was appealing what they believe was a correct decision of the Building Inspector that the concrete plant could not be open since the use was abandon for failure to operate it during the period required by the town code. The decision capped one hearing in June where he asked the Board to keep the hearing open allowing neighbors to submit additional information but the hearing was closed to his surprise. They submitted a legal brief to rebut the decision articulating they thought it was an area variance given in 1948 and gave case law to that effect; they believe it was use variance. The Zoning Board went on in his opinion to incorrectly state that a use variance continues forever. If they had a use variance for a nuclear reactor it stays a nuclear reactor forever. He pointed out a court of appeals case where an identical situation, a use variance, it had been abandoned and the court of appeals said no it's a non conforming use. He believes there is a legitimate argument, they are appealing the decision and continue to look for facts and new evidence which

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cannot be given to the Zoning Board because the hearing has been closed. There is one piece of paper from 1948 substantiating their position. The Town of Kent and its officials have never characterized the use as one permitted due to non conformity it always was a use variance. Yet, in their discovery they found a memo from November 28, 1998 from Bob Rogers of the Zoning Board regarding use interpretation from Putnam Concrete Variance Application concerning use interpretation and that the Board determined that it used to be non conforming but page 10 never characterized uses permitted due to non conformity and in 1998 non conforming use. He believes it was the wrong decision and an Article 78 has to be taken and filed within 30 days from when the decision is filed with the Town Clerk. It is not uncommon for a Town to bring an Article 78 against its Zoning Board. They have evidence in a newspaper article that shows initially the plant was a concrete block plant, and over the years became a ready mix plant in the 70's a more intense use. They cannot find evidence of site plan approval or a variance to expand the use. In 1998 there is a decision to expand the non-conforming use; again it is not a non-conforming use it is a use variance that lasts forever. There is support in the Town's records for a decision to overturn the Zoning Board. There is also a drop back position, a mechanism in the Town Code, Zoning law, §267a, where there can be a rehearing but it has to be unanimous vote of the Zoning Board of Appeals. He believes the easiest way is for the Town Board to pass a resolution insisting the Zoning Board opens up the hearing again. The Zoning Board did not cite their Court of Appeals case; they cited everything else except what they pointed out. Supervisor Fleming stated she had a discussion with someone about the possibility of reopening the hearing but it was too late in the day to get a legal opinion and others. She does not believe the Zoning Board is opposed to reopening the public hearing legally. She thinks it is unfortunate at the time of the hearing what is being said now perhaps was not said at the public hearing. Councilman Denbaum stated the least the Town Board can do tonight is to pass a resolution recommending the Zoning Board of Appeals reopen the public hearing. Supervisor Fleming stated that they can explore whether the Zoning Board can reopen the public hearing and she would be willing to have a special meeting on this issue to vote on that. Town Attorney stated there is a very short time to appeal and asked Mr. Vitagliano whether or not his clients are prepared to bring forth an Article 78 proceeding and he said yes but it would add more weight if the Town of Kent itself filed it. Supervisor Fleming stated if the 2 communities file an Article 78 that would carry more weight. If the Zoning Board reopens the hearing then there would be no reason to file an Article 78. Bob Bradley of the Zoning Board decided to speak. He stated the issue before the Zoning Board was extremely limited as to the facts, a very poorly written 1948 decision which was based on a poorly written 1937 zoning law. The information given at a public hearing was a legal question about the use variance at the time; town counsel did not agree with them, they thought it was best when it came to the fact of the law in this particular case. All the questions brought up are probably true he stated with issues regarding the environment. If they issued a use variance, it would never have been granted now, because of the criteria for use variance are so high they would never meet it. Issues concerning the use variance as part of SEQRA and the environment would have been brought up and it would have been the proper form to do it. The question before the Zoning Board was extremely limited only as to the legal issue in 1948. That was presented to them; these issues though factual and probably correct concerning the environment were not a part of what was presented to the Zoning Board. If in fact it has to go to the Planning Board for a site plan approval, they have been asked if they would approve any other uses on the property besides this and the question would be that they did not approve the use and that is something that has been an incredible misunderstanding. They found from a 1948 variance that it was a use variance. If there is new evidence and it is decided to reopen the hearing the question still comes back to the 1948 variance. He could not speak for the entire Zoning Board but they have always been willing to reopen. The Town Attorney explained a lot of the Board's decision was based on the pattern and practice of how the Town treated the property and the use of the property over the years. If evidence is shown it was treated as a non conforming use or other permitted use that might sway the Board to overturn their decision; that the manufacturing use was a permitted use in 1948 they were asking for a variance on one of the conditions as opposed to a use variance. Mr. Bradley stated the Zoning Board can only rule on actual facts and what is presented to them. The facts presented to them (1) the variance granted in 1948 and (2) a consent judgment signed by the Town in 2005 that legalized the uses on property. It involved the Court, plaintiff, defendant and the Town Attorney it was not answered at all when it came up as evidence. Town Attorney stated the consent judgment had several conditions contained in it prior to them being able to use the property and many of them not met. Mr. Bradley said it took hours including consulting with their attorney at great length, who they ultimately took advice from. Supervisor Fleming asked if the Zoning Board reopens the hearing, which is the best option; when that decision will be made. Mr. Bradley stated the next workshop is Monday, August 7<sup>th</sup>. Supervisor Fleming suggested they could call a special meeting on the same day as the workshop to take a vote as to whether or not the Board will reopen the public hearing. A discussion took place about the process and method for a special meeting. Chris Pullen thinks everyone believes this operation will commence in the next couple of months, no one really understand what this use variance means and the time line. Supervisor Fleming indicated that is why she asked someone from the Zoning Board and the Building Inspector to attend tonight she understands everyone has questions. Building Inspector

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Walters explained he issued a building permit back in September of 2016 for renovations on the concrete batch plant that was granted until the accident occurred, with the decision of the ZBA and the determination from the engineers that building was determined to be safe and the permit has been reissued. He is currently waiting for plans for the interior wall which is changed from the original permit to see how that is to be redesigned. With the approval of the ZBA to allow the batch plant to be restarted the north wall which is the collapsed wall needs to be reconstructed. He is waiting for those set of plans then he'll resubmit a new permit for that north wall but the interior and part of the batch plant permits are already there. It is his understanding there is no requirement as they're not making the building bigger there is no requirement for them to go back to the Planning Board because there is no change. A resident asked about EPA regulations. Building Inspector Walters explained they would have to change the building and the process but since they have made concrete in 2005 which was approved by the Planning Board and the Courts. They would need to change something in order to go back to the Planning Board but because they have not changed the use there is no need to go back. DEC has visited the plant they have no problems with the site, it is not within the wetlands. Councilman Denbaum reiterated what the Building Inspector Walters cannot enforce rules, regulations or laws that befall under EPA, DEC or any other governmental entity but it doesn't mean it will not be enforced it just doesn't fall under his jurisdiction of authority. Building Inspector Walters stated that according to Kent Investors they are probably estimating 3 months before any operation can even start. A resident asked Bill if he has changed his opinion on the abandonment. Bill replied the ZBA did that. Supervisor Fleming explained the board supported the building inspector and his interpretation; our attorney appeared at the public hearing on the board's authorization in support of Bill's position. Robert Palazzo a 37 year resident of Kent asked about the usage he doesn't understand if it doesn't apply to today's code why is it still enforced. He cannot put up a shed, but yet they're allowed to open up an environmental hazard that is cancerous. He suggested changing the laws. He asked how long it will take if the Zoning Board entertains this until the plant is shut down. He asked will the town get sued and lose another \$2million case like we did on Nichols Street. He now has a sewer plant which he smells every day. Mr. Bradley explained the difference between an area variance and use variance; if you live in the houses across from the Kent Schools which is a commercial zone, houses that have been built there are pre-existing and should have never been built there but we accept them as being pre-existing non compliant. If they had a variance to build a residential house in a commercial zone that variance would run forever as a use variance changing the use of the underlying zoning. An area variance applies to a shed, if the shed is too close to the sideline; it moves lines and allows things to be built because of the environment. Our Town Code allows it only to last for a year and in 1948 it ran with the land. Homeowners buy it with the consideration the use variance is still good. Supervisor Fleming asked all are interested in the process, the town board will be recommending a meeting on Monday in addition to the workshop, if you put this to a vote on whether or not to reopen the public hearing, you need a super majority, if you get the super majority, they would then reschedule another public hearing would it be in September. She asked so those present can be prepared it will be posted on the website if it is reopened and the date of the new public hearing people would have an opportunity to come forth at that time. A resident asked if it is going to be reopened will it stop the clock and will the Board rescind their decision. Bob Bradley stated that is two issues, it would help the Board if new evidence in relation to the use variance and when the use changed to a batch plant if it ever did. Bob Bradley explained the closing of the public hearing seems to be an issue to the public; it was not the Board's idea but rather was a suggestion by counsel because the issues became legal. They received all the letters and correspondence as well as legal briefs. A resident stated in 1946 it was asbestos we now have crystalline silica, this September OSHA has set the new standard to protect the workplace environment against crystalline silica, this is the beginning of an ongoing study, this is a problem. Ms. Denkensohn commented it is difficult for all of them as a non organized group and they are looking to the Town Board to make the case for them. Supervisor Fleming stated tonight the Town Board will pass a resolution for the Zoning Board to consider reopening the public hearing, holding a special meeting on Monday, 8/7 after their workshop and she will keep the public apprised via the website or by sending her an email at [mfleming@townofkentny.gov](mailto:mfleming@townofkentny.gov). The board in agreement there was enough time for publication. Someone asked what if they don't get a super majority. Councilman Denbaum replied the residents, their attorneys and the Town Board will huddle before the deadline will pass. Supervisor Fleming said the board is very aware; this is not the last meeting.

### **The Town Board Meeting was called to order with Roll Call:**

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

Also present: Town Clerk Yolanda Cappelli, Town Attorney Nancy Tagliafierro, Police Chief Alex DiVernieri, Recreation Director Lou Fernandez, Building Inspector Walter, Zoning Board Member Bob Bradley.

**Resolution #268 - Add Item to the Agenda**

On a motion by Councilman Denbaum  
Seconded by Councilwoman McGlasson  
Resolved: Zoning Board rehearing was added to the agenda.  
Motion carried unanimously

**Resolution #269 - Request Zoning Board of Appeals Rehearing – Kent Investors LLC.**

On a motion by Councilman Denbaum  
Seconded by Councilman Chin  
Resolved: The Town Board strongly recommends that the Zoning Board of Appeals exercise their right under Section 267-a. (12) of Town Law to hold a rehearing on the Kent Investors LLC. Appeal of the determination of the Building Inspector dated May 18, 2017; and to rescind the July 17, 2017 Resolution regarding the same on or before August 7<sup>th</sup>, 2017.  
Motion carried unanimously

**Resolution #270 - Hire Concessionaire for Kent Community Day**

On a motion by Councilman Denbaum  
Seconded by Councilwoman McGlasson  
**WHEREAS**, the Town of Kent is in need of a concessionaire for Kent Community Day, scheduled for Saturday, September 9, 2017 at the Edward Ryan Memorial Park in Kent, New York; and

**WHEREAS**, the Director of Recreation and Parks has negotiated with Carmel Bagel Deli, who previously successfully operated the concession stand during Kent Community Day from 2012 until 2015; and

**WHEREAS**, in return for operating the concession stand, Carmel Bagel Deli has offered to pay the Town of Kent 15% of the net profits earned on Kent Community Day; and

**WHEREAS**, the Director of Recreation and Parks has recommended the acceptance of the proposal from Carmel Bagel Deli, and the Town Board of the Town of Kent wishes to accept the recommendation of the Director of Recreation and Parks;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Kent hereby accepts the proposal of Carmel Bagel Deli to act as concessionaire in return for 15% of the net profits earned that day; 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 #271 - Rejecting Bids & Re-advertising for Inclusive Playground Equipment**

On a motion by Councilman Denbaum  
Seconded by Councilwoman McGlasson

**WHEREAS**, the Town of Kent previously advertised a Notice To Bidders seeking bids for Inclusive Playground Equipment; and

**WHEREAS**, bids received in response to the advertisement were opened and publicly read aloud on July 21, 2017 in accordance with the Notice to Bidders; and

**WHEREAS**, the Notice to Bidders specifically advised that the Town reserved the right to reject all bids and re-advertise for new bids; and

**WHEREAS**, the Town Board of the Town of Kent wishes to reject the bids for Inclusive Playground Equipment and authorize its Town Clerk, Yolanda D. Cappelli, to re-advertise for bids for Inclusive Playground Equipment for the Kent Town Hall Complex located at 25 Sybil's Crossing, Kent Lakes, New York 10512 at noon on Friday September 1, 2017;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Kent hereby rejects the bids which were opened on July 21, 2017, and authorizes its Town Clerk, Yolanda D. Cappelli, to re-advertise for bids for Inclusive Playground Equipment with support from Town Counsel Nancy Tagliafierro .

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### **Upon Roll Call**

Councilman Denbaum – nay   Councilwoman McGlasson – aye  
Councilman Huestis – aye as long as town counsel reviews and supports the motion.  
Councilman Chin – aye  
Supervisor Fleming – aye  
Motion carried

### **Resolution #272 - Introducing LL # \_\_\_\_/2017 – Amendment to Town Code Acceptance of Surety Bonds & Letters of Credit**

On a motion by Councilman Denbaum  
Seconded by Councilwoman McGlasson

BE IT RESOLVED that an amendment to Kent Town Code authorizing the acceptance by Town of Kent Boards of surety bonds and letters of credit in addition to cash bonds is hereby introduced by Councilman Denbaum, as Introductory Local Law # \_\_\_\_ of the year 2017 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 Amendment, 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 Amendment at the Town Hall, in the Town of Kent, New York at 7:00 o'clock P.M. on September 5<sup>th</sup>, 2017, 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 five (5) days prior thereto.

### **LOCAL LAW NO. \_\_\_\_ OF THE YEAR 2017**

#### **LOCAL LAW AUTHORIZING THE ACCEPTANCE BY TOWN BOARDS OF THE TOWN OF KENT OF SURETY BONDS AND LETTERS OF CREDIT IN ADDITION TO CASH BONDS WHEN A BOND IS REQUIRED BY THE TOWN CODE**

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

Section 1: This Local Law shall be known as: “Local Law authorizing the acceptance by Town of Kent Boards of surety bonds and letters of credit in addition to cash bonds”.

Section 2: The Town of Kent Code contains several sections which require the posting of a cash bond. The Town Board wishes to expand the types of bonds which may be accepted by the various Town Boards which require such bonds to include surety bonds and letters of credit wherever a cash bond is required.

Section 3. Chapter 39A regarding “Freshwater Wetlands” is hereby amended to read as follows:

#### **§ 39A-9. Limitations, duration and posting of permit; inspections; certificate of completion.**

A. In granting a permit, the approving authority may limit the same or impose conditions or limitations designed to carry out public policy set forth in this chapter. The approving authority may require a **cash** bond, **a surety bond or a letter of credit** in an amount and with ~~[surety and]~~ conditions satisfactory to it securing to the Town of Kent compliance with the conditions and limitations set forth in the permit. The approving authority, or its designated agent, may inspect the premises in question from time to time. The approving authority shall suspend or revoke a permit if it finds after public hearing on 10 days' written notice to the applicant, and such further notice as may have been required for the public hearing held under § 39A-7E hereof, that the applicant has not complied with one or more of the conditions or limitations set forth in the permit or has exceeded the scope of the permitted activity. An immediate stop-work order may, however, be issued by the Town Engineer pending such hearing where, in his reasonable judgment, additional damage may be done to the wetland, water body, watercourse or regulated area, pending a determination on such hearing. No public hearing shall be required for the suspension or revocation of a permit where no public hearing was required for the issuance of the same.

Section 4. Chapter 57 regarding “Driveways” is hereby amended to read as follows:

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### § 57-24. Bond or surety.

No bond or surety shall be required of any applicant in connection with a driveway permit unless such work will require the breaking of pavement on a Town road or unless culvert work or other work, such as erosion control work, is required for satisfactory construction. In such case, the Highway Superintendent shall require sufficient surety, in ~~[a form and manner satisfactory to him,]~~ **the form of a cash bond, surety bond, or letter of credit** to ensure the restoration of the pavement or completion of the work, as the case may be.

Section 5. Chapter 63 regarding "Soil Removal" is hereby amended to read as follows:

### § 63-5. Performance of work.

M. The applicant shall file with the Town Board a performance bond, in such form and with such surety as shall be acceptable to the Town Board, in such amount as the Town Board may deem sufficient to ensure the faithful performance of the work to be undertaken.

Section 6. Chapter 62 regarding "Sewer Use, Connections and Rents" is hereby amended to read as follows:

### § 61-74. Delinquent payments; performance bonds; liability insurance.

B. Performance bonds. The Inspector may decline to reissue a permit to any user which has failed to comply with the provisions of this chapter or any order or previous permit issued hereunder, or may require, as a condition of reissuance, such user to first file with the sewer district a ~~[satisfactory]~~ **cash bond, surety bond or letter of credit**, payable to the sewer district, in a sum not to exceed a value determined by the Inspector to be necessary to achieve consistent compliance.

Section 7. Chapter 66 regarding "Steep Slope Protection and Stormwater Management" is hereby amended to read as follows:

### § 66-7. Performance bond; inspection.

A. Performance bond.(1) In order to insure the full and faithful completion of all construction activities related to compliance with all conditions set forth by the Town in its issuance of a steep slope and erosion control permit, the Planning Board may require the owner or applicant to provide, prior to construction, a performance bond, supported by sufficient security in the form of **cash bond, surety bond**, a cash escrow account, irrevocable letter of credit or certified check drawn upon an national or state bank or other cash equivalent, which guarantees satisfactory completion of the project and names the Town as the beneficiary. The security shall be in an amount to be determined by the Planning Board based on submission of final design plans.

Section 8. Chapter 66A regarding "Subdivision of Land", Article VI, is hereby amended to read as follows:

### § 66A-32. Performance security; maintenance security.

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#### C.

Performance security required by the Planning Board.

(1) Where a performance security is required by the Planning Board, the subdivider shall file with the Town **a cash bond, a security bond or a letter of credit** in an amount sufficient to cover 100% of the cost of the required improvements as estimated by the Superintendent, the Planning Board Planner, the Planning Board Environmental Consultant or the Planning Board Engineer. Such security shall be subject to the review and acceptance by the Town Attorney as to form, sufficiency and manner of execution. The security shall be accepted by the Town Board prior to the time of the Chairman's signature on the final plat. The security shall be accepted by the Town Board and filed with the Town Clerk prior to commencement of any site work or construction. The security shall run for a term to be fixed by the Planning Board, but in no case for a longer term than three years; provided, however, that the term of such security may be extended by the Planning Board with the consent of the parties thereto. If the Planning Board decides at any time during the term of the security that the extent of building development that has taken place in the subdivision is not sufficient to warrant all of the improvements covered by the security, or that the required improvements have been installed in sufficient amount to warrant reduction in the amount of the security, then, upon approval by the Town Board, the Planning Board may modify its requirements for any or all such improvements, and the amount of such security shall be reduced by an appropriate amount so that the new amount will cover the cost in full of the amended list of improvements required by the Planning Board.

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F. Execution of contracts. The Town Board resolution shall require that the owner or owners of real property execute such contracts with the Town as the Town Board may deem necessary for the purpose of ensuring that the expense of such construction or installation, including the cost of issuing obligations to raise moneys to pay the expense thereof and interest on such obligations, shall not be an undue burden upon the property deemed benefitted by the agreements or of such improvement district or extension thereof as the case may be and may require a security agreement, including but not limited to the filing of a surety bond, letter of credit, or the deposit of cash or securities in a form approved by the Town Attorney and accepted by the Town Board so as to assure the performance of such contracts.

Section 9. Chapter 77 regarding "Zoning", Article XVII regarding "Special Use and Site Plan Requirements" is hereby amended to read as follows:

§ 77-61. Approval procedure.

C. Performance bond or surety and inspection fee. The applicant may be required to post a performance bond **in the form of a letter of credit, cash bond** or surety **bond** in an amount sufficient to assure that all streets or other public improvements shown on the site plan are suitably graded and paved, and that street signs, sidewalks, streetlighting, curbs, gutters, street trees, water mains, sanitary sewers, fire alarm signal devices, including associated ducts, pipes, cable and connecting facilities, are installed in accordance with applicable standards, specifications, and procedures acceptable to the Town. Prior to commencement of work and as a condition of a building permit, the applicant shall pay an inspection fee in an amount as set from time to time by resolution of the Town Board.

Section 10. 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 11: 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.

**Resolution # - Appoint Member to the Kent Planning Board**

On a motion by Councilman Chin

Seconded by Supervisor Fleming

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

**WHEREAS**, following an executive session held on June 8, 2017, the Planning Board recommended appointing Stephen Papas to fill the vacant position for the term expiring December 31, 2020; and

**WHEREAS**, the Town Board has interviewed applicants for the vacant Planning Board seat and has found Stephen Papas to be qualified to fill the vacant position; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Kent hereby appoints Stephen Papas to fill the vacancy on the Town Planning Board, to a term expiring on December 31, 2020.  
UPON ROLL CALL VOTE:

Councilman Denbaum – nay. He reminded the public the town board received recommendation from the Planning Board to retain certain counsel, Ron Blass from VanDeWater. The Chairman pleading with them to retain said counsel for the Zoning Board of Appeals and in front of us tonight the Zoning Board member blamed the decision at the feet of the counsel for the Zoning Board. He couldn't do anything, it was the advice of counsel. He lead the effort to replace said Zoning Board and Planning Board counsel with opposition from the Planning Board because he thinks it is the best interest for us to make this decision. Once again he disagrees with the Planning Board's recommendation, it is not a conspiracy because these decisions have real world impact. He votes no.

Councilwoman McGlasson – nay

Councilman Huestis – nay

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Councilman Chin – aye

Supervisor Fleming – aye. She thinks it unfortunate we are passing over an eminent qualified, intelligent volunteer who has been recommended by the Planning Board by establishing artificial qualifications that have never been in effect, herself being in example of that, basically political reasons and voted yes.

Motion not carried

### **Resolution #273 - Authorizing Removal of Dock**

On a motion by Councilman Chin

Seconded by Councilman Huestis

WHEREAS, the Town of Kent Zoning Code Enforcement Officer, William Looney, recommends the removal of the lake dock located in the rear of the premises located at 8 Teatown Road in the Lake Carmel Park District (the “Dock”) ; and

WHEREAS Mr. Looney advises that the Dock is severely compromised and should be removed in the interest of public safety; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby authorizes the Zoning Code Enforcement Officer and/or the Lake Carmel Park District Crew Chief to take all necessary actions in order to remove the Dock in the interest of public safety.

Motion carried unanimously

### **Resolution #274 - Contractor to Cleanup 10 Ridgeway Court**

On a motion by Councilman Chin

Seconded by Councilwoman McGlasson

WHEREAS, the Code Enforcement Officer of the Town of Kent issued an Order to Remedy a Violation dated June 15, 2017 (the “Order to Remedy”) directing the owner to remove all rubbish from the exterior area of the property identified as 10 Ridgeway Road, Tax Map 33.27-2-18 (the “Property”); and

WHEREAS, the Order to Remedy requires the owner to correct the violations or respond to the Code Enforcement Office within ten days and, to date, the owner of the Property has not responded; and

WHEREAS, pursuant to Chapter 55A of the Town Code of the Town of Kent regarding “Property Maintenance”, upon the failure of any owner to comply, the Building Inspector is authorized to correct a violation subject to the approval of the Town Board; and the Town Board wishes to authorize the Building Inspector to correct the violation; and

WHEREAS, consistent with the Town’s Procurement Policy, the Town of Kent requested three written proposals from contractors to correct the violation on the Property and received one proposal in response from FI Adams, a copy of which is annexed hereto and incorporated by reference; and WHEREAS, the Town Board of the Town of Kent wishes to accept the proposal submitted by FI Adams Inc.;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby accepts the bid of FI Adams Inc. for the correction of the violation; and

FURTHER RESOLVED, that the actual cost of the correction of the violation, plus the accrued legal rate of interest from the date of completion of the work, shall be charged to the property owner by the Town in accordance with Chapter 55A-12(B).

Motion carried unanimously

### **Resolution #275 - Permit for Community Tag Sale Lakeview Church**

On a motion by Councilwoman McGlasson

Seconded by Councilman Chin

WHEREAS, pursuant to Chapter 58 of the Code of the Town of Kent, no temporary sales event may be conducted in the Town of Kent without first applying for a permit from the Town Board; and

WHEREAS, Lakeview Community Church has submitted an application to conduct a temporary sales event in the form of a community tag sale at its location at 387 Route 52 on September 16, 2017, with a rain date of September 23, 2017; and

WHEREAS, the Town Board has reviewed the Application and supporting documentation and finds the Application to comply with the requirements of the Town Code of the Town of Kent in all respects; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby authorizes the issuance of a permit to Lakeview Community Church to conduct a community tag sale at its location at 387 Route 52 on September 16, 2017, with a rain date of September 23, 2017.

Motion carried unanimously

### **Resolution # 276 - Ownership Status of Property Adjacent to 29 Amawalk Road**



TOWN BOARD MEETING/WORKSHOP AUGUST 1, 2017

On a motion by Councilwoman McGlasson  
Seconded by Councilman Denbaum

The strip of land adjacent to 29 Amawalk Road is unneeded real property which the Town wishes to convey or offer for sale and setting a public hearing on the matter on September 5<sup>th</sup>, 2017 at 7:00 p.m. and authorizing the Town Clerk to cause a notice of public hearing to be published.  
Motion carried unanimously

**Resolution #277 - Approval of Vouchers & Claims**

On a motion by Councilman Huestis  
Seconded by Councilman Chin

Resolved: All Vouchers and claims submitted by:

1. City Carting	\$4,858.98	Lake Carmel Garbage
	\$5,713.12	
	\$6,710.91	
2. Clove Excavators	\$237,703.75	Blacktop
3. Computer Professionals	\$2,015.00	Network Consulting
4. Genserve	\$4,690.00	Generator Service
5. Lumar Plumbing	\$2,216.00	Water District #1 Repair
6. NYCOMCO	\$2,622.00	2 Way Radio Police
7. NYS Dept of Civil Service	\$202,291.77	Health Insurance
8. Stateline Landscaping	\$2,775.00	Disposal from Harvesting
9. Summit Bobcat	\$2,758.00	Tracks
10. Terry Boalt	\$3,733.33	Kent PD Steps
may be paid		

Motion carried unanimously

**Public Comment** – Supervisor Fleming reminded those there is no formal second meeting in August. There is a brief daytime meeting on Thursday, August 24<sup>th</sup> at noon for the purpose to approve vouchers. The first meeting in September will be September 5<sup>th</sup> instead of the 12<sup>th</sup>.

**Resolution #278 - Adjournment**

On a motion by Councilwoman McGlasson  
Seconded by Supervisor Fleming  
Resolved: The Town Board meeting of August 1, 2017 adjourned at 9:40 p.m.  
Motion carried unanimously

Respectfully submitted,

Yolanda D. Cappelli  
Town Clerk