

TOWN BOARD MEETING
TOWN HALL, MAHOPAC, N.Y.

A Regular Meeting of the Town Board of the Town of Carmel was called to order by Supervisor Kenneth Schmitt on the 17th day of May 2017 at 7:22 p.m. at Town Hall, 60 McAlpin Avenue, Mahopac, New York. Members of the Town Board present by roll call were: Councilman Schneider, Councilman Lupinacci, Councilwoman McDonough, Councilman Lombardi and Supervisor Schmitt.

The Pledge of Allegiance to the Flag was observed prior to the start of official business. A moment of silence was held to honor those serving in the United States Armed Forces.

MINUTES OF TOWN BOARD MEETINGS HELD ON 4/19/17 AND 5/3/17 - ACCEPT AS SUBMITTED BY THE TOWN CLERK

On motion by Councilman Lombardi, seconded by Councilman Lupinacci, with all members of the Town Board present and voting “aye”, the minutes of the Town Board meetings held on April 19th and May 3rd 2017 were accepted as submitted by the Town Clerk.

CARMEL FIRE PROTECTION DISTRICTS #1 & #2 - ENTRY INTO LICENSE AGREEMENT AUTHORIZED - USE OF THE TOWN OF CARMEL POLICE BOAT BY THE MAHOPAC VOLUNTEER FIRE DEPARTMENT AND THE MAHOPAC FALLS VOLUNTEER FIRE DEPARTMENT

RESOLVED that the Town Board of the Town of Carmel, acting as Police Commissioners as well as Commissioners of Town of Carmel Fire Protection Districts #1 and #2, hereby authorizes entry into a License Agreement for the use of the Town of Carmel Police Boat by the Mahopac Volunteer Fire Department and the Mahopac Falls Volunteer Fire Department, for both emergency response and training purposes; and
BE IT FURTHER RESOLVED that Town Supervisor Kenneth Schmitt is hereby authorized to execute said license agreement on behalf of the Town of Carmel, said agreement to be in form as attached hereto and made a part hereof.

Resolution
Offered by: Councilman Schneider
Seconded by: Councilman Lupinacci

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	<u>X</u>	<u> </u>
John Lupinacci	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

REVOCABLE LICENSE AGREEMENT

AGREEMENT made and entered into this _____ day of May, 2017 by and between the TOWN OF CARMEL, a municipal corporation of the State of New York, having its principal office and place of business at 60 McAlpin Avenue, Mahopac, New York, 10541 (the "TOWN"), and the MAHOPAC FALLS FIRE DEPARTMENT, INC., a voluntary fire company with a principal address of PO Box 190, Mahopac Falls, NY 10542, (hereinafter designated as "FALLS"); and the MAHOPAC FIRE DEPARTMENT, INC., a voluntary fire company with a principal address of PO Box 267, 741 Route 6, Mahopac, NY 10541, (hereinafter referred to as "MAHOPAC")

(Cont.)

WHEREAS, the TOWN is the owner of certain water craft and vessels utilized by the Town of Carmel Police Department in law enforcement activities on certain navigable waters within the boundaries of the Town of Carmel; and

WHEREAS, the TOWN wishes to enter into a revocable license agreement with FALLS and MAHOPAC for the conveyance of permission for duly authorized and approved members of FALL and MAHOPAC to utilize said water craft and vessels subject to the terms and conditions set forth in this agreement; and

WHEREAS FALLS and MAHOPAC wish to enter into this revocable license agreement for the purposes of providing emergency response services and engaging in periodic training exercises utilizing the TOWN-owned water craft and vessels on navigable waters within the Town of Carmel:

In consideration of the foregoing it is hereby agreed as follows:

1. The TOWN shall permit the use of TOWN-owned water craft and vessels upon navigable waters within the Town of Carmel by FALLS and MAHOPAC for the purposes of emergency response on said waters and to engage in approved training exercises on said waters.
2. FALLS and MAHOPAC shall provide liability insurance in form and coverage limits suitable to the TOWN ensuring that liability coverage carried by FALLS and/or MAHOPAC shall be primary in the event of any loss or casualty occurrence during the course of use of said water craft and vessels owned by the TOWN. Said insurance shall name The Town of Carmel as additional insured and shall be in accordance with the terms and conditions of Schedule "A" attached, which is hereby incorporated into this agreement and made a part hereof. FALLS and MAHOPAC further hereby agree to indemnify and hold harmless the Town of Carmel from all claims, actions, suits, loss, casualty etc., whatever type in nature, including but not limited to personal injury, property damage, etc. which occur and/or accrue as a result of the use of said water craft and vessels owned by the TOWN by FALLS and/or MAHOPAC.
3. Use of said water craft and vessels shall be limited to emergency response services provided by FALLS and MAHOPAC upon navigable waters of the Town of Carmel and training exercises approved by the Town of Carmel Chief of Police upon said navigable waters by FALLS and MAHOPAC.

(Cont.)

- 4. All operators of said water craft and vessels owned by the TOWN shall be an a roster/list approved by resolution of the Town Board of the Town of Carmel upon recommendation by (I) the Chief of Police of the Town of Carmel and (ii) recommendation of the Chief or designee of FALLS or MAHOPAC as shall be applicable, and shall further be subject to the following training and qualifications:
 - A. Any and all operators must have competed a certified and approved Boater Safety Course; and
 - B. Any and all operators must complete a minimum of four (4) hours of training on any water craft to be operated with a Carmel Police Department marine officer designated by the Chief of Police; and
 - C. Any and all operators must be a current or previous boat owner with experience on Lake Mahopac OR must have 20 hours of documented training/operational experience as a member of the boat crew in additional to all other requirements in this agreement before being given the status of a boat operator; and
 - D. Any other reasonable requirements that the Chief of Police may require.
- 5. Fuel utilized for emergency response services pursuant to this agreement shall be the responsibility of the TOWN. Fuel utilized for training exercises shall be borne by FALLS or MAHOPAC as shall be applicable.
- 6. The TOWN shall have the right to revoke and/or rescind this agreement by resolution of the Town Board upon 30 day(s) notice to FALLS and/or MAHOPAC.

Dated this _____ day of May, 2017 at Mahopac, NY.

The Town of Carmel

Mahopac Falls Volunteer Fire Dept.

By: Kenneth Schmitt
Town Supervisor

By: Randy Tompkins, President

Mahopac Volunteer Fire Dept.

By: Frank Egelsen, Jr. President

SCHEDULE A
TOWN OF CARMEL
INSURANCE REQUIREMENTS

Notwithstanding any terms, conditions or provisions in any other writing between the parties, the contractor hereby agrees to effectuate the naming of the TOWN OF CARMEL as an unrestricted additional insured on the contractor's insurance policies, with the exception of Workers' Compensation and Employer's Liability. Before any of the work is started under this contract, the contractor shall file with the municipality an ACCORD certificate(s) of insurance or equivalent.

(Cont.)

The policy naming the TOWN OF CARMEL as an additional insured shall:

1. Be an insurance policy from an A.M. Best rated "secured" or better New York State admitted insurer.
2. Provide for 30 days' notice of cancellation.
3. State that the contractors' coverage shall be primary coverage for the TOWN OF CARMEL, its Board, employees and volunteers.
4. The TOWN OF CARMEL shall be listed as an additional insured by using endorsement CG 2026 or broader. The certificate must state that this endorsement is being used. If another endorsement is used, a copy shall be included with the certificate of insurance.

The contractor/vendor agrees to indemnify the TOWN OF CARMEL for any applicable deductibles.

REQUIRED INSURANCE

Commercial General Liability Insurance

\$1,000,000 per occurrence/ \$2,000,000 general and products/completed operations aggregates. The general aggregate shall apply on a per-project basis.

Automobile Liability

\$1,000,000 per occurrence/\$2,000,000 aggregate, with the municipality as the named insured.

Excess/Umbrella Insurance

\$10,000,000 per occurrence/\$20,000,000 aggregate.

Vendor/Contractor acknowledges that failure to obtain such insurance on behalf of the TOWN OF CARMEL constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to the TOWN OF CARMEL. The contractor is to provide the TOWN OF CARMEL with a certificate of insurance, evidencing the above requirements have been met, prior to the commencement of work or use of facilities.

CARMEL FIRE PROTECTION DISTRICTS #1 & #2 - MAHOPAC VOLUNTEER FIRE DEPARTMENT AND MAHOPAC FALLS VOLUNTEER FIRE DEPARTMENT OPERATORS FOR TOWN OF CARMEL POLICE BOAT AUTHORIZED FOR EMERGENCY RESPONSE AND TRAINING PURPOSES

RESOLVED that the Town Board of the Town of Carmel hereby authorizes the following individuals from the Mahopac Volunteer Fire Department as operators of the Town of Carmel Police boat/watercraft for emergency response and training purposes:

George Jones
James Cuilla
James Stasiak
Drew Kinash
Jason Kinash
Joseph Munch

BE IT FURTHER RESOLVED that the Town Board of the Town of Carmel hereby authorizes the following individuals from the Mahopac Falls Volunteer Fire Department as operators of the Town of Carmel Police boat/watercraft for emergency response and training purposes:

Brian Sacher
George Tompkins
Walt Jackel
Aaron Wisotsky
Arty Wisotsky

(Cont.)

Resolution
Offered by: Councilman Lombardi
Seconded by: Councilman Lupinacci and Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	<u>X</u>	<u> </u>
John Lupinacci	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

Supervisor Schmitt stated that the Town of Carmel Police boat will be made available for the immediate use by the Mahopac Falls Volunteer Fire Department and the Mahopac Volunteer Fire Department in the event of an emergency.

RESOLUTION FROM 8/17/16 AMENDED - ACCEPTANCE OF PROPOSALS FOR APPRAISAL SERVICES AUTHORIZED - STERLING APPRAISALS

WHEREAS the Town Board of the Town of Carmel has been advised by Town Assessor Glenn Droese that professional appraisal services will be required in the defense of two tax certiorari proceedings currently pending in Supreme Court, Putnam County, specifically the matters of Centennial Golf Club v. Town of Carmel and Mahopac Golf Club v. Town of Carmel; and

WHEREAS the Town Assessor Glenn Droese has procured proposals from various professional real property appraisal services and has recommended acceptance of the proposals submitted by Sterling Appraisals, Eastchester, NY dated April 25, 2016 and July 6, 2016 respectively;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Carmel in accordance with the recommendation of the Town Assessor hereby accepts the referenced proposals of Sterling Appraisals, to prepare appraisals for each certiorari matter referenced herein at cost to the Town of Carmel not to exceed \$2,750 for the Centennial Golf Club v. Town of Carmel proceeding and not to exceed \$6,000 for the Mahopac Golf Club v. Town of Carmel proceeding; and

BE IT FURTHER RESOLVED, that Town Comptroller Mary Ann Maxwell is hereby authorized to make any and all budget transfers or modifications necessary to fund the services authorized herein.

Resolution
Offered by: Councilman Lupinacci
Seconded by: Councilman Lombardi

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>	
Jonathan Schneider	<u>X</u>	<u> </u>	
John Lupinacci	<u> </u>	<u> </u>	Abstain
Suzanne McDonough	<u> </u>	<u> </u>	Abstain
Frank Lombardi	<u>X</u>	<u> </u>	
Kenneth Schmitt	<u>X</u>	<u> </u>	

LAKE SECOR PARK DISTRICT - MAILING OF NEWSLETTER AUTHORIZED

RESOLVED that the Town Board of the Town of Carmel, acting as the Commissioners of the Lake Secor Park District, hereby authorizes the mailing to all properties within the district of the Summer 2017 newsletter prepared by the Lake Secor Park District Committee and that the cost thereof be charged as a district expense.

Resolution
Offered by: Councilwoman McDonough
Seconded by: Councilman Lupinacci

(Cont.)

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	<u>X</u>	<u></u>
John Lupinacci	<u>X</u>	<u></u>
Suzanne McDonough	<u>X</u>	<u></u>
Frank Lombardi	<u>X</u>	<u></u>
Kenneth Schmitt	<u>X</u>	<u></u>

LAKE SECOR PARK DISTRICT - RATES SET FOR 2017 SEASONAL EMPLOYEES

RESOLVED that the Town Board of the Town of Carmel, acting as the Commissioners of the Lake Secor Park District, hereby sets the following rates for Lifeguards in 2017.

<u>POSITION</u>	<u>MAXIMUM RATE OF PAY</u>
Head Lifeguard	\$20.00/hr
Lifeguard	\$14.50/hr
Lifeguard - Two Years	\$12.00/hr
Junior Lifeguard	\$10.00/hr

Resolution
Offered by: Councilman Schneider
Seconded by: Councilman Lombardi

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	<u>X</u>	<u></u>
John Lupinacci	<u>X</u>	<u></u>
Suzanne McDonough	<u>X</u>	<u></u>
Frank Lombardi	<u>X</u>	<u></u>
Kenneth Schmitt	<u>X</u>	<u></u>

LAKE CASSE PARK DISTRICT - RATES SET FOR 2017 SEASONAL EMPLOYEES

RESOLVED that the Town Board of the Town of Carmel, acting as the Commissioners of the Lake Casse Park District, hereby sets the following rates for Lifeguards and Gate Guards in 2017.

<u>POSITION</u>	<u>MAXIMUM RATE OF PAY</u>
Lifeguard	\$13.00-\$16.00/hr
Gate Guard	\$12.00-\$14.00/hr

Resolution
Offered by: Councilman Lombardi
Seconded by: Councilman Lupinacci and Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	<u>X</u>	<u></u>
John Lupinacci	<u>X</u>	<u></u>
Suzanne McDonough	<u>X</u>	<u></u>
Frank Lombardi	<u>X</u>	<u></u>
Kenneth Schmitt	<u>X</u>	<u></u>

RESOLUTION SETTING ADJUSTED SALARIES FOR FISCAL YEAR 2017 FOR TOWN OF CARMEL EMPLOYEES NOT COVERED BY A COLLECTIVE BARGAINING AGREEMENT - TABLED

RESOLVED that the Town Board of the Town of Carmel hereby sets the adjusted salaries for fiscal year 2017 for the following employees of the Town not covered under the terms of a Collective Bargaining Agreement in the amounts as follows:

Police Chief	\$156,404.72
Town Engineer	\$100,058.70
Town Comptroller	\$109,852.80
Confidential Secretary to Supervisor/ Asst. to the Town Bd.	\$ 79,422.72

BE IT FURTHER RESOLVED that this resolution shall have an effective date retroactive to January 1, 2017.

MOTION TO TABLE

Offered by: Councilman Lupinacci
Seconded by: Councilman Lombardi

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	<u>X</u>	<u> </u>
John Lupinacci	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

Supervisor Schmitt explained that the resolution was tabled because further research is required before action will be taken.

CARMEL SEWER DISTRICTS #1 AND #3 INFILTRATION/INFLOW REMEDIATION CONTRACT C-236 - CHANGE ORDER #1 AUTHORIZED

BE IT RESOLVED that the Town Board of the Town of Carmel, acting as Commissioners of Carmel Sewer District #1 and #3, and upon the recommendation of Town Engineer Richard J. Franzetti, P.E., hereby authorizes Town Supervisor Kenneth Schmitt to sign Change Order #1 to the Carmel Sewer District #1 and #3 contract (C-236), providing for an extension of date for substantial completion and no cost additions to said contract, with said Change Order #1 being in form as attached hereto and made a part hereof.

Resolution

Offered by: Councilman Lupinacci
Seconded by: Councilman Schneider

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	<u>X</u>	<u> </u>
John Lupinacci	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

CHANGE ORDER

_____ No. 1

(Cont.)

DATE OF ISSUANCE: _____ EFFECTIVE DATE: _____
OWNER: Town of Carmel
OWNER's Contractor No.: C236
CONTRACTOR: Green Mountain Pipeline Services, Inc.
ENGINEER: Town of Carmel Engineering Department

The parties agree to the following modifications:

The original contract requires substantial completion by June 13, 2017. Due to winter weather and engineering review time the date for substantial completion is changed to July 14, 2017. The date for final completion is changed to October 9, 2017. There will be no change to Contract cost as a result of this Change Order.

Reason for Change Order: Winter weather and engineering assessment of sewer and manhole video.

RECOMMENDED:	ACCEPTED:	APPROVED:
By: _____ Engineer (Authorized Signature)	By:  Contractor (Authorized Signature) RYAN VAN SCHICK	By: _____ Owner (Authorized Signature)
Date: _____	Date: 4/25/17	Date: _____

Tel: (845) 628-1500 Fax: (845) 628-7085 email rjf@ci.carmel.ny.us

BID AWARDED FOR PURCHASE OF TOWN VEHICLES - FOUR (4) 2017 FOUR-WHEEL DRIVE FORD ESCAPES - PARK FORD - NOT TO EXCEED \$105,364.00

WHEREAS the Town Board of the Town of Carmel has previously authorized advertisement for the solicitation of bids for purchase of four (4) 2017 four- wheel drive Ford Escape vehicles for Town Hall use, and

WHEREAS such bids were received and opened on May 2, 2017 and a bid opening memo has been presented to the Town Board;

NOW THEREFORE BE IT RESOLVED that upon the recommendation of Town Engineer Richard J. Franzetti, P.E. the Town Board hereby awards the aforesaid bid to Park Ford, Mahopac, NY, the low responsible bidder meeting specifications at an aggregate cost not to exceed \$105,364.00; and

BE IT FURTHER RESOLVED that Kenneth Schmitt, Town Supervisor is hereby authorized to execute any other and further documentation necessary to accept such bid and contract for said services and

BE IT FURTHER RESOLVED that Town Comptroller Mary Ann Maxwell is hereby authorized to make any and all necessary budget transfers or modifications required to fund this authorization on the terms set forth herein.

(Cont.)

Resolution
Offered by: Councilwoman McDonough
Seconded by: Councilman Lupinacci

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	<u>X</u>	<u> </u>
John Lupinacci	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

Supervisor Schmitt pointed out that the four new four-wheel drive Ford Escapes will replace 14 year old vehicles, and that the budgeted cost includes a service program.

PUBLIC HEARING SCHEDULED FOR 6/14/17 - PROPOSED LOCAL LAW AMENDING CHAPTER 147 OF THE TOWN CODE OF THE TOWN OF CARMEL, ENTITLED “VEHICLES AND TRAFFIC” - SPECIFICALLY §147-56 - TIME LIMIT PARKING - (ROUTE 6, SEMINARY HILL ROAD AND ROUTE 6N) - OFFERED AS PRE-FILED

RESOLVED, that the Town Board of the Town of Carmel hereby authorizes the scheduling of a Public Hearing at the Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541 on Wednesday, June 14, 2017 at 7:00 p.m. or as soon thereafter that evening as possible on a Local Law Amending Chapter 147 of the Town Code of the Town of Carmel, specifically §147-56 as follows:

TOWN OF CARMEL
PROPOSED LOCAL LAW # _____ OF THE YEAR 2017
A LOCAL LAW AMENDING CHAPTER 147 OF THE TOWN CODE
OF THE TOWN OF CARMEL, ENTITLED “VEHICLES AND TRAFFIC”

SECTION 1.
This Local Law shall be known as 2017 Amendments to Chapter 147 entitled “Vehicles and Traffic”.

SECTION 2.
Chapter 147 of the Town Code of the Town of Carmel, Section 147-56, Schedule XV: Time Limit Parking is hereby amended to read as follows:

In accordance with the provision of § 147-24, no person shall park a vehicle for longer than the time limit shown upon any of the following described streets or parts of streets:

<u>Name of Street</u>	<u>Side</u>	<u>Time Limit</u>	<u>Location</u>
Route 6	Both	2 hrs/All	Between Cherry Lane and Route 6N
Seminary Hill Road	East	2 hrs/All	From Church Street to Route 6
Seminary Hill Road	West	2 hrs/All	South from Route 6 for 250 Feet
Route 6N	Both	2 hrs/All	Between Route 6 and Cherry Lane

SECTION 3. HOME RULE
Nothing in this Local Law is intended, or shall be construed (a) to limit the home rule authority of the Town under State Law to limit the Town’s discretion in setting fees and charges in connection with any applications requiring Town approval.

(Cont.)

SECTION 4. 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 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 circumstances, and the Town Board of the Town of Carmel hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 5. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

BE IT FURTHER RESOLVED that Town Clerk Ann Spofford is hereby authorized and instructed to publish and post the necessary notices in the official newspapers of the Town and on the Town bulletin board regarding this Public Hearing.

Resolution

Offered by: Councilman Schneider
Seconded by: Councilman Lombardi and Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	<u>X</u>	<u> </u>
John Lupinacci	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

PUBLIC HEARING SCHEDULED FOR 6/14/17 - PROPOSED LOCAL LAW ENACTING CHAPTER 132 OF THE TOWN CODE OF THE TOWN OF CARMEL, ENTITLED “SYNTHETIC DRUGS, CANNABINOIDS AND OPIOIDS”

RESOLVED, that the Town Board of the Town of Carmel hereby authorizes the scheduling of a Public Hearing at the Town Hall, 60 Mc Alpin Avenue, Mahopac, New York 10541 on Wednesday, June 14, 2017 at 7:00 p.m. or as soon thereafter that evening as possible on a Local Law Enacting Chapter 132 of the Town Code of the Town of Carmel, entitled “Synthetic Drugs, Cannabinoids and Opioids”

BE IT FURTHER RESOLVED that Town Clerk Ann Spofford is hereby authorized and instructed to publish and post the necessary notices in the official newspapers of the Town and on the Town bulletin board regarding this Public Hearing.

Resolution

Offered by: Councilman Lombardi
Seconded by: Councilman Lupinacci and Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	<u>X</u>	<u> </u>
John Lupinacci	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

TOWN OF CARMEL
PROPOSED LOCAL LAW # _____ OF THE YEAR 2017
A LOCAL LAW ENACTING CHAPTER 132 OF THE TOWN CODE
OF THE TOWN OF CARMEL,
ENTITLED “SYNTHETIC DRUGS, CANNABINOIDS AND OPIOIDS”

(Cont.)

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

Section 1: PURPOSE

The purpose of this local law is to amend the Town Code to prohibit and ban the sale and possession of Synthetic Drugs within the Town of Carmel.

Section 2: AUTHORITY

This chapter is adopted pursuant to the authority, of Article 2, § 10 of the New York State Municipal Home Rule Law.

SECTION 3: ENACTMENT OF CHAPTER 132

The Town Code of the Town of Carmel is hereby amended by the addition of Chapter 132 entitled "BAN ON SALE AND POSSESSION OF SYNTHETIC DRUGS" which shall read as follows:

§ 132.01 DEFINITIONS

Whenever used in this Chapter, the term "synthetic drug" shall mean any product, whether described as tobacco, potpourri, herbs, incense, spice, aromatic, or any combination thereof, and whether marketed for the purpose of being smoked, ingested or injected, or otherwise marketed, which includes, but is not limited to, one or more of the following hallucinogenic substances (1) 1-Pentyl-3-(1-Naphthoyl) Indole; some trade or other names; JWH-018; or (2) 1-Butyl-3-(1-Naphthoyl) Indole; some trade or other names; JWH-073; or (3) 1-[2-(4Morpholinyl) Ethyl]-3-((1-Naphthoyl) Indole; some trade or other names; JWH-200; or (4) 5-(1, 1-Dimethyloctyl)-2-[1R,3S)-3-Hydroxycyclohexyl]-Phenol; some other trade names; CP-47,497; or (5) 5-(1,1-Dimethyloctyl)-2-[(1R,3S)-3-Hydroxycyclohexyl]-Phenol; or some other trade names; Cannabicyclohexanol; CP447, 497 C8 Homologue; or (6) fentanyl analogues such as furanyl fentanyl, acetal fentanyl, and 4 NAPP (despropionyl fentanyl); or (7) a material, compound or mixture or preparation in any form that contains the component Salvinorin A, or as a concentrated extract of the chemical Salvinorin A; or (8) any analogue of a synthetic cannabinoid, synthetic phenethylamine or cannabimimetic agent meaning a substance that has a chemical structure that is substantially similar to the chemical substance defined by Part 9 of Title 10 of New York Codes Rules and Regulations as of the date of the violation, or as included in Schedule 1 of the Federal Drug Enforcement Administration Schedules of Controlled Substances, as listed in Section 1308.11 of Title 21 of the Code of Federal Regulations, or successor regulation, as of the date of the violation, or any cannabimimetic agent, as defined in Section 812 of Title 21 of the United States Code, as of the date of the violation and has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of such a substance defined by Part 9 of Title 10 of the New York Codes, Rules and Regulations as of the date of the violation, or as included in Schedule 1 of the Federal Drug Administration Schedules of Controlled Substances, as listed in Section 1308.11 of Title 21 of the Code of Federal Regulations, or successor regulation, as of the date of the violation, or any cannabimimetic agent, as defined in Section 812 of Title 21 of the United States Code, as of the date of the violation; or (9) any other non-prescription substance or compound developed prior to or subsequent to the adoption of this section which has a chemical structure and/or pharmacological effect substantially similar to, or which otherwise mimics the active ingredient(s) of marijuana, cocaine, heroin, or any other controlled substance.

(Cont.)

§ 132.11 SALE PROHIBITION

It shall be a violation of this Chapter for any person or entity to sell, offer for sale, give away, barter, exchange or otherwise furnish or provide any synthetic drug as defined herein.

§ 132.21 POSSESSION PROHIBITION

It shall be a violation of this Chapter for any person or entity to possess any synthetic drug as defined herein unless such synthetic drug is expressly prescribed to said person by a physician, psychiatrist or other person otherwise duly licensed and authorized to prescribe medication within the State of New York and, at the time of the alleged violation, the person in possession of the synthetic drug(s) is able to provide written proof to law enforcement officers that the synthetic drug(s) was so prescribed.

§ 132.31 REVERSE PREEMPTION

This Chapter shall become null and void on the day that any federal or statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this Chapter, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the Town of Carmel. The Town Board of the Town of Carmel may determine by resolution whether or not identical or substantially similar federal or statewide legislation or preempting state or federal regulations have been enacted for purposes of triggering the provisions of this Chapter.

§ 132.41 SEVERABILITY

If any clause, sentence, paragraph or section of this Chapter shall be held invalid by any Court of competent jurisdiction, or the application of this Chapter to any person or set of circumstances shall be held invalid, such invalidity or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or operation of this Chapter directly involved in the controversy in which the judgment shall have been rendered. To further this end, the provisions of this Chapter are hereby declared to be severable.

§ 132.51 PENALTIES FOR OFFENSES

- A. The Town of Carmel Police Department shall enforce the provisions of this Chapter.
- B. Any person or entity that is to be in violation of the provisions of this Chapter shall be guilty of a misdemeanor offense punishable by a fine of not more than \$500 (Five Hundred Dollars) or imprisonment of up to one year, or both.
- C. In addition to the penalties described in subsection "B" above, any person or entity that is found to be in violation of the provisions of this Chapter shall be liable for a civil penalty of not less than \$500 (Five Hundred Dollars) and not more than \$2,000 (Two Thousand Dollars).

SECTION 4: EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

**HIGHWAY DEPARTMENT - PURCHASE OF PARTS AND EQUIPMENT
AUTHORIZED - WESTCHESTER TRACTOR PURSUANT TO NYS OGS AWARD -
AGGREGATE COST NOT TO EXCEED \$27,106.45**

RESOLVED, that the Town Board of the Town of Carmel, upon the request and recommendation of Town of Carmel Superintendent of Highways Michael Simone, hereby authorizes the purchase of the following equipment from Westchester Tractor, Brewster, NY, pursuant to NYS OGS Award #PGB 22792, Group #405625-Contract #PC66577 at an aggregate cost not to exceed \$27,106.45:

- New Replacement 48" Grass Flail Head for Alamo AB17;
- New Replacement Arm for Alamo AB17.

BE IT FURTHER RESOLVED, that Town Highway Superintendent Michael Simone is hereby authorized to execute any and all documentation necessary to effectuate this authorization on the terms set forth herein.

Resolution

Offered by: Councilman Lupinacci
Seconded by: Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	<u>X</u>	<u> </u>
John Lupinacci	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

PUBLIC COMMENTS - AGENDA ITEMS

Michael Barile commented that barring an emergency, there should be no reason to preclude the Town Board meetings from starting on time. Mr. Barile then went on to confirm with Supervisor Schmitt that the Town of Carmel Police boat will be utilized on Lake Mahopac for emergency purposes only, not for full-time patrol.

Mr. Barile inquired why two Town Board members abstained with regard to the Amended Resolution Authorizing Acceptance of Proposals for Appraisal Service.

Councilman Lupinacci stated that he is a member of the Mahopac Golf Club.

Councilwoman McDonough indicated that she did not see the referenced proposals.

Mr. Barile confirmed with Supervisor Schmitt that the proposals did not relate to new grievances and speculated on the amount of new grievances that will be filed against the Town in response to the recent revaluation project.

Mr. Barile question why the Resolution Setting Adjusted Salaries for Fiscal Year 2017 for Town of Carmel Employees Not Covered by a Collective Bargaining Agreement was tabled. He inquired about how the salary increases included therein were arrived at and why all department heads were not awarded the same type of raise.

Councilman Lupinacci stated that the increases were not merit or performance based, it was more of a market adjustment and that two or three other departments will possibly be reviewed as well.

Mr. Barile commented that this could be demoralizing for the other department heads. He further commented that he considered the salary of one position listed on the tabled resolution to be substantially low while another position listed should be abolished. He expressed his frustration and commented that the position has too much enforcement over every other department in the Town.

(Cont.)

Mr. Barile went on to ask if a Town of Carmel wetlands inspector has been hired, if interviews for the position have taken place, or if the position has been advertised.

Councilwoman McDonough replied that the position has not been filled, no interviews have been conducted, and the position has not been advertised.

Councilman Lupinacci explained that the Town Engineer and the Town's engineering consulting firm are currently working to revise the wetlands regulations in advance of hiring the new wetlands inspector.

Mr. Barile indicated that a significant savings could be achieved by removing the referenced in-house position and expanding the outside services. He once again asked why the Resolution Setting Adjusted Salaries for Fiscal Year 2017 for Town of Carmel Employees Not Covered by a Collective Bargaining Agreement was tabled.

Councilman Lupinacci stated that other departments will be evaluated.

Supervisor Schmitt added that the market analysis will be expanded.

TOWN BOARD MEMBER COMMENTS - AGENDA ITEMS

No member of the Town Board wished to comment at this time.

PUBLIC COMMENTS - OPEN FORUM

No member of the public wished to comment at this time.

TOWN BOARD MEMBER COMMENTS - OPEN FORUM

Councilwoman McDonough announced that the Town of Carmel Recreation and Parks Department will be presenting Music Fest on May 20, 2017 from 4:00 p.m. to 8:00 p.m. at the Mahopac Chamber Park. It will be a day of free music and entertainment for all ages.

Councilman Lupinacci announced that Green Mountain Pipeline Services is continuing with the lining of the collection system in Carmel Sewer Districts #1 and #3. Property owners should visit the Town's website or contact the Engineering Department for additional information.

Supervisor Schmitt announced that members are being sought for the new Mahopac Lions Club and an organizational meeting will be held on May 19, 2017 at 5:00 p.m. at Amore Restaurant in Mahopac.

ADJOURNMENT

All agenda items having been addressed, on motion by Councilwoman McDonough, seconded by Councilman Lupinacci, with all Town Board members present and in agreement, the meeting was adjourned at 7:48 p.m. to Executive Session for a contractual discussion with members of the Carmel Volunteer Ambulance Corp., as well as for an update from Gregory Folchetti, Legal Counsel with regard to a grant award in connection with "zombie" properties.

Respectfully submitted,

Ann Spofford, Town Clerk