

TOWN OF KIRKWOOD WORK SESSION

November 26, 2019

Present: Supervisor Gordon Kniffen
Councilman Robert Weingartner
Councilman Lewis Grubham
Councilwoman Linda Yonchuk
Councilman William Diffendorf, Jr.

Also Present: Robert McKertich, Attorney
Gayle Diffendorf, Town Clerk
John A. Finch Jr., Commissioner of Public Works
James Smith, Budget Officer
Marchie Diffendorf, Planning Bd. Chairman
Duane Travis, ZBA Chairman

1. Discussion – Reserve Transfers: (JRS)

From Highway Equipment Reserve to Highway Operating Fund - \$169,798.

From Sewer Capital/Equipment Reserve to Sewer 1 Operating Fund – \$15,450.

Mr. Smith explained this involves pulling the reserve money for the purchase of the 2019 Volvo, of which the Ford F150 was part of. We ended up realizing \$65,000 from the sale of the old Volvo instead of \$40,000. This will allow it to be paid for in full. In regard to the sewer transfer, year after year I kept putting money in the reserves and I decided for 2020 I needed to hold off on that and revisit how fund balances turn out. I thought in that process I'd like to pull out part of what's in the reserves to pay for what was acquired in 2019 as far as equipment capital, which is roughly \$15,000. Councilman Diffendorf questioned what the operating fund money was used for. Mr. Smith said it was used for a variety of things needed in the sewer department.

Mr. Smith said there's a list of items between water and sewer of a capital equipment nature that were proposed after meeting with John about what I think we'll need. For instance, the circular stairs in sewer, we're hoping to get a grant for 75 percent to pay for the bulk of it, but we don't know if we'll get that. None of this that's in the \$15,000 that's involved for the 2019 version of that list is anything different from what was originally contemplated and proved that we needed to do.

2. Discussion – Hiner Road. (GEK)

Supervisor Kniffen said Hiner Road was washed out from the 2018 flood and it was quite an inconvenience to the people at the time, but we found a temporary way out for them, so they could come and go. We are waiting on FEMA, and it does take time, to recover 75 percent of the cost but we still have to go ahead and do it and find the money to spend while we wait. At that time because it got so much Press and was on the news, DOT stepped in and actually fixed the road. Although some of the road is in Kirkwood, the majority is in the City of Binghamton and they've hired Shumaker Engineering to determine what could be done in the event of another flood. Even back in 2018 we were talking about a road from Hiner to Krager, that

TOWN OF KIRKWOOD WORK SESSION

November 26, 2019

would be a way to get in and out, but we didn't get that far. The City is putting an engineering study together based on closing off Hiner Road the way it is now and actually to get in and out of there you'd have to go up Krager Road, across this new road, into Hiner Road. The question is who pays for this. Hopefully FEMA will pay 75 percent and the State will pay 12 ½ percent, so who pays the additional 12 ½ percent, the City and Kirkwood? Certainly the City but does Kirkwood? One way to look at it is they are our residents and if they have a way to get in and out in case of another flood, I feel that maybe we should participate in some way, but it would be a very low number. We're talking about a \$1.5 million project. The City has hired our engineer, John Mastronardi with Griffiths Engineering, to look at the Shumaker report for his comments. John Finch and I had a meeting with the residents of the area to see what their thoughts are. We made them aware of what's going on and asked them to think about it. Some of them would like a copy of the Engineering Report. I did notify the Mayor of Binghamton that we're considering this.

Councilman Weingartner questioned what the overall prevailing thought was of the residents. Supervisor Kniffen said one lady who has more frontage was worried about her assessment going up. The inconvenience was also talked about. They understand that if there's another catastrophe, maybe there wouldn't be a way out because their neighbor might not allow them to cross his yard in the future.

Mr. McKertich asked if the residents whose property would be taken were at the meeting. Supervisor Kniffen said they are Kirkwood residents and they were not at the meeting. Mr. McKertich said I would think if there's going to be push back, it would be from that group of people who have their land taken. Mr. Finch said it only involves one property. Supervisor Kniffen said we will meet with them. In response to Councilman Diffendorf, Supervisor Kniffen said I think all the residents on Hiner Road were at the meeting. Councilman Diffendorf said I talked to one resident who is not in favor of the road.

Councilman Diffendorf said I don't know why we would pay any money towards this. Supervisor Kniffen said we would be helping our own residents in case of another disaster and I feel we should participate and be a part of this. If we decide we should participate the number I came up with is around \$35,000, and that's a small percentage. Councilman Diffendorf said we had a similar situation in the Town of Dickinson and we did not participate. Supervisor Kniffen said that was a situation with a railroad that's always going to be there. They asked us to share because some of them are Kirkwood residents. As I recall, those people built homes up there knowing the railroad tracks are there. Councilwoman Yonchuk questioned if they didn't go ahead and do it before we even decided whether to participate or not. Supervisor Kniffen said it was also discussed that there could be some economic development by people building homes and paying taxes as could also be the case for the Hiner Road project. With Port Dickinson, they will be the ones to get new residents and tax dollars. In response to Councilwoman Yonchuk, Supervisor Kniffen said the City of Binghamton is assuming that FEAM will pay 75 percent and I don't know why they wouldn't because they always say fix your problem so we don't have to pay again.

**TOWN OF KIRKWOOD
WORK SESSION**

November 26, 2019

Councilman Grubham said my thought is that we're now going to be responsible for the maintenance of that entire road. The City of Binghamton will have no more responsibility. It costs us around \$6,000 a mile to snowplow and maintain a road and with this road being ¼ mile it would add \$1,500 to \$2,000 a year to our costs and Binghamton would have no more costs. To me I don't think it should be an even split on whatever the cost is because it's not fair to us. I think ours should be something less than that because we will be responsible forever to take care of that road. They'll save a lot of money by not having to drive trucks up there to plow. I think that should be taken into account when we decide what our share is. Mr. Finch said we do all the plowing now and they're supposed to maintain the road in the summer, which I get more calls because they're not doing it.

3. **Discussion – Rescheduling the WS/Town Board meeting originally scheduled for December 26, 2019 to December 30, 2019. (GEK)**
Resolution.

4. **Discussion – Reimbursement of Professional Consultation Fees. (GEK)**

Supervisor Kniffen said this involves a discussion we had last week about when an applicant wants to do something in the Town which may require some engineering or legal services, etc. We do have a policy for this already where we charge back to the applicant some of the expenses the Town has to take on. Since the last meeting legal took a look at the policy.

Mr. McKertich said I looked at Local Law #10 of 1995, which allows our Town Board, Planning Board and Zoning Board of Appeals to hire a professional consultant and then charge the applicant for the cost of those fees. However, these kinds of laws have been in quite a bit of litigation, including a recent case in 2018 in which the courts limited the municipality to use these laws. Essentially, in order to use this kind of a law, the town has to make a decision that it's reasonably necessary, that's the legal phrase, in order to review the application. In making that decision it has to be based on actual facts. We would need to either consult with other towns or look at our own prior experiences to see what types of applications we needed consulted, and how much we would expect to have to pay the consultant, and we could use that data in order to charge the applicant the fees. In summary, it's allowed, but there are some hurdles that have to be gone through in order to use this type of law. It should only be used as an exception for the larger, more complicated projects.

Supervisor Kniffen said we have an attorney that attends the meetings for the Planning Board and the ZBA who can advise us. Mr. McKertich said that decision couldn't really be made there on the spot, we would need to do some more to figure out if this is the type of project that we can use to reverse fees and if so what's the appropriate fee. Councilman Grubham said it is in the law now what the fee is supposed to be or one percent of whatever the total value of the project. Would that have to be changed? Mr. McKertich said we wouldn't necessarily have to

TOWN OF KIRKWOOD WORK SESSION

November 26, 2019

change the law but we would have to look at it on a case by case basis. There may be a case where that number seems excessive for the type of project being proposed and in that case we would only require a certain amount.

Councilman Grubham questioned what about the cell tower application, although I don't even know if they've applied yet or not. In there we have that stipulation that they have to give us \$10,000 and we spend against that. If we spend more they have to replenish it and if not we reimburse them. Mr. McKertich said if you remember when we sat down with the attorney for the cell tower he said he didn't think that was enforceable. I think the way to do that is adopt a resolution setting out the basis for the fees. Councilman Grubham said the point was that it was open ended, with Mr. McKertich adding this means that they would have to replenish it. The courts have made that very clear that that kind of open-ended provision is not enforceable. So then we go back and say give us \$50,000 and we won't charge you more. Mr. McKertich said it has to be actually supportable with data. Councilman Grubham questioned how you could do that before you actually had the application. Mr. McKertich said I don't think you could do it before you had the application. Councilman Grubham said you would at least have to have a sense of what they're proposing to do and you may never know that. Mr. McKertich said it would be impossible to predict that but it would be using your best estimate based on data. Councilman Grubham said what if you make a best estimate and it's not even close and it costs the Town thousands of dollars. Mr. McKertich said we can go back and require additional deposits. They are trying to avoid the open-ended constant replenishments of the funds without any analysis, you would have to have data to support it. Supervisor Kniffen said we want to make sure that everything's fair and at some point things can get out of hand and we ought to have the procedure to make sure that doesn't happen. We certainly don't want to discourage business, we want to encourage it. Councilman Grubham said I agree with that but we've already spent some money on the tower project and I don't know that we've gotten a permit fee yet, let alone the \$10,000, so shouldn't we straighten that out before we go ahead and spend money on a project so that all of our costs are covered?

In response to Councilman Diffendorf as to whether or not we can charge them \$10,000, Mr. McKertich said we can charge them, but I don't want to say we can charge them a flat \$10,000 without looking at some data and see what these kinds of applications actually require. Councilman Diffendorf said I think we did that when we wrote this up, based on prior projects. Mr. McKertich said we should go back and take a look at that and see what that cost was to us in legal and engineering fees. Councilman Diffendorf said I don't think any of the projects cost more than that but that is the cushion we used. They get the money back that we don't use but we have to protect ourselves.

Marchie Diffendorf said when the applicant brings in a completed application to the Code Office, that gets submitted to the County and the clock starts running and the County and Town have 30 days to review it. If I determined that we need an engineer to review it, do I have to come to the Town Board to get approval and provide data that we need an engineer to review the application? Supervisor Kniffen said that's a good question because if we knew that we

TOWN OF KIRKWOOD WORK SESSION

November 26, 2019

were going to need the involvement of an engineer, but to what extent, it's a big project and going to take a couple of weeks. I don't think you're going to want to stop everything to look at that. I don't know of any other way to make it black and white and say this is when we do it and this is when we don't. I think we deal with this case by case and say we have to stop and talk with the advocate and ourselves and question whether we are going to bear the burden 100 percent or not in this particular situation. Mr. Diffendorf said I don't know how much it typically costs because it's very seldom that we have an engineer review these applications. Usually there's a SWPPP and they have to look at the engineering drawings to verify everything is correct. I'm thinking if I don't have the ability to have the engineer review it, it will be held up for a least a month. Supervisor Kniffen said it would have to be case by case and I don't know how we could put anything in writing that would cover that situation. Mr. McKertich said that is exactly right, it has to be looked at by a case to case basis. In terms of the timing, you don't have to approve within 30 days. If the question comes up and you really feel like this is the type of application where it's reasonably necessary to hire somebody so that you can approve this application or deny it, then that's when you would want to bring that to the attention of Supervisor Kniffen and work on getting the data supporting getting somebody on board. Mr. Diffendorf questioned if the engineer would determine the data required. Mr. McKertich said I think we would want to ask an engineer what the estimated cost would be and what is that based on, so we have something to support the determination. Mr. Diffendorf said so that would be the cost to the Town whether or not the engineer is needed. Until you know you need an engineer, you can't have an engineer look at it to determine if he needs to do further study. Mr. Diffendorf questioned if the first look at it would be just the cost to the Town of doing business. Supervisor Kniffen said I would think we would pay that. Mr. McKertich said that could be built into the overall cost of his work. Mr. Diffendorf said that's something I'm going to need to know. Mr. McKertich said I think a lot of engineers would give you an estimate without charging. Mr. Kenneth Ellsworth, an engineer for Keystone Associates, interjected saying I represent several towns and one town in particular set up an escrow account so if they think that I'm needed to review a Planning Board submission, the Code Officer or the Planning Board Chairman makes that decision and we do that on an hourly basis. Mr. McKertich said we have a similar process here but the point is that it can't be one of these open-ended escrows that is constantly replenished. We're supposed to be charging a particular amount based on actual experience.

Duane Travis said I haven't been through a cell tower project in a long time, but if I remember correctly we require a lot of specific things in that law that need to be dealt with; structural designs, wind, etc., none of which I know anything about. So I don't think we could approve a special permit for that tower until it is reviewed by an engineer to make sure it meets those specifications. Mr. McKertich said that's exactly the kind of project we would have a consultant come.

Supervisor Kniffen said we've listened to all these comments, and they're all good ones. He formed a committee of Councilmen Grubham and Weingartner, Marchie Diffendorf and John Mastronardi to look into this.

**TOWN OF KIRKWOOD
WORK SESSION**

November 26, 2019

5. Discussion – Update on Fire Departments. (GEK)

Supervisor Kniffen said for a long time we have tried to attend at least one meeting a year of both fire companies just to extend our appreciation and thank them for what they do. These are all volunteers and not only do they sacrifice, their families sacrifice as well because they are away from home. We talked to both companies about the possibility of consolidation and making this a one fire district company that serves the whole town. As an example the Five Mile Point Fire Company would be the lead company and the village would become a sub-station. We attended a meeting of both fire companies together and I was impressed there was no negativity, they all want to work together. It would be a big step to consolidate and could be costly. As a result of that last meeting they are now going to train together. When there is a call in the town both companies are going to respond. I think that's a big step and I compliment both those companies for doing that.

6. Discussion – Request for Change in Zoning – Lester Siedel – 50 Francis Street – PUD to B1. (Tabled from the September 3, 2019 meeting.)

Mr. Siedel and his engineer, Kenneth Ellsworth of Keystone Associates, were present at the meeting. Although this was tabled at the September 3, 2019 meeting, after a very lengthy discussion at this meeting, the Town Board decided that the attorney's for Mr. Siedel and the Town would meet prior to the next Town Board meeting to clarify some unanswered questions. The request for a change in zoning will be addressed once at again at the December 3, 2019 Town Board meeting.

7. Discussion – Expenditure of Highway Moneys. (JAF)

Mr. Finch said the only reason there is only one road listed is because I have to meet with Mr. Smith to find out how much money we have left on the bond. We still plan on doing Duell Road and I would like to do Springer Road if there's any money left on the bond after doing Duell Road. I didn't use all the CHIPS money this year, I rolled it over to next year so that we can combine both amounts of CHIPS money to hopefully do Duell & Springer together. It will be a lot less costly to do that with mobilization and everything. I just want to make sure I have enough money from both the bond and CHIPs to accomplish that. The only other road scheduled to be done is Langdon Park. We fixed all the drainage issues there so that road definitely has to be paved next year.

In regard to CHIPS, Supervisor Kniffen said my understanding is that we've had a 5-year agreement and that ends in the spring of 2020. So what is the feeling, is CHIPS going to go away, and what do we have in the budget for next year? Mr. Finch said I don't think it's going away, we're hoping it's going to be the same as last year. We won't know until the last minute. Supervisor Kniffen questioned what is in the budget for next year. The budget has been approved for 2020 with CHIPS so if CHIPS is only going to last until March and then go away or be reduced, that line item for 2020 may not hold up. Mr. Finch said that is why I have to see how much money we get from CHIPS to see what I can accomplish next year. We'll find out

TOWN OF KIRKWOOD WORK SESSION

November 26, 2019

as soon as they pass the budget in April. So we have to petition the government and all the highway superintendents go to Albany. We do that every year but this one is particularly important so they know how important the CHIPS money is throughout these municipalities.

Councilman Grubham said there was an article in the Associations of Towns monthly publication about town roads that Mr. Finch might want to read. Cornell apparently has a program that examines all the town roads and they've been saving thousands of dollars. For instance, they say the way we do ditches is not the right way to do it. We can save more money by not doing them that way. Supervisor Kniffen suggested that Mr. Finch might want to check with other highway superintendents to see if they've already done this.

8. Discussion – Price Quotes for FEMA Projects – Krager Road and Riverview. (JAF)

Mr. Finch said I've met with three contractors to get price quotes for these smaller projects. He explained the projects to the Board. We don't have to go out to bid according to our procurement policy. One project will be under \$10,000 and the other under \$20,000. I hope to have the quotes back by next Tuesday's meeting. Resolution.

Mr. Finch noted that the other two projects on Foley Road have been completed and they came out very well.

9. Discussion – Driveway Permit Fee - \$250.00. (JAF)

Mr. Finch said I would like to have a discussion about people who want us to replace their driveway pipes. We've never had a permit fee for this so whenever we do a driveway the resident pays for the pipe only, we pay for the crusher run and the blacktop, and it gets quite expensive and comes out of our budget. It's an unforeseen expense because we don't know how many we're going to get each year. This year we did 37 driveway pipes. If you figure \$250 each for those you're looking at about \$9,200 back to us that wouldn't come out of our budget. Typically it would cost more than \$250 to do that, in addition to the pipe. A 20 foot, 15 inch pipe would typically cost about \$320. Councilman Grubham said so someone would be spending close to \$600 on their driveway. There might be a concern because now people have to pay the extra cost and their neighbor didn't last year. Referring to the list Mr. Finch provided of pipes replaced last year, he said some of them were for driveways and some were yards, which aren't as costly. Referring to a pipe that was installed on Victoria Drive, Councilman Diffendorf questioned why we would put in 104 feet of pipe. Mr. Finch said that's across the front of the property. Councilman Diffendorf said that's another issue and we're not supposed to be doing that because that is a whole different storm system. We have to have drop inlets, studies and a lot of work done. I know up in those areas there are a lot of properties where the whole yards are piped, but we can't be getting into these things, it's illegal. Mr. Finch said the only cost listed is the cost of the pipe, not what it costs the Town. He said \$250 is what Broome County charges for a permit fee, and they also have residents pay for the pipes. Councilman Diffendorf questioned why we can't install the pipe but not do the blacktop work. Mr. Finch said I'm looking for options, so that is part of the reason I wanted to have this

TOWN OF KIRKWOOD WORK SESSION

November 26, 2019

discussion to decide whether we want to charge people, or just say we'll change the pipe but you're responsible to replace your blacktop. We could put the crusher run up to grade. Councilman Weingartner said the pipe on the property above mine was put in wrong and now its heaving so that will need to be changed, but to me the person should have to pay for the pavement. Mr. Finch added that it takes a long time if we do all the work, including going to the plant for the pavement, putting in the pipe, letting it set for about a month to settle before paving, a roller is needed, etc. It usually takes about three to four guys to do that. Councilman Grubham said if we do pave, there should be some kind of agreement with the homeowner that it won't be done for a while and that creates issues with them. Mr. Finch said if we don't do the paving we wouldn't need to charge them anything because the pavement is the most expensive part of the project.

Councilwoman Yonchuk verified with Mr. Finch that we have done paving in the past and questioned if our ordinance states we will do that or is it just because we've been good guys and done it that way. Mr. Finch said I don't know if there's anything in our ordinance but if there isn't I think we need to change it. Councilman Weingartner said it used to be that the Town paid for the pipe also, but when I built my house I had to pay for the pipe. So you're talking around the mid 1990's when they started charging the homeowners for the pipes. My dad and others that I know did not pay for pipes in the mid 1980's. Councilwoman Yonchuk said it should be clearly stated. Councilman Weingartner said this is something that could be put on our website. Mr. McKertich said I will look at the code to see what's in there. It should be in writing, whether it's in the code or it's just a policy adopted by the Board.

Mr. McKertich said a concern would be that now you're turning over part of the project to someone else to do it right. What would happen if they say I'm not going to pave it, I'm just going to leave it as it is, would that result in damage to the pipe? Mr. Finch said it could if the pipe were to get plugged, because sometimes there's so much rain it overtops the driveway and would wash out whatever material is there and blacktop will protect that from happening. Mr. McKertich said if we're going to do a project, the way to make sure it's done right is that we handle it from A to Z and once we turn over part of that project to somebody else, then we lose control over whether it's done right or at all. Mr. Finch noted that some people have dirt driveways so it wouldn't affect them one way or the other. Obviously we wouldn't blacktop a driveway that wasn't blacktopped before. It was noted that this has been done in other areas and that Broome County has done that as well.

Councilman Grubham said there seems to be a lot that were done this past year and questioned if we go to these people or they come to us. Mr. Finch said we've had a lot the past three years. The only time I go to the people is if we are going to be re-doing the road and their pipe is in bad shape. If they ask if they should replace the pipe I will tell them what I think. After paving we won't be able to get on the road to replace a pipe for at least a year because the road is too soft. Other than that, these are all people that called and wanted them done. We do try to accommodate everybody but we have a cut-off point when we take requests.

TOWN OF KIRKWOOD WORK SESSION

November 26, 2019

In regard to putting in long pipes, Councilman Diffendorf said I think this Board needs to tell you to stop doing that. Here's the problem, you're covering a ditch and during a heavy rain the water gets out of the ditch and now it runs down the road and can't get into a ditch and the next thing you know it's in somebody's basement. These are big concerns and we're not supposed to be doing this. If the homeowner does it on their own, that's one thing. Once we do it, we're responsible for it. When we put pipes in like this we have to have a designed storm drained system. Councilman Weingartner said I've seen issues with washouts on Johnson Road. It seems like they cut a hole in it and put something over it and then a screen. They still will get debris in there and how are they going to clean those out? There's no place for the water to go. I can remember a discussion about stopping this years ago, but obviously nothing was done about it. Councilman Diffendorf said we no longer will put pipes in the yards, we do only driveway pipes. All Board members agreed, with Councilman Grubham saying then the question is the homeowner has someone do it themselves and then that affects drainage down the road, so how do we control that? Mr. Finch said they should have an engineer's drawing to do it. Councilman Grubham said when it starts, and they don't have the drawing, then you have to tell them to stop. Mr. Finch said most of the people that want pipes in their yard want us to do it because it's so cheap. If they call us and we tell them they're not allowed to do that anymore without an engineer, then they won't want to do it. Mr. McKertich will check into this.

10. Transfer of Funds.

Resolution.

10a. Planning Board and Zoning Board of Appeals Secretary.

Councilman Grubham said we did not get any applications for secretarial help for the Planning Board or ZBA. The Town of Conklin pays \$150 per meeting, which seems a little steep. The Town of Vestal pays \$13.72 an hour, overtime, comp time, flex time, etc. and the Town of Union has a part time clerk they pay \$10.73 an hour. It appears that we're not getting anyone because it's just not worth it for them to do it so we have to make a decision about how much the job is worth. Mary Kay thinks it's worth \$100 a meeting. Between the two boards there were only ten meetings this year, so there's not a lot of meetings. Depending on how complicated the meeting is, it can be three to five hours work, or something like that. We currently pay \$14 and change now. It's not just the meetings, they have to prepare all the paperwork before the meeting and then after the meeting all the follow-up paperwork. Councilwoman Yonchuk said I don't think \$100 is a lot for a meeting. Councilman Grubham said Mary Kay has been doing it, but after this month she won't do it again for that kind of money, but she would do it for \$100. We'd have someone that's already experienced and there would be no training involved. Currently Mary Kay has been paid on payroll, and there are deductions making her pay less, and she wants to be paid on voucher. All the Board members said they agree with paying \$100 per meeting for this position. Mr. Smith said we should be able to do this but I'll just have to double check for someone with an existing employee status. On voucher if it's over \$600 as an individual, you'd get a 1099 since there's a reporting obligation.

TOWN OF KIRKWOOD WORK SESSION

November 26, 2019

11. **Audit of Claims.**

Deductible Reimbursement for Accident.

Councilwoman Yonchuk said apparently Scott Snyder (Assessor) had an accident while he was doing Town business and hit a deer. Now he is asking that we pay the \$500 deductible on his insurance. I have a problem with that. Supervisor Kniffen said he and Mr. McKertich went to Olivet on an assessment grievance matter, and on the way back the deer ran into his truck. Councilman Grubham said since we pay mileage we're technically renting his vehicle but questioned if mileage would include that. Mr. McKertich said I think mileage includes gas and normal wear and tear on the vehicle. This is an unusual event that typical reimbursement wouldn't cover. Councilman Grubham said once we do this we have to realize whenever we send anyone anywhere and there's an accident we'll be paying for that. Councilwoman Yonchuk said this is basically an Act of God, per say, it wasn't because of anything he did. Councilman Grubham said, here's what I would say then if I was Scott and we don't reimburse him for the deductible, in the future you provide me with a vehicle. Supervisor Kniffen said, putting that aside, my feeling is I think we should do it because he was using his vehicle to do Town business. Councilman Diffendorf said in my case, I'm out checking street lights at night and I get in an accident, what are you going to do for me? Councilman Grubham said it seems to me it's good business for the Town in this case to pay the deductible or whatever cost you might have out-of-pocket. Councilwoman Yonchuk said I have some doubts because I think there are too many variables and I will say no.

Sales Tax.

Councilwoman Yonchuk said an issue came up with John Finch purchasing some inflatable Halloween decorations and used his own credit card and he wants reimbursement. Two questions; why were we buying any Halloween decorations and the bigger issue is why are we paying the sales tax, since we're tax exempt? We need to be very clear about how purchases should be made for the Town. Mr. Finch said I purchased them from Amazon the day after Halloween when most of them were 20 percent off. We don't have a Town card and local businesses were sold out of them. I purchased them with the money we typically give to the Lions Club since they didn't use that money this year. We're bringing the Halloween Party back to the highway garage next year. I wanted things that the kids could get their picture taken by.

In regard to the sales tax issue, Councilman Grubham said that happens a fair amount with the youth program. Both Christina and Marc have used their own credit cards to buy things, so presumably they're paying sales tax. The question would be, is there another way we could do this without people having to use their personal credit cards to buy things for the Town. Supervisor Kniffen said the flip side of that is situations with credit cards being used by public servants, and knowing that they could use that for their personal use. Councilwoman Yonchuk said there have been some local politicians questioned for using town credit cards for personal use, so we have to be very careful. Since we have a tax exempt number, if someone knows they're going to be using their own credit card, can they take the Town's tax exemption

**TOWN OF KIRKWOOD
WORK SESSION**

November 26, 2019

certificate. I don't know if the vendor would accept that. Mr. McKertich said you're exactly right, the Town should not be paying sales tax and that's a problem with people using their own credit card. I would certainly put a stop to that practice. Mr. Finch said we have a Lowes and Home Depot card, but we get tools from Harbor Freight and there I have to take it out of petty cash and get reimbursed. They charge sales tax but there are no municipal accounts there. Councilman Weingartner said to me it's a convenience thing. When I worked at SV when I wanted something yesterday, I would buy things and I would not get reimbursed for the tax. Councilman Grubham said I think we should look into a better way to do it. Supervisor Kniffen will look into it.

Hometown Christmas Expense.

Councilwoman Yonchuk questioned two vouchers that were submitted for payment for printing and mailing the Hometown Christmas postcards. She said it is my understanding that Hometown Christmas isn't costing the Town anything, that it's self-sustaining through donations from merchants, etc. Is there a line item in the budget for Hometown Christmas? Supervisor Kniffen said there is under celebrations but in no way are we giving the total amount of that line item to Hometown Christmas. He said everything comes in through Jean Smith, our bookkeeper, and there's a separate account for Hometown Christmas. Most of the donations come from our businesses, and without them we couldn't survive, and we have a record of them.

12. Executive Session.

Councilwoman Yonchuk moved to adopt resolution to adjourn this meeting to conduct an Executive Session to discuss an ongoing criminal investigation. Councilman Diffendorf seconded.

Roll call vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- yes
	Supervisor Kniffen	- yes

MOTION CARRIED.