

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

December 3, 2019

A regular meeting of the Kirkwood Town Board was held on December 3, 2019 at 6:00 PM at the Joseph A. Griffin Town Hall with Supervisor Gordon Kniffen presiding.

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

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

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

November 5, 2019 Town Board Meeting

PUBLIC PARTICIPATION:

Katie Legg invited everyone to attend Hometown Christmas. She said this is the 5th year anniversary, our tree is spectacular this year and there will be an awesome parade to watch.

COMMUNICATIONS: None

COMMITTEE REPORTS:

SV Football State Championship.

Supervisor Kniffen said we are more than pleased with what SV's football team has accomplished for the second year in a row. They went all the way to the State Championship and that's quite an achievement. We will look forward to honoring them.

Christmas Luncheon.

Supervisor Kniffen said the Christmas luncheon will be at the town garage this year on Tuesday, December 17th at noon, and all the employees and the Town Board are invited.

Property Purchase Under Consideration.

In regard to the property we purchased for the town garage in case we ever were going to move it, Supervisor Kniffen said there are properties in between that we are looking at to purchase. In regard to the Kamp property, according to the bank they want \$15,000. There is another property that's owned by the Singer family and I'd like to ask the Board's approval to hire an appraiser to appraise both properties. We would need that information if we're going to negotiate. In regard to the Singer property, Mr. Finch said we're only looking for a small section of that and he questioned if we would need a survey before the appraisal. Councilman Diffendorf questioned if we need to spend money on a survey for property we don't even know we are going to purchase; couldn't we just use a rough estimate of the footage? Mr. Finch said they're open to offers on that property, and they're willing to sell a portion of it. We just need to know the value of the property, for only about a third of it. Councilman Diffendorf said to me at this point we can put an imaginary line through the property and have that property appraised. Councilman Weingartner said a survey would be the last thing. I think you can get an approximation of how much the acreage is from the GIS. Mr. Finch said I told them we can't pay more than the appraised value of the property.

Mr. McKertich said I would recommend we start with the appraiser, and ask if they would be able to give us an estimate on that particular portion. They may come back and say we're going to need it to be surveyed first, but they might say we can give you an informal approximation that would be enough for us to go on. Councilman Grubham verified that we still are going to have both properties appraised.

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Update – Motel Status, Route 11/Colesville Rd.

Supervisor Kniffen said the County will be paying to have the motel removed and that's been scheduled for next Monday, December 9th, at 10 AM. I will be there and you're all invited.

Hiner Road.

Supervisor Kniffen said we talked about something happening with the Hiner Road situation and one of the things the City is looking at is to build a road from Hiner to Krager. John and I met with the residents to let them know what's going on but we should also talk to the owner of the property, and Mr. Finch has their name.

LED Lighting.

Councilman Diffendorf said the LED lighting is still in the works. A lot of communities are involved with it and we are on the list and hopefully they will get to Kirkwood by the spring. Councilman Grubham said he spoke to a company that was working for NYSEG, changing lights in Greene. They said the process goes fairly quickly.

Cemetery – Colesville Rd.

At the Board's request, Mr. Finch said he looked at the cemetery on Colesville Road to determine if his men might be able to take over the maintenance. It's almost three quarters of an acre, it's hilly and rocky and it would be very hard for us to maintain it on top of all the other ones. There have been recent burials there and it is currently being maintained fairly well.

NEW BUSINESS:

Discussion – Highway Drainage Improvement

Mr. Finch said I received an estimate from Griffiths Engineering for the cost of the highway garage drainage project. The estimate is for putting in all the pipes, grading it off and paving, and the bulk of the cost is paving. I gave Councilman Grubham a map showing the whole layout where all the blacktop is going to be done. The estimate is \$13,000 less than what we originally said it would cost. Supervisor Kniffen said the grant was actually for \$198,000. Mr. Finch said this is without a pump system, since we prefer not to do that. A pump system would be about \$100,000 more. This is at about a one percent grade for the drainage, but once all that blacktop is over there, that's going to cut down on the amount of mud. If we get the salt barn up top, you're not going to have any traffic going through there with mud and issues with that. Councilman Diffendorf said you'll have more water flowing immediately to the pipe. Mr. Finch said it will go into a catch basin first and then go out the final drainage, so hopefully the sediment will settle in the catch basin. It's a 6 x 6 vault that we will be able to clean out ourselves or have someone else do it. Half of the cost would be covered by the grant.

Supervisor Kniffen noted that we went for a grant for the salt barn last year but we didn't get it and we submitted it again this year and should be hearing any day, so hopefully we'll get half of that cost.

OLD BUSINESS:

Discussion – Request for Change in Zoning – Lester Siedel – 50 Francis Street – PUD to B1.

Mr. McKertich said my understanding is that the engineer called Bill Graves, who is an attorney with my firm and attends the Planning Board meetings, and as they discussed it, they agreed that there needs to be a new application and it needs to be referred back to the Planning Board for their report. The primary reason for that is that the Planning Board never reviewed the property that he purchased, they only reviewed the property that he already owned. That makes sense, because we can't rezone a parcel on the request of someone other than the property owner. I will follow up with Bill tomorrow, but I believe they are going to start the new process and it will come back to us through the Planning Board.

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Councilwoman Yonchuk moved to adopt resolution, after a Public Hearing, adopting the 2020 Budget for the Sewer and Water Districts. Councilman Diffendorf seconded.

171-19
Adopt 2020
Budget

Roll Call Vote: Councilman Weingartner - yes
Councilman Grubham - yes
Councilwoman Yonchuk - yes
Councilman Diffendorf - yes
Supervisor Kniffen - yes

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution, after a Public Hearing, authorizing Supervisor to execute Fire Protection Contracts for 2020. Councilman Grubham seconded.

172-19
2020 Fire
Contracts

Roll Call Vote: Councilman Weingartner - yes
Councilman Grubham - yes
Councilwoman Yonchuk - yes
Councilman Diffendorf - yes
Supervisor Kniffen - yes

MOTION CARRIED.

Councilman Grubham moved to adopt resolution, after a Public Hearing, adopting the Full Environmental Assessment Form regarding Local Law 3-2019 entitled “A Local Law Amending the Zoning Local Law, Regulations, and Ordinances”, in accordance with the attached Full EAF. Councilman Weingartner seconded.

173-19
Adopt EAF
LL#3-2019
Amend Zoning
Local Law

Discussion:

Mr. McKertich said we’re looking at the zoning code changes that followed the Comprehensive Plan provisions and now we have to review the environmental impacts of those provisions. This is the long Environmental Assessment Form so we have to go through all 18 questions. Mr. McKertich read all 18 questions and it was determined that this project will result in no significant adverse impacts on the environment, and therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued. (The Full Environmental Assessment Form is on file in the Town Clerk’s Office.)

Roll Call Vote: Councilman Weingartner - yes
Councilman Grubham - yes
Councilwoman Yonchuk - yes
Councilman Diffendorf - yes
Supervisor Kniffen - yes

MOTION CARRIED.

Councilman Weingartner moved to adopt resolution, after a Public Hearing, adopting Local Law 3-2019 entitled “A Local Law Amending the Zoning Local Law, Regulations, and Ordinances”, in accordance with the attached resolution. Councilwoman Yonchuk seconded.

174-19
Adopt
LL#3-2019
Amend Zoning
Local Law

Discussion:

In reference to Larry Holt’s comment last week that no one has ever complained about unregistered vehicles, Councilman Grubham said that isn’t the case according to the Comprehensive Plan. Of the people who submitted the survey, 49 percent said it was a major problem and 34 percent thought it was a minor problem, so about 75 percent thought it was a problem, so he was mistaken about that. The real situation is that originally when we did this the regulation was no unregistered vehicles on the property and that was because this comes under the New York State Building Code, and that’s what the code was. While we were doing this they changed their code to allow one vehicle, so that’s the way it’s written now. That is state code and we can’t change that, and it’s in our new Comprehensive Plan.

Councilman Diffendorf said my problem with this is we’ve never had anyone come here since I’ve been on this Board complaining about two cars, and I’ve been here since 1982. When the State passes a law that has to do with upstate, they don’t care what they pass, and as far as I’m concerned the only resident I’ve ever heard talk about cars is Larry Holt, and I have to say I don’t see where it’s a problem. Councilman Grubham said what we put in here is the state law and I don’t know that we can change it. The question would be how strict we would enforce it. I don’t know that it would get enforced real hard unless someone actually did complain. Councilman Diffendorf said I think we can leave it out

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and let the chips fall where they may. For years according to the zoning rules in this state, you could not zone something out until fracking, and then somehow they got to zone it out. The State also passed a law that you can put a trailer anywhere you want and none of us think that's right. Councilman Grubham said the question would be if we're not going to follow it, then what other items wouldn't we follow? Councilman Diffendorf said at this point I would only think the cars, but I really don't think the people in this town would want a trailer next to their home. Councilman Grubham said you can't stop someone from putting in a trailer since we're following the NYS Building Code.

In regard to the trailer situation, Supervisor Kniffen said can't we just say from this point forward every trailer has to be in a trailer park? Councilman Grubham said no, the State's changed that. We may disagree with it, but we are obligated to follow the state code. Councilman Diffendorf said the State wants to pass a marijuana law, which is against federal law, so it seems to me if the State doesn't have to follow federal laws why do we have to follow state laws? Councilman Grubham said we can't just ignore these laws. Councilman Weingartner said I don't think we should ignore the law plus there is data saying that there's 75 percent of the people that might not say anything in order to be a good neighbor and nine times out of ten people who do say something it is because they have a gripe against their neighbor, which is what Larry said.

Councilwoman Yonchuk said I always thought that in general you have to follow the state law and you can be stricter but you can't be more lax. So we could say no cars but we can't say two cars. Mr. McKertich said it's the notion of preemption. Although it's not true in every circumstance, generally speaking the state law preempts local law because they are considered a higher authority. I haven't researched the car issue but you're probably right that we could ban them altogether but we could not allow more than one. I think discretion comes with enforcement more than anything. You can deal with some of these requirements by not being so strict on enforcement. Councilman Grubham said my thought is that unless somebody actually comes in and complains to Chad, then nothing will happen with it.

Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- no
	Supervisor Kniffen	- yes

MOTION CARRIED.

Discussion: Councilman Grubham said this took us nearly two years to complete and Duane Travis did a lot of extra work and put this all together for us. Also, Marchie, Chad, and Keegan Coughlin from Coughlin & Gerhart's office, did a really great job on this very time-consuming project. Councilman Diffendorf said I appreciate all the time it took to complete this huge task. There was only one issue I had a problem with.

Councilwoman Yonchuk moved to adopt resolution, after a Public Hearing, adopting Local Law 4-2019 entitled "A Local Law Amending the Parks Use Local Law of the Town of Kirkwood", in accordance with the attached resolution. Councilman Diffendorf seconded.

Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- yes
	Supervisor Kniffen	- yes

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution, after a Public Hearing, adopting Local Law 5-2019 entitled "A Local Law Amending Certain Sections of the Sewer Rents Local Law", in accordance with the attached resolution. Councilman Grubham seconded.

Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- yes
	Supervisor Kniffen	- yes

MOTION CARRIED.

175-2019
Adopt
LL#4-2019
Amend Parks
Use LL

176-19
Adopt
LL#5-2019
Amend Sewer
Rents LL

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Councilman Grubham moved to adopt resolution approving a fund transfer from Highway Equipment Reserve to Highway Operating Fund in the amount of \$169,798. Councilman Weingartner seconded.

177-19
Fund Transfer
Highway

Roll Call Vote: Councilman Weingartner - yes
 Councilman Grubham - yes
 Councilwoman Yonchuk - yes
 Councilman Diffendorf - yes
 Supervisor Kniffen - yes

MOTION CARRIED.

Councilman Weingartner moved to adopt resolution approving a fund transfer from Sewer Capital/Equipment Reserve to Sewer 1 Operating Fund in the amount of \$15,450.

178-19
Fund Transfer
Sewer

Councilwoman Yonchuk seconded.

Roll Call Vote: Councilman Weingartner - yes
 Councilman Grubham - yes
 Councilwoman Yonchuk - yes
 Councilman Diffendorf - yes
 Supervisor Kniffen - yes

MOTION CARRIED.

Councilwoman Yonchuk moved to adopt resolution rescheduling the Work Session/Town Board meeting originally scheduled for December 26, 2019 to December 30, 2019.

179-19
Reschedule
Bd Mtg

Councilman Diffendorf seconded.

Discussion: Mr. Smith explained this will give our Bookkeeper, Jean Smith, more time to update all the posting for everything for the final budget adjustments at the end of the year.

Roll Call Vote: Councilman Weingartner - yes
 Councilman Grubham - yes
 Councilwoman Yonchuk - yes
 Councilman Diffendorf - yes
 Supervisor Kniffen - yes

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution authorizing Highway Superintendent to enter into an agreement with the Town Board regarding Expenditure of Highway Moneys, in accordance with the attached agreement. Councilman Grubham seconded.

180-19
Highway
Expenditure
Agreement
2020

Roll Call Vote: Councilman Weingartner - yes
 Councilman Grubham - yes
 Councilwoman Yonchuk - yes
 Councilman Diffendorf - yes
 Supervisor Kniffen - yes

MOTION CARRIED.

Councilman Grubham moved to adopt resolution awarding the bid for the Krager Road Culvert Repair FEMA Project to ZMK Construction at a cost not to exceed \$22,900.

181-19
Award Bid
Krager Rd
Culvert

Councilman Weingartner seconded.

Roll Call Vote: Councilman Weingartner - yes
 Councilman Grubham - yes
 Councilwoman Yonchuk - yes
 Councilman Diffendorf - yes
 Supervisor Kniffen - yes

MOTION CARRIED.

Discussion:

Mr. Finch explained that Bothar Construction's quote was about \$300 less than ZMK's on this project. I called Bothar to ask them if they still want to do the project for that amount because although they were bidding them separately since they are FEMA jobs, he was planning on using material from Krager Road to fill in the Riverview Road project, and he didn't get the other bid. He said he would like to respectfully withdraw his estimate if he could. ZMK is lower than all three bidders for the two jobs combined. I told him what the prices were and he said he could probably make it work but he would prefer not to do it if

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he couldn't do both jobs. Councilman Grubham said so we're going to spend almost \$500 more because he made an assumption that he was going to get both jobs, and why wouldn't we hold him to that? Supervisor Kniffen said let's do what's right, we put it out for bids and that's it.

Councilman Weingartner moved to adopt resolution awarding the bid for the Riverview Road Culvert Repair FEMA Project to Bothar Construction at a cost not to exceed \$4,870.

Councilwoman Yonchuk seconded.

Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- yes
	Supervisor Kniffen	- yes

MOTION CARRIED.

Councilwoman Yonchuk moved to adopt resolution authorizing the Transfer of Funds, in accordance with the attached Budget Adjustment Sheet. Councilman Diffendorf seconded.

Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- yes
	Supervisor Kniffen	- yes

MOTION CARRIED.

AUDIT AND PAYMENT OF CLAIMS:

Councilman Diffendorf moved to adopt resolution authorizing the audit and payment of the following claims: General and Highway Funds, Special Districts (Fire, Light, Water and Sewer Districts), Professional Services, Capital Projects and Reserve Funds claims # 19003556 through # 19003704 in the total amount of \$ 598,970.20, which includes prepaid claims as authorized by resolution adopted January 2, 2019. Councilman Grubham seconded.

Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- yes
	Supervisor Kniffen	- yes

MOTION CARRIED.

OTHER;

Veterans River Park – Winter Status.

Mr. Finch said we talked earlier this year about whether we were going to leave the park open during the winter. I'd like to keep it closed for two reasons. One is for safety, since it's the park where we have the most damage from kids getting in there. Also trying to plow that for people to actually use would involve a lot of plowing. I would recommend just leaving Valley and Grange Hall Parks open for walking. They have much smaller parking lots and walking tracks to maintain. Plus we won't have to pay to have it locked and unlocked, which is another expense. Councilman Grubham said I think the problem occurred last year when the weather was nice early in the winter and people wanted to use it but it was locked. In regard to damage, we haven't had nearly as much since we put the cameras up. Plowing is an issue though. Councilman Diffendorf suggested the park be open when the weather is nice and no snow, and then closed when the snow is an issue.

Valley Park – Lights.

Mr. Finch said there is currently no lighting at the Valley Park's walking track because it is a long FEMA process. We originally told FEMA back in January/February there was damage to the park and they said they needed some inspector other than our electrician to determine the wiring issues and why it needs to be replaced. Tom Connor of Atlantic Inland took four months to write a report and it wasn't acceptable to FEMA so he had to write something else. I also had Code write something up saying that any sections that were underwater had to be replaced, therefore you have to replace the wiring. FEMA is still looking that over but with all the other disasters, they are backlogged. Hopefully we'll get some kind of an answer to we can get started in the spring.

182-19
Award Bid
Riverview Rd
Culvert

183-19
Transfer Funds
Various

184-19
Audit/Pay

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Councilman Grubham said it's always been my understanding that any wiring that's been under water has to be replaced, so are they saying that's not so? Mr. Finch that's for just where the connection points are. When we replace it we'll put the connections at the top of the lamp posts and we'll be replacing all the wiring. We'll also be raising the electrical panel to the code which is five feet off the ground, instead of the two and a half feet it is now. They also look for mitigation so that's where we came up with the idea to put the connections up as high as possible.

Stratmill Road – Clearing of Property.

Councilwoman Yonchuk said a neighbor asked me about the property on Stratmill Road, just past the equipment place, where they have cleared out that whole area. Does anyone know what that's for? Mr. Finch said Anderson Equipment is going to be building up there. It's Maciak's property. Councilwoman Yonchuk questioned isn't there some DEC regulations about deforesting property, that you can only take out a certain amount because of water run-off? Councilman Grubham said it's under storm water management. If you clear more than an acre then you have to come in with a plan and follow all the rules. I asked Chad about that and he apparently gave them permission to clear something so they could drill holes and they went ahead with the clearing. Councilwoman Yonchuk said they cleared more than an acre. Mr. Diffendorf said there is no application from them yet.

Snow Plowing – Main Street.

Councilman Grubham said I'd like the Town to take the plowing of Main Street back over. We used to do it. I understand we got a lot of snow but the County did a horrible job, particularly at the intersection of Main St. and Route 11; they did nothing basically. People were having a rough time getting on Route 11. Also one of the lanes under the underpass was full so you basically only had one lane to get through. John seems to think he can do that on a shared service basis because he has other things that need to be done by the County. Mr. Finch said he contacted the County Highway Department and he didn't seem to have a problem with that but he has to run it by Sue. There are roads in the town that need to be striped. The County just did Grossett Drive and had to repave Water Street. We have other roads like Corporate Drive and Francis Street that need to be done. With the striping, they paid for the paint but charged us labor because we mow the Exit 1 off ramp for them. If we take over Main Street, that's quite a bit bigger, so every year I'd have them do some striping and maybe some mowing for us. Supervisor Kniffen said if we do that I think we should document it with an inter-municipal agreement. Councilman Diffendorf said they should be told to do a better job, it was terrible last year as well. Councilman Grubham said Main Street is kind of out of the way for the County. Mr. Finch said they do the bridge road from Kirkwood to Conklin. Councilman Diffendorf said the length is about two miles and if we were getting paid for that, it would be about \$7,000. Maybe we should talk to our Legislator or maybe we should just be paid to do it. We're talking about nickel and diming in regard to the striping. Councilman Grubham said we have to go down through there to do Kirkwood Gardens. Councilman Weingartner asked is there a piece of road the County can plow for us, possibly Corporate Drive? Mr. Finch said we plow that road. Supervisor Kniffen said this is only once this year and it would be difficult to get dollar for dollar so maybe we should talk to them about it. Councilman Grubham said whatever works, just so the job gets done.

ADJOURNMENT:

Councilman Weingartner moved to adopt resolution to adjourn the meeting. Councilman Diffendorf seconded. All vote in favor.

MOTION CARRIED.

Meeting adjourned at 7:06 P.M.

Respectfully submitted,

Gayle M. Diffendorf
Town Clerk