

**TOWN OF KIRKWOOD
SPECIAL TOWN BOARD MEETING**

March 17, 2020

A special meeting of the Kirkwood Town Board was held on March 17, 2020 at 1:15 PM at the Joseph A. Griffin Town Hall with Supervisor Gordon Kniffen presiding.

Present: Supervisor Gordon Kniffen
Councilman Robert Weingartner
Councilman Lewis Grubham
Councilwoman Katie Legg

Absent: Councilman William Diffendorf, Jr.

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

PLEDGE OF ALLEGIANCE:

NEW BUSINESS:

Supervisor Kniffen provided an informal agenda regarding issues regarding COVID-19.

Supervisor Kniffen said a memorandum was received from a higher court ordering all courts in New York State to close, with pay, until further notice.

Supervisor Kniffen said yesterday the Governor requested that we limit our workforce to essential employees only, reducing our workforce by at least 50 percent and today he mandated that the number of employees be cut to at least 50 percent. In anticipation of that we did compile an employee schedule by department for discussion. In this regard, Mr. McKertich read Executive Order 202.4: Any local government or political subdivision shall, effective March 17, 2020, allow non-essential personnel, as determined by the local government, be able to work from home or take leave without charging accruals, except for those personnel essential to the response of COVID-19 emergencies. Such non-essential personnel shall total no less than 50 percent of the total number of employees across the entire workforce of such local government. Mr. McKertich said I know everyone is essential, but what this is telling us to do is figure out who is essential and who is not in regard to the response to the COVID-19 emergency and then those people that we deem not essential, this order is telling us to send them home. Various scenarios regarding work schedules were discussed. Mr. Finch said I think we could shut down until April 1st, because we've been ditching and are ahead of the game right now because of the weather. The only issue would be inclement weather, and then we would be considered first responders since the roads have to be kept open. At President Trump's press conference earlier today, he urged everyone to shut down for two weeks and I'm sure that will come down to us eventually so we may want to be proactive and do that. Supervisor Kniffen said other towns that we've heard from; Conklin, Town of Binghamton, Dickinson and Windsor, are shutting down their town halls to the public. Councilman Weingartner added that the City of Binghamton is closing to the public but they will still have employees working. He also reviewed some of the things other towns are doing. Updated information is being posted to their websites. Things are changing daily.

Mr. McKertich said we don't need to make a decision that's going to last two weeks, but only close down to the end of the week and revisit it to keep our options open. After discussion Councilman Grubham said, and the Board agreed, that this is going to get stricter so the decision will most likely be made next week anyway so we might as well do it now and go with a two-week closure. The decision was made to close all town buildings until April 1st, to limit public contact for our employees. No employees will be working regular hours, only on an as needed basis. Highway and water and sewer employees will be called in for emergency situations only.

Mr. McKertich said we need to track hours because the hope is that we will be reimbursed by the federal government. Supervisor Kniffen said the County received \$7.6 million, and part of that is to take care of paid leave, but we don't know how that will get down to us.

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We do get updated by the County Executive every day at 4:00 so we may find out today how that is going to be distributed.

Mr. McKertich said there is also a distinction between union and non-union employees. For the non-union employees we can freely grant additional paid leave. For the union employees that's considered a term and condition of employment and needs to be bargained. I would expect the Union would agree to this but if we do it without their agreement we are setting a past practice of granting additional paid leave. Mr. Finch questioned if that applies under a State of Emergency. Mr. McKertich said we have not viewed it that way. We can order them to stay home but the question is whether or not they have to use their own paid leave or whether we're going to just grant additional paid leave. If we're going to grant additional paid leave for union employees it has to be agreed to. Some of these issues will be addressed at our firm's webinar on Thursday at 10 AM, and we can talk about this after that.

Supervisor Kniffen said, suppose we have an employee come down with the virus and we don't know how long they might be out and they don't have enough sick, personal or vacation time left, would we want a policy addressing that since this is a crisis? Councilman Weingartner said that's a very slippery slope because it's no different if someone got the flu, you're sick and that's what sick days are for, whether it's cancer, the flu or COVID. Just because it is COVID that doesn't mean that they get extra sick days. Someone else might say that I got the flu and had to take extra days with no relief. Councilwoman Legg said from what I'm hearing, if one of our employees actually has the virus, whoever the employee worked with closely will have to go on a 2-week quarantine, so what will you do with those employees? Mr. McKertich said at that point the Department of Health takes over and quarantines all those employees. It could be a whole department and they wouldn't be getting paid. Supervisor Kniffen said I think then that's different if they are quarantined. Mr. McKertich said that's an issue we could address if it comes up.

A situation was discussed regarding an employee that is currently out of work and using sick time but will have to go on workers compensation due to the fact that their return to work date has been delayed because of the COVID-19 outbreak. Councilman Weingartner will look into how to handle this.

In regard to the youth programs that currently include softball, baseball and the Easter Egg Hunt, Mr. McKertich said that anything within the next 30 days should be cancelled and then revisited. Councilwoman Legg noted that the Easter Egg Hunt has already been cancelled. Councilman Weingartner added that since the schools are closed those fields wouldn't be available anyway.

Mr. McKertich said there is a resolution that has been drafted for non-union employees that we could use to authorize additional aid, but I don't think we need to take any action today. I think we should set up another meeting and then take action. What I envision is a resolution authorizing two weeks of time off for the non-union employees and an MOA for the union employees and revisit it every couple of weeks since things are changing every day. This is basically treating things the same as if there were snow days.

Mr. McKertich said the Governor has also issued an Executive Order that allows boards to convene by telephone as long as the public has a right to listen to the conversation and we do a transcription of it afterwards. Councilman Weingartner referenced that the Town of Chenango has someone in Ohio doing a virtual town board meeting. Councilwoman Legg initiated a discussion and provided a detailed explanation of how that could be accomplished by possibly using freeconference.com or Zoom. Mr. McKertich said I think we would want to be able control muting people.

The option of using Facebook live was also discussed in detail. Councilwoman Legg noted we don't get a lot of people attending our meetings and I post our agenda on my page and we only get a small amount of people who even open them. Since there is now an issue I don't see a lot of people coming anyway and if we tell them we are going to live feed it, you will get people who will go to the live feed because it's easy and they don't

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have to leave their living room. A suggestion was made to combine the work session and meeting, as we do in the summer. Mr. McKertich suggested we limit meetings to only the basics, like paying bills and any matters that have to be addressed.

Mr. McKertich clarified that under the Facebook Live option, the Board would be present at the Town Hall and with Zoom no one would be here, everyone would be calling in. After an extended discussion with various scenarios being presented and the pros and cons of each, the decision was made to go with You Tube live as the best option. Public comments would be suspended. Councilman Weingartner said there would be a link on the website to take you to You Tube to watch the meeting live. There is already an option on the Town's website for anyone to click on that has questions or comments.

The March 31st work session and April 7th meeting will be combined and held on April 7th at the usual time of 6:00 PM. Mr. McKertich said once this is all set we should get a notice out that this is how the public can participate. Put it on the website and sign board.

Marchie Diffendorf questioned how the Planning Board and ZBA meetings should be handled. He said the Planning Board does have an application from Action Fire for an addition for the April 13th meeting, and they would like to get started. Councilman Grubham said I'd be concerned about not having meetings because things are bad enough as they are and we don't want to discourage business. Mr. Diffendorf said the applicant would have to attend and another person may come because the addition is closer to their house even though it meets the setback. Mr. McKertich said if it's a public hearing people have a right to attend and speak. We also might have difficulty getting board members here. Mr. Diffendorf will check with Action Fire to see if they would agree to a delay of a week or two, although there may not be a choice as things progress. Mr. McKertich said I think we should try the best we can to push everything off. Councilman Grubham said I'm hesitant to lock everything in stone because we have no idea where this is going. We know that for two weeks we can't do anything and we can address things then. Supervisor Kniffen noted a concern of waiting to the last minute and then not have time to figure things out. We should take the time to figure it out now. Councilwoman Legg added that if the applicant has no problem with waiting then there is nothing to worry about at this point. It was also noted that there are four hearings scheduled for the Zoning Board of Appeals on April 20th. Councilman Grubham suggested that possibly Chad could contact the applicants to try to get them delayed as well. Mr. McKertich said I wouldn't be surprised if we get an Executive Order at some point that says all planning and zoning applications are currently suspended for a certain time period. If possible we would need to meet before April 7th.

Councilman Grubham moved to adopt resolution combining the March 31, 2020 Work Session and the April 7, 2020 Town Board Meeting into one night to be held April 7, 2020. Councilman Weingartner seconded.

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

MOTION CARRIED.

Councilman Weingartner moved to adopt resolution to adjourn this meeting. Councilman Grubham seconded. All vote in favor.

MOTION CARRIED.

Meeting adjourned at 2:46 PM.

Respectfully submitted,

Gayle M. Diffendorf
Town Clerk