

**TOWN OF KIRKWOOD  
TOWN BOARD MEETING**

**February 2, 2021**

A regular meeting of the Kirkwood Town Board was held on February 2, 2021 at 6:00 PM at the Joseph A. Griffin Town Hall with Supervisor Lewis Grubham presiding.

Present: Supervisor Lewis Grubham  
Councilman Robert Weingartner  
Councilman William Diffendorf, Jr.  
Councilwoman Katie Legg

Also Present: Robert McKertich, Attorney  
Kelley Diffendorf, Town Clerk  
John A. Finch Jr., Commissioner of Public Works  
Marchie Diffendorf, Planning Bd. Chairman  
Duane Travis, ZBA Chairman (via Zoom)

**PLEDGE OF ALLEGIANCE:**

**APPROVAL OF MINUTES:** January 5, 2021 Organizational Town Board Meeting

**PUBLIC PARTICIPATION:** None.

**COMMUNICATIONS:** None.

**COMMITTEE REPORTS:**

**Dog Control Report.**

Councilwoman Legg reported numbers from the January Dog Control Report with 3 dogs picked up, 1 went to the shelter, 2 back to their homes, 2 lost dogs, 32 anonymous complaints, 8 tickets issued, and 1 court appearance.

**DISCUSSION:**

**Sales Tax Report.**

Supervisor Grubham said we received the sales tax report from last year and it actually turned out pretty good. We were up 1%-1½% more than we anticipated in the original 2020 budget. We are way ahead of where we were in the virus budget passed in late spring of 2020. This doesn't mean we want to go out and splurge because I'm concerned about this year. Especially because every quarter the State is going to start taking out \$831,000 from the county budget to pay for financially distressed nursing homes and hospitals. I assume our Town will be paying every quarter for whatever our portion of that \$831,000 would be. Not only that, with everything being so bad this first quarter and possibly second quarter the sales tax money is going to be down. We still need to be careful because we just don't know the situation yet.

The State budget for this year, that is supposed to be approved April 1<sup>st</sup>, has the AIM (Aid and Incentives for Municipalities) money cut by 20% and the CHIPS (Consolidated Local Street and Highway Improvement Program) money the same as last year, but we don't know if that will actually happen since it hasn't been voted on yet. John Finch said they are possibly looking at a 5% decrease in CHIPS money, compared to the 20% decrease last year. Councilman Weingartner mentioned that schools are only getting a 5% decrease instead of the 20% they were originally told.

**OLD BUSINESS:**

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

28:21  
Highway  
Expenditure  
Agreement

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

**MOTION CARRIED.**

**TOWN OF KIRKWOOD  
TOWN BOARD MEETING**

**February 2, 2021**

29:21  
Purchase  
Kubota Mower  
Parks

Councilman Diffendorf moved to adopt resolution authorizing the purchase of a new Kubota mower from Goodrich Implement at a total cost of \$ 8797.22, in accordance with the attached quote. Councilman Weingartner seconded.

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

MOTION CARRIED.

30:21  
Open Town  
Board Seat  
**WITHDRAWN**

Councilman Weingartner moved to adopt resolution to have the vacant Town Board seat remain vacant until the General Election, at which time the Town Board may appoint the winner of the election to the Town Board, however if the need arises the Town Board may at any time elect to appoint a person to fill out the term ending December 31, 2021.

Councilwoman Legg seconded.

**Discussion.** Councilman Diffendorf said at last week’s work session everyone felt that it was important for the Planning Board to have five members present during meetings because at their last meeting they only had four members present. I feel our Board is in the same position. We are going to be a person down. If someone takes the time to come here, they have a concern, and for them it’s a big deal and they want to be heard by a full Board. If we are supposed to have five Board members, they don’t just want four to hear them. It’s only right that we do that, we’ve always had five. We’ve never gone without replacing someone on this Board. If there’s a person we could get to do it and have them sign an agreement that they wouldn’t run then we should do it. That is my statement and how I feel about it.

Councilman Weingartner said my feelings are the same as I stated before. Even though a person will only be here until the end of the year it’s like they are a lame duck in that situation. I just feel if the person didn’t run for an election to try to become a Board member then this is not the way they should be a Board member.

Councilwoman Legg said I didn’t want someone to be chosen that was actually running for a seat because I didn’t feel it was fair to someone that might be running. I’m not against filling it if we had someone who was capable and knowledgeable of what we do. What if something did happen to one of us, there’s a lot of what ifs without having a full Board. I’m kind of on the fence. If we are going to bring someone in I’d like to talk to them myself.

Supervisor Grubham asked the Board if this should be held over and see what we can come up with in the next month. Supervisor Grubham said even if we vote on this resolution it doesn’t really preclude us from adding someone at any time. Councilman Diffendorf asked what the advantage would be to holding off on this. Councilman Weingartner said I like Councilwoman Legg’s idea about getting the opportunity to speak with the person. Councilwoman Legg said if we vote on the resolution then we would still get a chance to speak with the person that has shown interest. Supervisor Grubham agreed.

Supervisor Grubham said my thought was that when the November election was held we could appoint the person that won immediately to finish off the term even with them officially starting in January. If we were to go the other route the person we appointed would go for the entire year and we wouldn’t need to appoint the winner right after the election. Councilman Weingartner said as of right now we are without a councilperson for nine months if we were to appoint someone right after the election.

Mr. McKertich responded to Councilman Diffendorf stating, there are a couple of ways to fill a seat. If you know someone that you want to appoint, someone can make a resolution to appoint “John Doe” to the vacancy and you have a second and then a vote on it. Or a Board can have a resolution to advertise the vacancy and conduct interviews. Then you can meet in an Executive Session and talk about who you want to appoint. Those are usually the two ways this is done.

Mr. McKertich confirmed that it was ok to speak the person’s name in a public meeting. Councilman Diffendorf said I’m talking about Art Shafer. Art has graciously volunteered

**TOWN OF KIRKWOOD  
TOWN BOARD MEETING**

**February 2, 2021**

to fill out the term and he has no intentions of running and he'll sign a letter with no intent to run. Art Shafer was a Councilman and a former Town of Kirkwood Supervisor and I think it's an ideal candidate to step in and do the job. My opinion is we should go ahead and do it and we are fortunate to have someone offer to step in and do this. Again, until you sit out there and go to a meeting and present your case to a Board and you don't feel like you are getting full representation, which bothers people. When people come to a meeting for whatever reason they want to be fully represented by the Board, they don't want partial representation.

Supervisor Grubham said he did reach out to me as well. Art Shafer was here for some time as Councilman and Supervisor, then he was in the County Legislature for quite a while. Councilwoman Legg said, he could be an asset to our Board. Supervisor Grubham said I don't have strong feelings one way or the other but I'm not against doing this if everyone else is in agreement. I can get in touch with Art Shafer and we can do this at the next meeting. Councilwoman Legg said he's not here to run, he's only here to help us fulfill what we are supposed to do as town officials, and he was one. He's not coming in with ill intentions.

After the discussion Councilman Weingartner withdrew his motion. Councilwoman Legg withdrew her second.

Councilman Weingartner moved to adopt resolution authorizing the Supervisor to enter into an agreement with Hybrid Building Solutions for a 65 ft. wide by 84 ft. long Calhoun Super Structures HT building for the new Salt Storage Barn, at a cost not to exceed \$90,529.25, in accordance with the attached agreement. Councilwoman Legg seconded.

31:21  
Salt Barn  
Building  
Agreement

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

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution, pursuant to Not-For-Profit Corporation Law Section 1402(c)(3) approving the Membership Roster for Kirkwood Fire Company, with the understanding that the members so approved will be assigned for which they have been qualified, in accordance with the attached roster. Councilman Weingartner seconded.

32:21  
Kirkwood Fire  
Company  
Roster

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

MOTION CARRIED.

Councilwoman Legg moved to adopt resolution accepting the Recertification of the Record of Activities for James R. Smith, Budget Officer PT, William J. Diffendorf, Jr., Safety Officer, and Cynthia French, Dog Control Officer for the year 2021, in accordance with the attached recertifications. Councilman Weingartner seconded.

33:21  
Retirement  
Recertification-  
Budget Officer,  
DCO, Safety  
Officer

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

MOTION CARRIED.

Councilman Weingartner moved to adopt resolution accepting the Recertification of the Record of Activities for John A. Finch, Jr., Highway Superintendent, Kelley M. Diffendorf, Town Clerk, William J. Diffendorf, Jr., Councilperson, and Cynthia French, Member Zoning Board of Appeals, in accordance with the attached recertifications. Councilwoman Legg seconded.

34:21  
Retirement  
Recertification-  
DPW Super,  
Town Clerk,  
Councilperson,  
ZBA

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

MOTION CARRIED.

**TOWN OF KIRKWOOD  
TOWN BOARD MEETING**

**February 2, 2021**

35:21  
Education –  
C. Moran

Councilman Diffendorf moved to adopt resolution authorizing Chad Moran to attend the Southern Tier Home Builders & Remodelers Association’s training on February 17, 2021 from 9 AM to 4 PM at the South New Berlin Fire Department, at a cost of \$35.00.

Councilman Weingartner seconded.

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

MOTION CARRIED.

36:21  
Cell Phone  
Reimbursement  
For Supervisor

Councilman Weingartner moved to adopt resolution authorizing the monthly cell phone reimbursement of \$50.00 to Lew Grubham, Supervisor. Councilwoman Legg seconded.

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

MOTION CARRIED.

**AUDIT AND PAYMENT OF CLAIMS:**

37:21  
Audit/Pay

Councilwoman Legg 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 # 21-000042 through # 21-000172 in the total amount of \$ 704,120.84, which includes prepaid claims as authorized by resolution adopted January 5, 2021. Councilman Diffendorf seconded.

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

MOTION CARRIED.

**ADJOURNMENT:**

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

MOTION CARRIED.

Meeting adjourned at 6:21 PM

Respectfully submitted,

Kelley M. Diffendorf  
Town Clerk