

**TOWN OF KIRKWOOD
WORK SESSION**

January 27, 2009

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

Also Present: Herbert Kline, Town Attorney
Gayle Diffendorf, Town Clerk
Michael Jones, DPW Deputy Commissioner
Daniel Griffiths, Town Engineer

1. Proposed Resolution Relating to the Initial Review, Under the State Environmental Quality Review Law of the Project Entitled Urda Rezoning Application. (HAK)

Mr. Kline explained that if the Board decides to be the Lead Agency, which does not mean that they plan on approving or denying the project, a resolution should be on the 2-3-09 agenda. Mr. Kline added that the Board should review the Planning Board minutes in regard to this project.

2. Discussion – Transfer Corporate Drive to Broome County.
(HAK/RJJ)

Mr. Kline explained that Corporate Drive from Colesville Road up to the ramp which is Link Drive, is presently a town road. He said that the state wants to take it over and the county wants to do some swaps, so it would have to be transferred to the county and then they would transfer it to the state. Mr. Kline said that according to Mr. Jones this is a great idea because it would save the town the cost of maintaining the road, although it will cost the town to have a survey done; no survey could be found. Mr. Jones wants to hire surveyor Paul Koerts to do the survey for \$2,500. Councilman Weingartner questioned why the state does not pay for the survey since they want the road. Mr. Kline responded that he suggested that it be split three ways with the town, county and state each paying 1/3, but that hasn't been determined; Mr. Jones will check into that.

3. Resolution pursuant to Chapter 402 of the Laws of 2007 amending Town of Kirkwood Procurement Policy adopted December 6, 1994 and amended February 7, 1995 by adding the following new section 6A:

6A. The individuals responsible for purchasing goods and services for the Town are as follows:

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Commissioner of Public Works:

Purchases relating to Highway, Parks, Sewer, Water and
Town Buildings

Secretary to Supervisor and Town Board:

Purchases relating to Town Offices and Officers

Town Justices:

Purchases relating to Town Court

Secretary to Enforcement Officers:

Purchases relating to Building Inspection and Code
Enforcement

Town Clerk

Purchases relating to Town Clerk

Assessor

Purchases relating to Assessor

Mr. Kline explained that a new state law requires that personnel authorized to order supplies must be put in the Procurement Policy. He noted that at the last meeting the Town Clerk suggested that it remain as it, that each department order their own supplies. Supervisor Kniffen noted that his secretary had some concerns that other departments, such as recreation, senior citizens, etc. are not listed. Mr. Kline suggested that Mary Kay add everyone to the resolution that should be included. Resolution for 2-3-09.

4. Discussion – Employment Policy Regarding Reimbursement for Training Expenses. (HAK)

Mr. Kline explained that if an employee does not stay in the position for 5 years the amount of the town's training expense would have to be paid back, pro rated on the number of years of employment. Resolution 2-3-09.

5. Discussion – NYSEG Voice Your Choice – Gateway Electric. (HAK)

Mr. Kline noted that there are two decisions to be made in regard to this; whether to go with a fixed rate vs. variable rate – short discussion, and whether to switch to Gateway Electric. He said that Dick likes the idea of one bill instead of two and the town would have 20 days to pay after receipt of the bill. Mr. Kline added that if the Board decides to go with Gateway at the February meeting it would take effect 3/22/09 and they do not need to decide whether fixed or variable until just before the effective date. Resolution for 2-3-09.

6. Discussion – Weight Limit Local Law. (HAK)

Supervisor Kniffen explained that a weight limit local law was adopted to try to protect the roadways from gas drilling operations and it is up for review. He said that Dennis O'Dea researched this and gave information to Mr. Kline. Supervisor Kniffen noted that at the last meeting it was discussed how this is handled in Denton, Texas and that Dan

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Griffiths had put together a proposal which involves the inspection of 4 roads; 2 in common with both Kirkwood and Conklin. Supervisor Kniffen explained that Dan is the Engineer for Conklin as well and this would be a mutual interest and the cost could be shared. Mr. Kline said that Conklin should be contacted as to their interest in joining in this proposal and if they are not then Windsor could be contacted, being another town that has roads similar to Kirkwood. Mr. Griffiths explained that it is broken down to 4 typical roads, starting with the weakest pavement section to the strongest pavement section. Work will progress and this is to be revisited.

7. Discussion – Violence in the Workplace. (HAK)

Resolution for 2-3-09.

8. Discussion – Model Lease – FEMA Buyout Properties. (HAK)

See number 9.

9. Discussion – Buyout Property Leasing. (GEK/HAK)

Mr. Kniffen explained that the Town is currently consider leasing FEMA property that was bought out following the flood of 2006, since Mr. Geiger brought this proposal to the Board. He noted that there was an article in the Press and Courier and Mr. Kline has prepared a model lease to address the various aspects of leasing the property. He noted that some additional concerns have been raised: Maintenance of the private roads, is the leasing restricted to town residents, partying on the sites and how to handle it if more than one person would like to lease a particular parcel, among others. He did note that the property must remain green space, and only open structures such as a pavilion or pole barn could be built. He added that the Town is not looking to make money on this. To research and address the numerous concerns, Supervisor Kniffen appointed a committee of Councilmen Grubham and Weingartner to report back on 2/27/09 at the work session. Mr. Kline added that he spoke with Rick Lord, Representative from SOMA, regarding many of the issues and sent him a copy of the model lease, which Mr. Lord will review and forward to FEMA. He noted that according to Mr. Lord the issue of making the property available to others has never come up, in the past it has always been neighboring property owners. Mr. Kline added that this might be a different circumstance since these properties are on the Susquehanna River. It was noted that the insurance issue is covered in the lease. Mr. Geiger said that the roads are currently maintained by the people that live there; they are private roads. Supervisor Kniffen noted that if the parcels are not leased it is the responsibility of the Town to take care of them. This will addressed again at the 2/24/09 work session.

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10. Discussion:

- A. Agreement with Consulting Engineering regarding Professional Services.
- B. Agreement with Consulting Engineer to Evaluate Cell Town Modifications. (GEK/HAK)

Supervisor Kniffen explained that Dan Griffiths became the Town Engineer as of January 1, 2009. Regarding the first agreement, Mr. Kline explained that Dan's hourly rate was used as presented in his proposal last year. He noted that Dan could attend meetings without any permission but before he could start any other project he would need department approval. Supervisor Kniffen noted that for meeting attendance, Dan is on call regarding Town Board meetings, he will attend all Planning Board meetings and attendance at Zoning Board of Appeals meetings is yet to be determined. Dan said that he always presents a proposal with an estimated fee before a project is started.

Supervisor Kniffen noted that there is another cell tower request so the proposal is to have Dan provide the engineering services for that. Mr. Kline said a proposal will be required from Dan for the cell tower co-location on the Skinner farm. He said that a proposal is required for each cell tower, whether it be a new tower or co-location and the cost of services is lower if it is a co-location. Mr. Kline noted that this will be on the ZBA February meeting agenda. Resolutions for agreements on 2/3/09.

11. Discussion – Proposed Resolution Authorizing the Town of Kirkwood to Act as a Co-Applicant with Broome County for a New York State Local Government Efficiency Grant to Study the Feasibility of a County-Wide Code Enforcement Office. (GEK)

Supervisor Kniffen explained that Broome County is looking at county-wide consolidation of code enforcement and since Kirkwood was involved with discussion regarding this with the County some time ago they are requesting Kirkwood as co-applicant. Resolution for 2-3-09.

12. Request from Robert Kiberd to attend the NYSDOC Central Chapter 4th Annual Educational Conference to be held April 14-17, 2009 at the Holiday Inn, Liverpool, NY at a cost of \$350.00 for registration, \$94.00 per night for lodging, and all reasonable expenses paid. (GEK)

Supervisor Kniffen explained that Bob has to go for 24 hours of certification every year and this conference covers that requirement. Resolution for 2-3-09.

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13. Resolution, on recommendation and approval of the Ordinance Enforcement Officer, pursuant to section 304.3 of the Mobile Home-Trailer Ordinance, authorizing the license to be effective upon the expiration of the previous permit, and to continue in force for a period expiring December 31, 2009:

Kirkwood Mobile Home Court, LLC, 41 Loughlin Road, Binghamton, NY 13904 Owner: Robert Morgan, etal

Resolution for 2-3-09.

14. Amendment to Salary/Compensation Policy. (GEK)

Mr. Kline noted that in regard to Group 15, Budget Officer should be changed to Budget Director. Resolution for 2-3-09.

15. Discussion – Intermunicipal Code Enforcement Officer Agreement with Town of Windsor, Town of Conklin, and Town of Kirkwood. (GEK/HAK)

Mr. Kline forwarded the agreement to both Windsor and Conklin. Resolution for 2-3-09.

16. Discussion – Water Treatment Plant. (RJJ)

Mike Jones said that they are running out of space and they want to tear out pipes, since they are not used anymore. He said that all the work will be done by water and highway department personnel, adding that some of the pipes can be salvaged. Councilman Grubham added that there will be some cost involved to take the tanks out in back. Mr. Jones added that no walls will be torn out. John Finch reported that the Health Dept. has been contacted as well as the landfill and everything is OK.

17. Discussion – Resolution designating attendance at NYCOM Natural Gas Exploration Symposium held at Binghamton Regency Hotel on August 12, 2008 as qualifying as approved training course for 6 hours of credit for members of Kirkwood Planning Board. (HAK)

Mr. Kline explained that Marchie Diffendorf attended a 6-hour symposium last year and he should get credit for it for the Planning Board.

18. Discussion – Holmes Trucking Site Environmental Services Proposal from Delta Engineers. (HAK)

Supervisor Kniffen explained that this is the property that the Town is proposing to purchase for the new highway garage facility. He said that when Holmes vacated it there was an environmental study done with some contamination concerns that were supposedly mitigated. He said that to protect the Town they want to expand on the original review, adding that a proposal has been received from Delta. Supervisor Kniffen

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noted that \$70,000 has been set aside for this project and with everything to date the cost is still within that amount. Mr. Kline explained that after the extended environmental review, the next step would be a survey, for which he has a price and he has sent the abstract to the title insurance company for review. In response to Councilman Diffendorf Mr. Kline said that Delta would be responsible if they give the green light and an environmental problem develops at a later date. Mr. Kline will prepare the contract and forward to Delta. Resolution for 2/3/09.

Later in the meeting Mr. Kline noted that in the Delta proposal it says the limit of their liability is the amount of money the Town gives them for the project. He said that will have to be removed. He noted that Mr. Griffiths had the same thing in his contract and he removed it with no problem.

19. Recommendation from Planning Board – Schedule Public Hearing – Andy Walker request for rezoning from B2 to B3 and CE Overlay District – 14 Grossett Drive.

Supervisor Kniffen reported that the Planning Board is now recommending approval. Resolution 2/3/09 to schedule a public hearing for 2/24/09.

20. Discussion – Appointment of Sandra Fox as Planning Board Ad Hoc Member. (M. Diffendorf)

Resolution 2/3/09.

21. Discussion – Windmills. (HAK)

Mr. Kline said that it is his understanding that the first application has been received to use wind power to generate electricity on private property. He said that under the present Zoning Local Law there is nothing that permits it so the Local Law needs to be amended to permit it as an accessory use. He suggested sending this to the Planning Board. He noted that issues to be addressed are set backs, height and sound. Marchie Diffendorf, Chairman of the Planning Board, added that which zoning districts they will be allowed in will also have to be addressed. He said that he does not know how many are in town but farmers typically use them for pumping water. He noted that he has a windmill in his side yard that aerates a pond. Mr. Kline added that these will be for individual use. Mr. Kline noted that the next thing that will need to be addressed in the future is solar panels. Mr. Kiberd said there is currently an application now, that they were given a retro permit and he explained the specifics. Mr. Kline said it will be more of a concern when they apply for a stand alone which would be considered an accessory structure.

22. Discussion – Order to Remedy – Lechner’s Service. (HAK/RK)

Mr. Kline explained that this is under control; that Judge Coe has given them an adjournment to put up the fencing which has been held up due to the weather.

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23. Request from Joyce Ottens to attend the NYS Association of Towns Meeting in New York City, February 15-18, 2009, with all reasonable expenses paid. (GEK)

Resolution for 2-3-09.

24. Discussion – Resignation of Paul Shaw, Chairman, Zoning Board of Appeals. (GEK)

Supervisor Kniffen said that Paul Shaw resigned due to his health. Duane Travis has served as Chairman in Mr. Shaw's absence and is willing to serve as Chairman permanently. Mr. Kline noted that a written resignation must be received by Mr. Shaw. Resolution 2-3-09. It was determined that Mike Maciak should be moved up to regular member status.

25. Audit of Claims.

Resolution for 2-3-09.

Other:

Old State Road – Dog Kennel.

Code Enforcement Officer, Bob Kiberd explained that pursuant to 318 Old State Road, they were given an Order to Remedy on 12/3/08 from Sam Borruso and again on 12/19/08 by Doug Saunders. He said that they are running a kennel operation which is not a permitted use, although her lawyer considers it a non-conforming use. He noted that Mrs. Wilson has a purebred license. Mr. Kline added that the remedy would be to go before the Zoning Board of Appeals to determine whether this is or is not a non-conforming use. He said that some refer to this as "grandfathering", the claim being that it was there before the zoning, but Bob and Doug have investigated and they feel it was not there before the old Zoning Ordinance was established in 1983. Mr. Kline said their attorney will attend the next meeting on February 3, 2008 at 6:00 to talk to the Board as to his position. Mr. Kiberd said that a number of complaints have also been received from neighbors in the area about the noise, etc. Terry Holden of 328 Old State Road, property adjacent to 318 Old State Road, said that the Wilsons currently do operate a dog kennel on the site and her main concern is the impact that it will have on their property values as well as the noise and safety issue, noting that the dogs did recently get loose. She presented information and pictures from a website on 11/24/08 in regard to the property which advertises Rockledge Kennels. She said it was then updated and on 1/15/09 is says Jack Seacrest, Professional Handler. She referenced a picture of a large RV on 318 Old State Road and that is where 3 dogs are housed. She also had pictures of dogs in the chain-link kennel runs. In addition she presented 6 complaint violations from other neighbors adjacent to the property. This will be addressed again on 2/3/09.

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Street Lighting – Kirkwood Gardens.

Since there are a lot of street lights out in Kirkwood Gardens and most of the properties have been bought out through the FEMA flood buyout program following the 2006 flood, Councilman Diffendorf questioned if they should be turned off, although he did turn them in today as being out. Mr. Kline said that it is part of the Main Street lighting district and the boundary would have to be redrawn if they were to be legally turned off. Councilman Diffendorf said it costs about \$120 a year to light Kirkwood Gardens. He will continue to review.