

**TOWN OF KIRKWOOD  
TOWN BOARD MEETING**

**February 3, 2009**

A regular meeting of the Kirkwood Town Board was held on February 3, 2009 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: Herbert Kline, Town Attorney  
Gayle Diffendorf, Town Clerk  
Richard Jones, DPW Commissioner

**PLEDGE OF ALLEGIANCE:**

**APPROVAL OF MINUTES:**

January 6, 2009 Town Board Organizational Meeting  
(4) January 27, 2009 Public Hearings

**PUBLIC PARTICIPATION:**

Roy Tondeur of Kirkwood Avenue inquired if Kirkwood has anything in place to detect natural gas in the water system, noting that it has recently been found in some municipal and residential water. Mr. Jones responded that currently the water is tested for numerous things and he will check to see if the water is checked for the presence of natural gas.

**COMMUNICATIONS:**

Resignation Letter from Doug Saunders  
Letter of protest regarding the proposed composting facility from KJ Electric, dated 7/17/08 which was originally submitted to the Town of Kirkwood Zoning Board

**COMMITTEE REPORTS:**

Councilman Diffendorf reported that 32 light bulbs were turned in today. He will continue to monitor them.

Councilman Weingartner presented dog control report for January 2009.

Supervisor Kniffen reported that Kirkwood has participated in the quarterly meetings of the BMTS (Binghamton Metropolitan Transportation Study) and recently, along with Conklin, became a voting member. He said that the main subject of the most recent meeting was the stimulus package. He explained that various projects have been submitted in a number of categories and the Barlow Road bridge, which is in serious disrepair, has been added to the stimulus package for \$350,000, hopefully ranking high in priority. There will be a follow-up meeting in this regard. He also noted that Jack

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Williams of the DOT attended the meeting and reported that the Upper Court Street Project to refurbish the roadway, an extension of what was done on Upper Court Street in Binghamton, has been put off until 2015. Supervisor Kniffen said that he asked Mr. Williams to take a look at the time-frame of the project if the money was available and possibly add this to the stimulus package to get the project done and create some jobs.

Supervisor Kniffen explained that Kirkwood has been trying to extend a sewer line from the Bell School area south along Route 11, with the review of various plans. He said it has been downsized to take it to Gorman Road, which would take it to the Welcome Center on Route 81. He noted that the state had been having problems with both water and sewer, noting that water has been extended to the Welcome Center and hopefully public sewer will be next. He explained that the project is very expensive and they are trying to get subsidized interest rates and grant money to get the cost down, that it would never pass at this time. Supervisor Kniffen said they met with Conklin, the consultant and the engineer for both Conklin and Kirkwood to review some options, one being to take the existing line where it ends in Conklin and bring it under the river to Gorman Road, which then would cut out a lot of the residential population in the proposed district that would probably be in opposition to it. He said this would help most of the existing businesses and help with locating new businesses and get it to the Welcome Center. He said the second option would be for a package plant, which Kirkwood studied some time ago, but at that time it was not feasible. He said that now that Conklin is trying to extend their line and with the costs increasing from the Vestal facility they are looking at one package plant that could serve both Conklin and Kirkwood. He said the proposal from the consultant is \$7,600 and he is requesting that the Board consider sharing in this cost. Councilman Weingartner questioned if Conklin was interested in working with Kirkwood for a road study in regard to weight limits, and if they are then this could also work as an intermunicipal study. Supervisor Kniffen saw no reason why they would not be interested and noted that the towns of Windsor and Sanford might as well be included. He also explained that Mr. Jones has done some drilling into the roadways and may already have some data. Councilman Diffendorf questioned if there is grant money for this kind of study. Supervisor Kniffen said it's possible, that it would be looked into. In regard to joining with Conklin in this study, Councilman Diffendorf said that he does not want to waste more money, he doesn't think Conklin is ready and he doesn't know if Kirkwood is ready for anything like this. Supervisor Kniffen said that would be the reason for taking this first step. Councilman Diffendorf said that currently all Kirkwood's sewage flows to Binghamton, and he is questioning if all the flow would be sent the other way. Supervisor Kniffen said that there would be a couple of different phases. He said that the first step would be to cut out the portion from Akratum to Gorman Road, and then look at backing up what they already have; noting that Kirkwood's contract with Vestal expires in 2012. He added that he does not know if Kirkwood is committed to some of the capital expenditures that they have accrued. Councilman Diffendorf noted a concern that Conklin does not even have any sewer down there and Supervisor Kniffen said that they are trying to extend it from the Corporate Park south, adding that there are a couple of mobile home parks that

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desperately need public sewer. He said they had done a preliminary study to expand their public sewer, and with the cost being prohibitive they are looking at another option in the form of a package plant. Supervisor Kniffen said that from the study they will get an idea of the cost and he feels for \$3,800 it is a good investment for Kirkwood to learn a lot. Although Councilman Diffendorf said he has serious reservations, he said he would go along with this even though he does not think anything will ever amount from it. Councilman Grubham said that he is in favor of finding out, that there is no way to ever know if they don't pursue the study. Councilwoman Yonchuk said that she agrees that the Board should find out. Mr. Kline said that an Intermunicipal Agreement would be required with Conklin.

As a point of information, Councilman Diffendorf reported that Kirkwood belongs to the Broome County Empire Zone, supposedly with Binghamton, Union and Broome County and he recently learned that now it is in Conklin, that they just put in another complex that can be in the Empire Zone. He said since Kirkwood pays \$12,000 for this, and it is not judged very kindly by a lot of people, he is wondering how another community that is not tied into this Empire Zone got the same deal and are paying nothing. Mr. Kline said that they could not do that without amending the Empire Zone and that would require Kirkwood's consent. Mr. Kline will check into this.

**OTHER:**

**Discussion – Dogs at 318 Old State Road – Dorothy Wilson – Town Board authorize proceeding to get a Supreme Court Injunction. (HAK)**

David Berger, attorney for Dorothy Wilson who is the owner of 318 Old State Road, and Mr. & Mrs. Jack Secrest, the occupants of the property, addressed the Board about the violation. He said that before any action is taken he would like the Board to consider additional information, that there is no kennel at the property, that the nature of the use of the property is that Mr. Secrest is a dog handler, not a kennel owner and he does not board dogs. He said that Mr. Secrest takes various dogs across the country to various dog shows so there is no actual work, or business, at the 318 Old State Road property. Mr. Berger added that the dogs are there at various times, but the nature of his work is not on the property, that the dogs are only there between shows. He said that the property is a residence. Mr. Berger compared this use to other uses including a tractor trailer operator who parks his truck near his house; it is his business vehicle but he is not doing business at the house. He said this is not a home business and he would like the Board to consider this, that there is no commerce and generally, although they may be dropped off at his residence, the dogs are dropped off at the various shows. He said that the town code does not define "kennel" and the common definition is a business to board or house dogs and it is not the use that this property is being put to at this time. Mr. Berger referred to various provisions in the town code, specifically the definition of "home occupation" which is any use customarily conducted entirely within a dwelling. He said if there is going to be a prohibition against this type of activity it has to apply town wide to anyone who has a business vehicle that they park on their property. Supervisor Kniffen questioned Mr. Berger as to the existence of a website advertising boarding dogs.

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Mr. Berger responded that the website was for a prior property that Mr. Secrest ran in Pennsylvania. He said that the current website does not advertise boarding or the keeping of dogs, simply the services of breed handling, breed shows and specialty shows. Councilwoman Yonchuk noted that there were some concerns expressed at the last meeting that at one point a dog/s had gotten loose, which is covered under the dog control ordinance, and Mr. Secrest would have to be prepared to pay the consequences. Mr. Berger said that he agrees. Mr. Berger added that none of the dogs are owned by Mr. Secrest, they are leased(entrusted) to him by contract by the owners to show them at various shows along the east coast. It was noted that typically there are 3 to 8 dogs at the residence; there are currently 5 dogs there. Mr. Secrest said he is willing to have a limit put on the number of dogs he can have there, if the Board is in agreement that he is not running a business. Councilman Weingartner questioned if it is in the contract that Mr. Secrest will feed, take care of and board the dogs. Mr. Secrest said that he takes care of them but there is no fee for boarding the dog and they are in his possession for various lengths of time. Mr. Kline said that the issue Mr. Berger is raising as to whether or not the activity of his client at the property is or is not a violation of the zoning code should be addressed to the Zoning Board of Appeals, which interprets the zoning code. He said that after the case is made, if Mr. Berger is unhappy with the decision of the ZBA, he can then proceed according to his client's rights. Mr. Kline further explained that if a case was not made before the ZBA then the matter would come before the Town Board to take action. Supervisor Kniffen noted that the dogs are not Mr. Secrest's and he does board them for someone else and they ultimately go to shows, but it still sounds like a kennel, even though he does not charge specifically for boarding. Mr. Kline said that if prior to the Town Board work session on February 24<sup>th</sup> Mr. Secrest goes to the Zoning Board for an interpretation, the Town Board will take no action, but if he does not it will be back on the agenda.

**OLD BUSINESS:**

Councilman Diffendorf moved to adopt resolution ratifying a resolution scheduling a Public Hearing for January 27, 2009 at 6:06 PM regarding amending Local Law establishing and setting forth rules and regulations governing installation of water mains. Councilwoman Yonchuk seconded.

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

**MOTION CARRIED.**

31-09  
Ratify  
Sched PH  
Water  
Mains

Councilwoman Yonchuk moved to adopt resolution, after a Public Hearing, adopting the attached SEQR Determination that Proposed Activity Does Not Require Environmental Review regarding Local Law No. 1-2009 entitled "A Local Law Amending a Local Law Establishing Sewer Rents to be Imposed Upon Properties Within Sewer Districts and

32-09  
SEQR  
LL 1-2009  
Sewer Rents

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Extensions Thereof in the Town of Kirkwood”, in accordance with the attached SEQR Determination. Councilmen Grubham and Diffendorf seconded.

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 Local Law No. 1-2009 entitled “A Local Law Amending a Local Law Establishing Sewer Rents to be Imposed Upon Properties Within Sewer Districts and Extensions Thereof in the Town of Kirkwood”, in accordance with the attached resolution. Councilman Weingartner seconded.

33-09  
Adopt  
LL 1-2009  
Sewer Rents

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 the attached SEQR Determination that Proposed Activity Does Not Require Environmental Review regarding Local Law No. 2-2009 entitled “ A Local Law Amending an Ordinance Establishing Water Rates and Connection Charges for Water Districts of the Town of Kirkwood”, in accordance with the attached SEQR Determination. Councilwoman Yonchuk seconded.

34-09  
SEQR  
LL 2-2009  
Water Rates

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 No. 2-2009 entitled “A Local Law Amending an Ordinance Establishing Water Rates and Connection Charges for Water Districts of the Town of Kirkwood”, in accordance with the attached resolution. Councilman Grubham seconded.

35-09  
Adopt  
LL 2-2009  
Water Rates

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

MOTION CARRIED.

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36-09  
SEQR  
LL 3-2009  
Water  
Mains

Councilwoman Yonchuk moved to adopt resolution, after a Public Hearing, adopting the attached SEQR Determination that Proposed Activity Does Not Require Environmental Review regarding Local Law No. 3-2009 entitled “A Local Law Amending a Local Law Establishing and Setting Forth Rules and Regulations Governing Installation of Water Mains, Together with Specification Therefore and Other Matters in All Water Districts and Within Any Extensions Thereof in the Town of Kirkwood”, in accordance with the attached SEQR Determination. Councilman Grubham seconded.

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

**MOTION CARRIED.**

37-09  
Adopt  
LL 3-2009  
Water  
Mains

Councilman Grubham moved to adopt resolution, after a Public Hearing, adopting Local Law No. 3-2009 entitled “A Local Law Amending a Local Law Establishing and Setting Forth Rules and Regulations Governing Installation of Water Mains, Together with Specification Therefore and Other Matters in All Water Districts and Within Any Extensions Thereof in the Town of Kirkwood”, in accordance with the attached resolution. Councilman Weingartner seconded.

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

**MOTION CARRIED.**

38-09  
Amend  
Procurement  
Policy

Councilman Weingartner moved to adopt 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:

Commissioner of Public Works	Purchases relating to Highway, Parks, Sewer, Water and Town Buildings
Secretary to Supervisor & 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
Deputy Town Clerk	Purchases relating to Town Clerk
Assessor	Purchases relating to Assessor
Bookkeeper	Purchases relating to Bookkeeper
Budget Director	Purchases relating to Budget Director
Town Attorney	Purchases relating to Town Attorney

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Secretary to Planning Board	Purchases relating to Planning Board
Secretary to Zoning Board of Appeals	Purchases relating to Zoning Board of Appeals
Secretary to Board of Assessment Rev. Cleaner	Secretary to Board of Assessment Review Purchases relating to Cleaning/Flowers
Dog Control Office	Purchases relating to Dog Control
Town Historian	Purchases relating to Town Historian
Recreation Supervisors	Purchases relating to Youth
Youth Commission	Purchases relating to Youth
Senior Citizens	Purchases relating to Senior Citizens

Councilman Diffendorf 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 Amending the Rules and Regulations Governing Attendance and Benefits for Town of Kirkwood Employees Regarding Expense Reimbursement Policy When Employee Requires Training For Certification to Obtain and Hold Position, in accordance with the attached resolution. Councilman Diffendorf seconded.

39-09  
Amend  
Benefit  
Policy

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 Commissioner of Public Works to terminate present agreement with Mega alliance and enter into an agreement with Gateway Electric upon expiration of Mega alliance Agreement. Councilman Grubham seconded.

40-09  
Gateway  
Electric  
Agreement

Discussion: Mr. Jones said that he suggests they go with a fixed rate and with one bill per meter. Mr. Kline noted that Gateway has agreed to that. Discussion as to fixed versus variable rate. Mr. Kline said that he spoke with the Broome County rep and they are on a fixed rate at the moment. It was decided to go with a one year contract.

Roll Call Vote:

Councilman Weingartner	- yes
Councilman Grubham	- yes
Councilwoman Yonchuk	- yes
Councilman Diffendorf	- yes
Supervisor Kniffen	- yes

**MOTION CARRIED.**

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Councilman Grubham move to adopt resolution adopting the Town of Kirkwood Policy to Prevent Violence in the Workplace, in accordance with the attached policy.

Councilman Weingartner seconded.

41-09  
Workplace  
Violence  
Prevention  
Policy

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 authorizing Supervisor to enter into an agreement with Griffiths Engineering for the purpose of providing general professional engineering services for the Town, in accordance with the attached agreement. Councilwoman Yonchuk seconded.

42-09  
Griffiths  
Engineering  
Agreement

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 Supervisor to enter into an agreement with Griffiths Engineering for the purpose of providing engineering services for the review of the proposed tower modification submitted by T Mobile to the town Zoning Board of Appeals, in accordance with the attached agreement. Councilman Diffendorf seconded.

43-09  
Eng Serv  
T-Mobile

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 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, in accordance with the attached resolution. Councilman Grubham seconded.

44-09  
Grant  
County  
Code Enf  
Office

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

MOTION CARRIED.

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Councilman Grubham moved to adopt resolution authorizing Robert Kiberd to attend the NYSDOC Central Chapter 4<sup>th</sup> 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. Councilman Weingartner seconded.

45-09  
R. Kiberd  
Education

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, on recommendation and approval of the Ordinance Enforcement Officer, pursuant to section 304.3 of the Mobile Home – Trailer Ordinance, authorizing the Town Clerk to issue renewal license of the following mobile-home-trailer park, such license to be effective upon the expiration of the previous year, and to continue in force for a period expiring December 31, 2009:

46-09  
Trailer Pk  
License  
Kirk Mobile  
Home Court

Kirkwood Mobile Home Court, LLC, 41 Loughlin Rd, Bing, NY 13904 Owner:  
Robert Morgan, etal

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 amending the Town of Kirkwood Salary/Compensation Policy, in accordance with the attached policy. Councilman Diffendorf seconded.

47-09  
Amend  
Salary/  
Compensatn  
Policy

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 Supervisor to enter into an agreement with Town of Conklin and Town of Windsor regarding shared services of code enforcement officers, in accordance with the attached agreement. Councilman Grubham seconded.

48-09  
Shared  
Services  
Agreement  
Code Enf.

Discussion: Mr. Kline explained that Windsor has approved this and he is waiting for Conklin to do so as well.

Roll Call Vote: Councilman Weingartner - yes  
Councilman Grubham - yes

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Councilwoman Yonchuk     - yes  
Councilman Diffendorf     - yes  
Supervisor Kniffen         - yes

MOTION CARRIED.

Councilman Grubham moved to adopt 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. Councilman Weingartner seconded.

49-09  
NYCOM  
Qualifies  
as PL Bd  
Training

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 authorizing Supervisor to enter into an agreement with Delta Engineers for the purpose of providing engineering services to conduct a Phase 1 Environmental Site Assessment of property known as the former Holmes Trucking Site which the Town has contracted to purchase, in accordance with the attached agreement. Councilwoman Yonchuk seconded.

50-09  
Delta Eng.  
Agreement  
Holmes  
Truck Site  
Env.

Discussion:     Mr. Kline said that they agreed to remove the limit of liability. He said they want to be sure the Board understands that this is a limited review, that they will be doing a Phase I environmental, which is a review of records plus they are doing certain testing of the water; it is not a Phase II environmental. Mr. Kline said if they find problems they will recommend the Phase II.

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 scheduling a Public Hearing for February 24, 2009 at 6:00 PM regarding a request from Andrew Walker for a change in zoning from B2 to B3 and CE Overlay at property located at 14 Grossett Drive. Councilman Diffendorf seconded.

51-09  
Sched PH  
A. Walker  
Rezoning

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

MOTION CARRIED.

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Councilman Diffendorf moved to adopt resolution appointing Sandra Fox as Temporary Ad Hoc Member to the Planning Board, pursuant to Local Law No. 1-2001; to be compensated at \$30.00 per meeting attended, upon submission of a voucher to the Town Clerk. Councilman Grubham seconded.

Roll Call Vote:	Councilman Weingartner	- yes	52-09
	Councilman Grubham	- yes	S. Fox
	Councilwoman Yonchuk	- yes	Appointed
	Councilman Diffendorf	- yes	PB Ad Hoc
	Supervisor Kniffen	- yes	

MOTION CARRIED.

Councilman Grubham moved to adopt resolution authorizing Joyce Ottens to attend the NYS Association of Towns Meeting in New York City, February 15-18, 2009, with all reasonable expenses paid. Councilman Weingartner seconded.

Roll Call Vote:	Councilman Weingartner	- yes	53-09
	Councilman Grubham	- yes	J. Ottens
	Councilwoman Yonchuk	- yes	Attend
	Councilman Diffendorf	- yes	Conf.
	Supervisor Kniffen	- yes	

MOTION CARRIED.

Councilman Weingartner moved to adopt resolution appointing Duane Travis as Chairman to the Zoning Board of Appeals for the remainder of 2009. Councilwoman Yonchuk seconded.

Roll Call Vote:	Councilman Weingartner	- yes	54-09
	Councilman Grubham	- yes	D. Travis
	Councilwoman Yonchuk	- yes	Appointed
	Councilman Diffendorf	- yes	Chairman
	Supervisor Kniffen	- yes	ZBA

MOTION CARRIED.

Councilwoman Yonchuk moved to adopt resolution appointing Peter M. Maciak as Member of Zoning Board of Appeals to fill the unexpired term of Paul Shaw for a term to expire December 31, 2011. Councilman Diffendorf seconded.

Roll Call Vote:	Councilman Weingartner	- yes	55-09
	Councilman Grubham	- yes	P. Maciak
	Councilwoman Yonchuk	- yes	Appointed
	Councilman Diffendorf	- yes	ZBA
	Supervisor Kniffen	- yes	

MOTION CARRIED.

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Discussion following public hearing held on January 27, 2009 in regard to application of Alex Urda to amend the Zoning Local Law to allow composting on a portion of 326 Colesville Rd.

Supervisor Kniffen said that 13 people as well as Mr. Urda and his attorney spoke at the public hearing and that Mr. Kline gave the Board various options to consider. He said that he feels the option to follow is to become the lead agency and go through a Positive Declaration, which means the Board would scope this with Mr. Urda and the town's engineer to address all the environmental issues that were brought up to the Planning Board and during the public hearing. He said that he believes by doing this all the voices will be heard. He added that Mr. Urda has spent a lot of time and effort in presenting this to the Town of Kirkwood, and the people that are concerned or opposed to it have spent a lot of time thinking about it and to be fair to both sides, rather than terminating it now, he doesn't think the Board has given themselves the opportunity to address all the issues.

Councilman Weingartner said that at the public hearing not one person spoke in favor of this and he is more in favor of denying the application because of that fact and to save Mr. Urda any more of his money to continue on. He said that he thought some of the information that the individuals gave, such as when it was said that the Magic Years site made their properties seem much less valuable, in a way it did prevent another group from coming in which would have been the Broome DDS, but he can't support it because he feels as though there was not one person who spoke in favor of it. He said that the park was built for industry, not for something like the mulch facility.

Councilman Grubham said that if there had been a vote taken last week he would have voted no and he still feels that way. He said that it is a corporate park. He added that he does not know if it is going to cost jobs or if it is going to cost money, but if it does then the Board has hurt the corporate park and the people that work there. Councilman Grubham said that he appreciates what Mr. Urda is trying to do and that actually it is a good project, but he does not feel that is the spot for it, that there are literally hundreds of acres of agricultural land in Kirkwood that this could go on. He said that at this point he is not in favor of the project, that the Board could go on and do the study but Mr. Urda has spent a lot of money already and if he is still going to be against it after this is done, Mr. Urda will be spending a lot more money and he isn't sure if that is fair to him. Supervisor Kniffen added that he believes Mr. Urda understands that if they get to the end it still could be denied.

Councilwoman Yonchuk said that she agrees that the Town Board should become the lead agency and do the scoping. Although everyone at the public hearing spoke against it, she said that virtually every issue that was brought up was environmental and if everybody is going to be given the opportunity to be heard, she feels Mr. Urda should be allowed to address the environmental concerns. She added that the Board may not be satisfied with what Mr. Urda says, but if those aren't addressed then that is one side that isn't being heard in all of this. She added that she realizes that this will be a huge layout

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of money with the potential of the project being turned down, but she does not see any way of avoiding that if this is the route the Board decides to go.

Councilman Diffendorf said that he also agrees that the Town Board should become the lead agency, but he hopes Mr. Urda knows that this is an uphill battle at best and he may decline to even go on any further not knowing the Board approved anything tonight. He added that if Mr. Urda chooses to, the Board should give him the opportunity to continue his process.

Councilman Weingartner moved to adopt resolution denying application of Alex Urda to amend the Town of Kirkwood Zoning Local Law in accordance with attached resolution. Councilwoman Yonchuk seconded.

Roll Call Vote:

Councilman Weingartner	- yes
Councilman Grubham	- yes
Councilwoman Yonchuk	- no
Councilman Diffendorf	- no
Supervisor Kniffen	- no

56-09  
Deny Urda  
Application  
MOTION  
FAILED

MOTION FAILED.

Councilwoman Yonchuk moved to adopt resolution, after a Public Hearing, Relating to the Initial Review, Under the State Environmental Quality Review Law of the Project Entitled Urda Rezoning Application, in accordance with the attached resolution. Councilman Diffendorf seconded.

Discussion: Mr. Kline explained that by this resolution the Town Board is notifying the Planning Board and Zoning Board of Appeals that they will be the lead agency to make an environmental determination.

Roll Call Vote:

Councilman Weingartner	- yes
Councilman Grubham	- yes
Councilwoman Yonchuk	- yes
Councilman Diffendorf	- yes
Supervisor Kniffen	- yes

57-09  
Lead Agenc  
Urda Env.  
Review

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution approving Determination of Significance (Positive Declaration) in accordance with attached Determination. Councilman Grubham seconded.

Discussion: Supervisor Kniffen explained that this approves a Positive Declaration, which means that there are environmental concerns which the Town Board wants to address. Mr. Kline added that there are ten environmental concerns listed.

Roll Call Vote:

Councilman Weingartner	- yes
Councilman Grubham	- yes
Councilwoman Yonchuk	- yes
Councilman Diffendorf	- yes
Supervisor Kniffen	- yes

58-09  
Pos. Dec.  
Urda  
Environmntl  
Review

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MOTION CARRIED.

**AUDIT AND PAYMENT OF CLAIMS:**

59-09  
Audit/Pay

Councilwoman Yonchuk 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, and ratifying the payment of the prepaid claims as authorized by resolution adopted January 6, 2009, all in accordance with the abstract of claims on file in the Town Clerk's Office. Councilman Diffendorf seconded.

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

MOTION CARRIED.

**NEW BUSINESS:**

60-09  
Kirkwood  
Fire Co.  
Roster

Councilman Grubham moved to adopt resolution, pursuant to Not-For-Profit Corporation Law Section 1402(c)(3) approving the membership roster for the 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.

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

MOTION CARRIED.

61-09  
Intermun.  
Agreement  
Conklin  
Sewer Study

Councilwoman Yonchuk moved to adopt resolution authorizing Supervisor to enter into Intermunicipal Agreement with the Town of Conklin to engage in a study as to the possible construction of a sewage package plant to serve both towns at a cost to Kirkwood not to exceed \$3,800 with the hope that such funds will be paid from a grant to be applied for. Councilman Grubham seconded.

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

MOTION CARRIED.

62-09  
Exec Sess

Councilwoman Yonchuk moved to adopt resolution to adjourn this meeting to conduct an Executive Session pursuant to section 105 paragraph f of the Public Officers Law to discuss the medical, financial, credit or employment history of a particular person or

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corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation, and section 105 paragraph d of the Public Officers Law to discuss proposed, pending or current litigation. Councilman Grubham seconded. All voted in favor.

**MOTION CARRIED.**

**ADJOURNMENT:**

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

**MOTION CARRIED.**

63-09  
Adjourn

Meeting adjourned at 8:03 P.M.

Respectfully submitted,

Gayle M. Diffendorf  
Town Clerk