

**TOWN OF KIRKWOOD
WORK SESSION**

March 30, 2010

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
Richard Jones, DPW Commissioner
Daniel Griffiths, Town Engineer

1. Discussion – Post Office Parking/New Site. (GEK/RJJ)

Supervisor Kniffen explained that since the last meeting the parking signs have been removed from the area across from the post office. Should consider a local law regarding no parking in that area. Mr. Kline needs info from Dick Jones in regard to distance for the no parking zone. Resolution for 4-6-10 to schedule a public hearing for 4-27-10. Mr. Kline noted that this will not be enforceable until the end of May. Councilman Diffendorf noted a concern about the cost of holding a public hearing since the post office will only be there for such a short time. Mr. Kline said that the cost of publication should be less than \$100 and Dick Jones noted that he already has signs.

2. Discussion – FEMA Flood Maps. (D. Griffiths)

Supervisor Kniffen explained that recently FEMA released preliminary flood maps. He noted that these maps will eventually be accepted by each municipality by resolution. FEMA has met with municipal leaders and will be holding open public meetings to address individual questions about the flood maps as they pertain to an individual's property. There will be an article in The Country Courier in this regard and hopefully in the Binghamton Press. There are four meetings scheduled at various locations:

April 19th, 4-8 PM -Windsor High School Gymnasium

April 20th, 5-9 PM -Theodore Roosevelt School, Ogden St., Binghamton

April 21st 4-8 PM - Union-Endicott High School

April 22nd 4-8 PM – Conklin Community Center

It was noted that there will be no presentations at these meetings; they will be working with individuals.

Dan Griffiths reviewed the FEMA preliminary flood map.

Dan explained that the 100 year base flood elevation indicates a 1% chance of a storm happening in a given year and a 26% chance of happening in a 30-year mortgage period. A 500 year storm event has a 2% change of happening in a given year. He explained what a floodway is and reviewed references on the map as well as survey and analysis results. He noted that the flood elevation differences from the old maps to the new maps were 5 feet at the southern end of Kirkwood; 3 ½ feet at the Kirkwood bridge area; 4 ½ feet in the area of the Town Hall; and 4 ½ Feet at Barlow Road.

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According to Dan if a person thinks their property is located in the flood plain they can go to www.gobroomecounty.com and there is a link there to the GIS website. Supervisor Kniffen suggested that anyone with concerns should first go to the website, and if they still have questions they could contact the Code Office or Dan Griffiths.

Dan noted again that people with concerns will get individual attention at the scheduled meetings. He added that there is a 90-day appeal period. If anyone has a question regarding whether their property should be included in the flood plain, they could go through a formal objection appeal which is a 90-day process and he will work with them. He explained that they would need a NYS licensed surveyor or NYS licensed professional engineer to do an elevation certification; this would document that the person's property is not in the flood plain. If that is the case and FEMA accepts it, they will proceed with a Letter of Map Amendment and a Letter of Map Revision. After this entire process of revisions and the map is accepted by residents and towns there will be a Letter of Final Determination. This initiates the final flood elevations and initiates the six month adoption period. At the end of that period they become the legal maps and the new rates go into affect.

Mr. Kline suggested the Town consider a public service notification to property owners involved in this flood insurance issue. Councilman Diffendorf agreed that all property owners in the flood plain should be notified since he feels that basically the use of their property will be limited.

Dan Griffiths explained the Community Rating System; it is a way to decrease rates by 5% to 45%. He said the Town has to put in an application and noted the requirements. Supervisor Kniffen said they have taken the first step in that regard. Dan noted that the Town of Union did this and got a 5% decrease. In regard to the open space aspect of this rating system, Dan said that FEMA encourages it and Bob Kiberd has been enforcing it by the river. Councilman Grubham questioned that since Kirkwood has a code in this regard if they were going to have to change the code. Dan said that it is being looked at as to whether they are being enforced. Additional discussion in this regard.

Supervisor Kniffen questioned if someone does not have flood insurance now, but with the new maps they will be in the flood district, if they should now buy insurance. Dan said that, yes, they should. It was noted that they will save money if flood insurance is purchased before the new maps become effective. It was noted that this will have a big impact in Riverside as well as some in the village, and a huge impact on Frito-Lay.

Flood insurance rates reviewed, with Dan Griffiths noting that the Sample Flood Insurance Rates handout is only a preliminary draft so specific questions cannot be answered. In regard to zones, Councilman Diffendorf said that there are zones and if you are in a higher zone you pay a cheaper rate. Dan said that currently you will be locked into a zone but nothing is final. If a person was in a 500 year flood zone before and now

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in 100 year flood zone the rate would go up, but if purchased prior to the new maps, the person would stay in the old zone and only pay an increase as the rate increases in the old zone. Marchie Diffendorf said that there is about a 30% difference if the insurance is purchased prior to May of 2011. Dan said that it is his understanding that if a home is sold in the future it is grandfathered in as to the insurance rate. Councilman Diffendorf noted a concern that the FEMA rate schedule appears to be less costly than it truly will be.

Supervisor Kniffen said that since the 2006 flood the Town has been vigilant about contacting the Army Corps to study the Susquehanna River Basin on a federal level to look at remediation to minimize the impact of flooding. He explained that Senators Clinton and Schumer have sponsored a bill for an appropriation of approximately \$30 million to do the study; which is on the back burner. He also noted that Congressman Hinchey sponsored a bill for \$100,000 which passed. He said that this will at least initiate the study.

3. Discussion – Ed Nolan as Inspector (on payroll at \$18.00 per hour beginning April 5th and ending May 10th) for the Barlow Road Culvert Replacement. (RJJ)

Mr. Jones reported that Ed Nolan did a good job as inspector for the Hillside Drive project and he would like to hire him again. He noted that this time Ed will be paid on payroll instead of voucher and is requesting \$18.00 per hour. It was noted that this will be an 8-hour a day job. Per Mr. Kline no resolution required.

4. Discussion – Bell School Driveway. (RJJ)

Mr. Jones reported that there is construction in the Bell School area; a new parking lot and driveway off Golden Street to go around the front of the school building to Kirkwood Avenue at the far end. He questioned the amount of land to be disturbed. He said that according to the contractor they will be tearing up more than one acre so they need to follow the requirements under the Storm Water Management Plan. He said they are putting in a big retention pond to retain the water on site so that it will not drain out on the road. His concern was that the area currently drains through Mr. Tondeur's property and if they were going to dump more water on the Town without retaining it on site that the Town's drainage is not adequate but his investigation determined that this will not be a problem. Mr. Kline noted that this is an educational institution and a permit was not required. Dick Jones noted that this will be a permanent pond and they will be bringing in a set of prints for review. It was also noted that all retention ponds do not have to be fenced.

5. Discussion – Meadows Trailer Park. (GEK)

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Supervisor Kniffen said that it has come to the Town's attention that someone has been dumping construction materials into the former Meadows Trailer Park property which is now owned by the County for taxes; the County has been notified of the dumping. Mr. Moat has blocked the entrance off Main Street and the County will block the entrance off Bridge Street. Supervisor Kniffen also noted that the County will be putting the land up for sale in June. Councilman Grubham said the County has already fenced off their entrance off Bridge Street but the Town also has an entrance and that is where the problem is; the Elwood property (39 Bridge St.) and a request has been received to lease it. Question as to whether the Town should fence that area and also who owns the roadway off Bridge Street; the previous owner of the trailer park did not own the road. It was noted that there is property that is still privately owned. Bob Kiberd will look into this.

Supervisor Kniffen questioned if the Town wants to consider purchasing the trailer park property, noting that the current zoning of A/R-R could be a cause for concern with the possible location of farm animals there. Mr. Kline suggested that the County could be approached to see if they would entertain an offer and an appraisal could be done based on the new flood map. He noted that it could be possible to purchase the land prior to going to auction.

Councilman Diffendorf noted a concern in regard to purchasing the property if the Town has no specific plans for it. He added that he does not have a concern about farm animals; that the zoning was just changed to A/R-R. Bob Kiberd added that according to zoning regulations 200 feet frontage and 2 acres are required to build and flood plain requirements would have to be met.

Mr. Kline cautioned against the state initiating an agricultural district there which would supersede the Town's zoning.

According to Broome County Legislator, Marchie Diffendorf, although mineral rights will not go with the property, the property owner will have surface rights. By having surface rights, a company could not drill without consent of the property owner.

Supervisor Kniffen will get a price for an appraisal. Future discussion.

6. Discussion – Local Road Law. (GEK/HAK)

Mr. Kline explained that the Town adopted an old version of a road weight limit local law. Since then that version has been improved and is on hold. He said that Broome County has drafted a similar weight limit law and are now making agricultural use revisions; addressing questions that have been brought up by contractors and agricultural users. The County law is similar to Kirkwood's in that they don't discriminate between who is using the road; logger, stone quarry operator, milk truck, contractor or natural gas drilling vehicles. Any of these vehicles exceeding 80,000 pounds would require a permit. According to Mr. Kline the Town should continue to wait for the County in this regard.

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He said that the theory is that once the County adopts it they are going to ask the municipalities to adopt something similar and they are going to take over the permitting process so if a drilling company comes in they would only have to go to one place instead of each individual town. He referenced Denton, Texas, where the gas companies entered into an agreement to do certain things; performance bonds, insurance, etc. In the draft County law, if they only want to get one permit they can do it, but if they have more than one vehicle and want to voluntarily enter into a road use agreement with the County then they can avoid getting permits for each vehicle. He noted that in Texas, Chesapeake was happy to enter into these agreements, but now they are against the agreements. Mr. Kline also noted that the Town may still need to videotape their roads in case of future damage, with a concern being determining who caused the damage. Broome County Attorney is working on an agreement at this time.

7. Discussion – Outsourcing Payroll. (GEK)

Supervisor Kniffen explained that currently all the vouchers come through the Town Clerk's Office. He is requesting that this be changed so that processing would be done through the bookkeeper. Also, he noted that there is currently not a backup for the payroll and he is asking for consideration to outsource the payroll. He said that the new accounting software originally was priced at \$30,000 and came down to \$10,000; one reason was due to the fact that the payroll software was taken out of it. He said that the cost to outsource the payroll is \$1,300 a year and the software would cost between \$7,000 and \$8,000 so in the course of 5 or 6 years it would be a wash, and the software could change again at that time. In the absence of the bookkeeper, with outsourcing, the only thing that would be required is for someone to collect the time cards.

Mr. Kline has reviewed the agreement. He noted that a couple of concerns have been addressed and it has been returned to the company. Although it should not be a problem, Mr. Kline also questioned if this might have to go to competitive bidding. A concern was raised by Councilman Weingartner and Councilwoman Yonchuk that \$1,300 a year (or \$50 per pay period) does not sound right.

In regard to voucher processing, Mr. Kline questioned if this would still be under the Town Clerk's supervision since Town Law delegates the task to the Town Clerk. The Town Clerk noted that she has spoken with numerous clerks in Broome County who do not process vouchers although the vouchers are still filed in their office and they sign the abstract. Mr. Kline will look into this.

Councilwoman Yonchuk questioned if the history or a resume was received in regard to the company that the payroll would be outsourced to. She cited a disastrous program in Windsor. Supervisor Kniffen said that he is going on the recommendation from Jim and Jean Smith. Councilwoman Yonchuk said that she feels \$1300 sounds like an unbelievable price and she wanted to know if there was a price guarantee for a specific contract term. Supervisor Kniffen said that he recommends these changes and will get additional information.

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8. Discussion – Voucher Processing. (GEK)

See discussion included in number 7 above.

9. Discussion – Town Garage Office. (GEK)

Hold – per Supervisor Kniffen.

10. Discussion – Investment Policy – Resolution amending Section VII.
Designation of Depositories of the Investment Policy. (HAK)

Mr. Kline explained that all town policies are being coordinated into a binder format for reference purposes. In the old investment policy specific banks were included but since that changes so often he is suggesting a change in the wording to any banking organization doing business in Broome County. This would eliminate the need for an amendment every time a bank opens, closes or merges in Broome County. Resolution for 4-6-10.

11. Discussion – Commercial/Residential Dwellings. (M. Diffendorf)

Marchie Diffendorf, Chairman of the Planning Board, said that if the Town were to allow zoning where a diner, pizza shop or small grocery store, etc. was allowed to rent an apartment on the second floor it might encourage the location of those mom and pop type businesses. He said that it is not allowed now, only those that are grandfathered in as a non-conforming use. He said this might help someone to subsidize rent or live there themselves. This would require a zoning change. He said that the Planning Board could address this and make a recommendation if the Town Board is interested. Mr. Kline said that this was discussed over 30 years ago with Broome County Planning Commission and it was done in a different way. The Planned Unit Development districts permit mixed uses but the problem is they have a minimum number of 4 acres for a residential and 8 acres for a business commercial property. Mr. Kiberd questioned the fire code concern. Marchie said they would have to comply with the code. Board members had no problem with the Planning Board looking at this.

12. Discussion – Commercial Parking Requirements. (M. Diffendorf)

Marchie Diffendorf, Chairman of the Planning Board, explained that in the industrial warehousing districts, if there is a large warehouse there may not be a lot of employees but in the current code they are required to have one parking space for each 1,000 square feet of warehouse. By example if a warehouse were 100,000 square feet, 100 parking spaces would be required regardless of the number of employees. Councilwoman Yonchuk questioned what would happen if the business were to expand or the nature of the business changed. Marchie said that site plan review would be required for a change. Councilman Grubham said this would be helpful as far as stormwater regulations. The Planning Board will review.

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13. Discussion – Employee Reimbursement for Training. (GEK)

Mr. Kline explained that this was originally written to address the situation where an employee was going to use town time and money for registration purposes to qualify for a job. He said the question came up as to town employees who need certification to continue in their employment and whether the original policy should be modified.

Councilwoman Yonchuk said that this involves two different things. She said the concern is that a significant amount of money might be invested in training a new employee and then the employee could go someplace to work. Then there is the issue of a long time employee who needs the training for certification to continue in the position. Councilman Diffendorf noted that it is his understanding that if the Town pays for an employee's training, they would have to sign a statement that they would reimburse the Town if they did not stay in the position. The employee was to sign the document before the training began to qualify for a position. Mr. Kline said that now it is being discussed if additional people should be added for future training after they've once qualified. After additional discussion, Supervisor Kniffen appointed a committee of Councilwoman Yonchuk and Councilman Diffendorf to review this and report back to the Board.

The issue regarding a particular employee has been set aside at this time since it is a personnel matter.

14. Request from Richard Jones to attend Cornell University 2010 Highway School, to be held June 7-9, 2010 at Ithaca College, Ithaca, NY, at a cost of \$90.00 for the Registration Fee and \$99.00 per night for the hotel, plus meals, and all reasonable expenses paid. (RJJ)

Dick Jones noted that he is only requesting the \$90.00 registration. He said there will be no overnight fee or meals involved. Resolution for 4-6-10.

15. Request from John Finch, Jr. to attend New York Rural Water Association 31st Annual Technical Conference, to be held at Turning Stone, Verona, NY, at a cost of \$395.00 for the registration which includes all meals, and two nights lodging at a cost of \$255.30 for a total of \$650.30, with all reasonable expenses paid. (RJJ)

John Finch explained that he is required to annually get credits for his certification as water treatment plant operator. This is the location selected by the state. He noted that Alan Glover is required to get the training as well and he goes to another conference so that one of them is always available. John will supply Mr. Kline with additional wording for this resolution. Resolution for 4-6-10.

Dick Jones also noted that he, John Finch, Alan Glover and Randy Coolbaugh will be required to go to Sydney for their Class D classes for water distribution; 12 ½ hours each year are required. He said that will be \$15.00.

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16. Recommendation from Planning Board – Amendment to Temporary Portable Storage Containers Local Law – Schedule Public Hearing. (HAK)

Mr. Kline explained that the Planning Board has been reviewing POD storage and has come up with a proposed law. The proposal is to allow them in certain residential districts for up to 12 months. The size of the POD cannot exceed 400 square feet or be more than 8 ½ feet in length. The Planning Board is requesting that a public hearing be scheduled to determine if this should be added to the Zoning Local Law. In response to Councilman Weingartner, Marchie Diffendorf said that there is language in the Zoning Local Law in regard to trailers. It was noted that a building permit is not a requirement for a temporary portable storage container; if there is no building permit then the storage container will be permitted for up to twelve months. After further discussion it was decided to hold this until 4-6-10 for additional review.

17. Recommendation from Planning Board – Amendment to Use of Motor Vehicles and Trailers for Storage Local Law – Schedule Public Hearing. (HAK)

Mr. Kline explained the difference with this recommendation from number 16. Discussion followed regarding temporary storage in a licensed trailer of construction materials in connection with a work project on construction sites in any zoning district throughout the town. According to Marchie, if a property is zoned commercial but the property has residential use, trailers are not allowed but there are instances where trailers already on properties are grandfathered in. They are not allowed on residential property. Question as to how many times a building permit can be renewed. Councilman Grubham said that he would like the building permit issue tightened up so that it cannot go on forever. Mr. Kline said that a set of plans is required for a project when a building permit is issued, but it was noted that building permits are not timed out. After further discussion it was decided to hold this until 4-6-10 for additional review.

18. Discussion – Brush Pickup – Week of April 26th for north end of town and week of May 3rd for south end of town. (RJJ)

No discussion.

19. Discussion – Bonding Resolution for \$105,000 to finance 2010 Volvo for Highway Department. (HAK)

Mr. Kline said that according to Mr. Smith the BAN rate is low now so he would like to go out for one year to borrow on a BAN and then in a year decide whether to renew it or go with a real bond. Bonding resolution for 4-6-10.

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Mr. Kline also reported that the Hillside Drive project has been completed. He said \$78,000 is needed to reimburse the fund for payments to the contractor. Mr. Smith will go out for a BAN for one year for that as well. Bonding resolution for 4-6-10.

20. Discussion – Purchase new Kubota ZD331LP-72 zero turn mower \$15,990.00, less NYS Contract Discount of \$2,878.00, plus delivery set and delivery allowance of \$165.00, less allowance for F2560 with mower of \$3,468.00, for a net due of \$9,809.00. (RJJ)

Mr. Jones explained that they have a 1998 mower that went through the 2006 flood; it leaks and the estimates to repair are \$2,000 to \$3,000. He is looking at trying to replace it with park reserve funds. According to Dick trade-ins are allowed on state contract for smaller items. Resolution for 4-6-10.

21. Discussion – Route 11/Frito Lay and DOT. (GEK)

Supervisor Kniffen explained that the Upper Court Street project has been put off now until 2015. Included in the project was to divert the water that floods the motel area at Colesville Road, go under Route 11, down the other side to the river. He said that Jack Williams of DOT had promised to break that out into a separate project. Currently it is at an impasse because they want to go through Frito Lay's property and Frito Lay will not allow it. There will be a meeting on this.

22. Audit of Claims.

Resolution for 4-6-10.

Ken Newberry thanked town officials and employees for their expressions of sympathy on the passing of his wife, Chloe.