

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

April 6, 2010

A regular meeting of the Kirkwood Town Board was held on April 6, 2010 at 6:00 PM at the Joseph A. Griffin Town Hall with Deputy Supervisor Lewis Grubham presiding.

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

Absent: Supervisor Gordon Kniffen

Also Present: Oliver Blaise III, Deputy Town Attorney
Gayle Diffendorf, Town Clerk
Richard Jones, DPW Commissioner

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

March 2, 2010 Town Board Meeting and (1) March 30, 2010 Public Hearing

PUBLIC PARTICIPATION: None

COMMUNICATIONS:

Thank you letter from Joseph & Roberta Kabanek in regard to zoo passes.

E-mail complaint from Jim Roach regarding the condition of Hillside Drive as a result of the sewer line project. In response to Mr. Roach's comments, Councilwoman Yonchuk said that when someone feels that strongly she thinks they need to come to a Board meeting and make the statement in person; it is very frustrating and not fair to the Public Works Dept. or the Town Board since it reads like a fact. Mr. Jones said that he spoke with Mr. Roach last fall and explained that they could not get the compaction rate they wanted on the ditch and he elected to put oil and stone in so as not to waste money in blacktop and have it settle and then have to dig it back up. He said the contractor should be in by the end of the month to repave the road. Mr. Roach has been advised of this.

COMMITTEE REPORTS: None.

OLD BUSINESS:

Councilwoman Yonchuk moved to adopt resolution, after a Public Hearing, adopting the SEQR Determination that Proposed Activity Does Not Require Environmental Review regarding Local Law No. 9-2010 entitled "A Local Law Amending the Town of Kirkwood Local Law Governing Water Mains", in accordance with the attached SEQR Determination. Councilman Diffendorf seconded.

64-10
SEQR
LL 9-2010
Amend
Water Main

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

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution, after a Public Hearing, adopting Local Law No. 9-2010 entitled "A Local Law Amending the Town of Kirkwood Local Law Governing Water Mains", in accordance with the attached resolution. Councilman Weingartner seconded.

65-10
Adopt
LL 9-2010
Amend
Water Main

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

MOTION CARRIED.

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Councilman Weingartner moved to adopt resolution scheduling a Public Hearing for April 27, 2010 at 6:00 PM regarding no parking zone in front of Kirkwood Post Office. Councilwoman Yonchuk seconded.

66-2010
Sched PH
No Pking
PO Bldg

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

MOTION CARRIED.

Councilwoman Yonchuk moved to adopt resolution amending the Investment Policy, in accordance with the attached policy. Councilman Diffendorf seconded.

67-10
Amend
Investment
Policy

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

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution authorizing 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. Councilman Weingartner seconded.

68-10
R. Jones
Education

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

MOTION CARRIED.

Councilman Weingartner moved to adopt resolution authorizing 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, as required by law in order to maintain his IIB-GW Treatment Plant, C Plant or Distribution System, D-Distribution Certificate which otherwise will expire on June 30, 2010. Councilwoman Yonchuk seconded.

69-10
J. Finch
Education

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

MOTION CARRIED.

Councilwoman Yonchuk moved to adopt resolution adopting the SEQR Determination that Proposed Activity Does Not Require Environmental Review regarding partial funding of 2010 Volvo Truck purchase by issuance of \$105,000 Serial Bond, in accordance with the attached SEQR Determination. Councilman Diffendorf seconded.

70-10
SEQR
Truck
Purchase

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

MOTION CARRIED.

Councilman Diffendorf moved to adopt Bond Resolution of the Town of Kirkwood, New York Adopted April 6, 2010, Authorizing the Acquisition of Machinery and apparatus for Road Reconstruction and Snow Removal, Stating the Estimated Maximum Cost Thereof is \$192,098.11, Appropriating Said Amount Therefor and Authorizing the Issuance of \$105,000 Serial Bonds of Said Town to Finance the Balance of Said Appropriation, in accordance with the attached resolution. Councilman Weingartner seconded.

71-10
Bond
Machinery
Road
Reconstruct

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

MOTION CARRIED.

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Councilman Weingartner moved to adopt resolution Authorizing Supervisor to Expend Funds from the Highway Equipment Reserve Fund of the Town of Kirkwood, Subject to Permissive Referendum, in accordance with the attached resolution. Councilwoman Yonchuk seconded.

Roll Call Vote:	Councilman Weingartner	- yes	72-10
	Councilwoman Yonchuk	- yes	Expend Fnds
	Councilman Diffendorf	- yes	Hwy Equip
	Deputy Supervisor Grubham	- yes	Reserve

MOTION CARRIED.

NEW BUSINESS:

Councilwoman Yonchuk moved to adopt resolution scheduling a Public Hearing for April 27, 2010 at 6:05 PM regarding proposed moratorium regarding construction in flood plain until new flood maps become effective. Councilman Weingartner seconded. Discussion: Councilman Diffendorf said that he is not in favor of this. He said that if his property had been included in the flood plain he would have planned immediately to do some construction and he feels it would be a hardship on some other people that could not continue to use their property while it is still legal to do it right now. In most cases it would their last chance to make changes to their property. Since it is not known when the maps will come out the moratorium could last longer than 6 months. Dep. Supervisor Grubham said that it probably will be longer since this won't take effect until next April; the Town can only have a moratorium for 6 months but it can be extended. He added that the concern is would people be doing things that might not be wanted if the flood plain changes, as well as a concern that things would not be done right which could affect them in the future if they are allowed to do so. Councilman Weingartner said he will consider both sides of this issue and it will be good to have a public hearing to get additional points of view; Councilwoman Yonchuk agreed. Marchie Diffendorf referred to the grandfather clause in regard to flood insurance, the fact that rates would always be 30% less. After next May the rates will be higher so if something is built now it would be grandfathered in as to the insurance rates.

73-10
Sched PH
Flood Plain
Moratorium

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

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution authorizing Supervisor to sign State of New York Public Employment Relations Board Consent Agreement, in accordance with the attached agreement. Councilman Weingartner seconded.

74-10
Consent
Agreement
PERB

Discussion: Mr. Blaise explained that the NYS Public Employment Relations Board (PERB) has set up a schedule for the vote for the highway employees to vote on formally adopting a union. It notes when the election would be held and defines what the bargaining unit would be. PERB is requesting the Board's acknowledgement that their schedule and voting specifics have been received and are understood. This has nothing to do with Town negotiations.

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

MOTION CARRIED.

OTHER:

1. Discussion – Recommendation from Planning Board – Amendment to Temporary Portable Storage Containers Local Law. (LCG)

As Dep. Supervisor Grubham mentioned at the last meeting, he would like to see this proposal tightened up. He would like to address how it would be known when the containers are at the sites; should a permit be issued, even if at no cost. Also, there is a 12-month period, or so long as there is a valid building permit, so if someone put a container there without a building permit and the 12 month period was up, would they be allowed to remove the container for a day and then put it back on the property. Marchie

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Diffendorf, Chairman of the Planning Board, noted that these containers are not regulated now and there are currently a few located in the Town, there has not been an issue; this was brought up since the Planning Board was dealing with tractor trailers. Dep. Supervisor Grubham said that he agrees there should be some control since there is a concern of abuse in regard to these storage containers which could decrease the value of neighboring properties. He did note that he has received one complaint. He also questioned how many containers would be allowed on a site. Code enforcement was discussed in regard to allowing a grace period following notification to those property owners that currently have a storage container on their property. It was noted that if and when this local law takes affect, there will be no grandfather clause for those properties that currently have a container on site; they would certainly have to comply with the local law. This will go back to the Planning Board for review.

2. Discussion – Recommendation from Planning Board – Amendment to Use of Motor Vehicles and Trailers for Storage Local Law. (LCG)
The Board is in agreement with this per Dep. Supervisor Grubham.

3. Discussion – Resolution passed by Broome County – Resolution to support electronics recycling and extended producer responsibility legislation for electronic wastes and urging local governments in Broome County to do the same. (LCG)
Dep. Supervisor Grubham explained that under this proposed law the producers of electronic equipment would have to come up with a plan to recycle any of their products. It was noted because of the components in electronic equipment their disposal must be handled differently than other garbage. Mr. Jones reported that for the last two years Broome County has offered four drop sites for electronic equipment. Dep. Supervisor Grubham said they will now be requiring manufacturers to provide premium waste collection services on a statewide basis at a reasonable fee. Warren Scofield inquired if there is a local program to recycle batteries and compact fluorescent bulbs. Mr. Jones said there is a barrel in the highway garage for batteries. Dep. Supervisor Grubham will look into recycling for the bulbs.

Councilwoman Yonchuk moved to adopt Resolution to Support Electronics Recycling And Extended Producer Responsibility Legislation For Electronic Wastes And Urging Local Governments In Broome County To Do The Same, as adopted by Broome County. Councilman Diffendorf seconded.

75-10
Electronic
Equipment
Recycling

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

MOTION CARRIED.

Discussion – Payroll Service.

Dep. Supervisor Grubham explained that the total cost for the service will be \$3,917 per year instead of the \$1,300 mentioned at the last meeting. He said this includes the payroll service at \$3,657 and \$780 for the W-2's. He said that if the payroll software were purchased, it would be approximately \$7,600 and \$2,316 per year for support (after the first year). He said that it would appear that the service is a good deal for the Town, noting that payroll software tends to become obsolete within a few years. Mr. Blaise noted that Mr. Kline is still in discussions with the attorney for the payroll service in regard to the contract. Councilwoman Yonchuk suggested getting recommendations in regard to the payroll service.

Discussion - Bridge Street Ownership.

Mr. Jones reported that Broome County owns Bridge Street as well as the old bridge road. It was noted that the Town owns the property where the dumping is taking place so a fence will be installed.

Discussion – Lead Paint Regulation.

Dep. Supervisor Grubham explained that on April 22, 2010 a federal lead paint regulation (EPA) goes into effect, which the Code Department will have to enforce. He said that if

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a house was built prior to 1978 it contains lead paint and 90% of the houses in NYS were built prior to then. If a property owner has work done by a contractor, work as little as changing a window, regulations must be followed. It will be very expensive; the people doing the work have to be certified, with a certified person on the job at all times that work is being done. This will be a lot more work for the code office. According to Dep. Supervisor Grubham this is very rigid; the first fine is \$35,000 and the second fine is \$60,000 with possible jail time. He said this involves 6 sq. ft. of paint being disturbed. The concern is that people won't get building permits. This regulation could make things so costly that people won't be able to get work done.

AUDIT AND PAYMENT OF CLAIMS:

Councilman Diffendorf 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 5, 2010, all in accordance with the abstract of claims on file in the Town Clerk's Office. Councilman Weingartner seconded.

76-10
Audit/Pay

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

MOTION CARRIED.

ADJOURNMENT:

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

77-10
Adjourn

MOTION CARRIED

Meeting adjourned at 6:48 P.M.

Respectfully submitted,

Gayle M. Diffendorf
Town Clerk