

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

May 4, 2010

A regular meeting of the Kirkwood Town Board was held on May 4, 2010 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: Oliver Blaise III, Deputy Town Attorney
Gayle Diffendorf, Town Clerk
Richard Jones, DPW Commissioner

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

April 6, 2010 Board Meeting
(2) April 27, 2010 Public Hearings

PUBLIC PARTICIPATION:

Ed Egan asked the Town Board to consider holding action on the no parking restriction across from the post office on Crescent Drive until an alternative solution can be accomplished.

Michael Elmore voiced his opposition to no parking across from the post office. He noted that the post office will be closing at the end of this year and this ordinance would only be in effect for about seven months and is redundant. Since it will be closed he questioned the need for no parking there. He also questioned the enforcement of the no parking ordinance. He said there are other no parking areas in the Town of Kirkwood where it has never been enforced for years so why add another location. According to Mr. Elmore on Williams Street, a no parking area, on a Saturday night when there are races there are cars parked on both sides of the road and no one is ever ticketed or a vehicle towed. He said that vehicles illegally parked there cause a serious safety issue for residents at the top of Williams Street in the event of a fire or medical emergency. He added that he is not opposed to the race track. He requested that the Board consider two questions prior to voting this evening: What good will it be enacting an ordinance that will be needed for a little over six months and what good will enacting another no parking ordinance be when other designated areas are not enforced.

Mr. Jones reported that another accident occurred across from the post office Monday afternoon; someone backed out into a car parked across the street.

Councilwoman Yonchuk noted a concern that since the Town has been put on notice of the dangerous condition, if nothing is done can the Town be held liable. Mr. Blaise said that a plaintiff could look at it that since the Town new of the condition, it could be held partly to blame for the accident. He added that the lack of enforcement in regard to no parking would be hard to prove. It was noted that when no parking signs are installed it is up to the local police to enforce and it would be incumbent upon anyone seeing a parking violation to call the police, not the Town.

COMMUNICATIONS:

Resignation from the Zoning Board of Appeals from Andrew Harpell.

COMMITTEE REPORTS:

Councilman Weingartner presented the dog control report for April. No activity reported in regard to the dog enumeration.

Mr. Kiberd reported that new Uniform Fire Prevention and Building Code books will be issued in December 2010. He said that the Town's local law will need to be reviewed for adjustments.

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In regard to the issue of lead paint regulations, Councilwoman Yonchuk questioned if any notification has been received by the code office. Mr. Kiberd said that he will be required to attend educational classes in the future; he has attended one class to date. It was noted that there is no enforcement in this regard as yet but eventually the code office will oversee it, which will amount to a lot of extra work. Currently there is nothing in the code to regulate this.

Supervisor Kniffen reported in regard to the reimbursement for training issue. He clarified that the employee that it was thought refused to sign the statement, did not refuse to sign because it was never presented to the employee. Also, in the policy there should be a form for the employee to sign. He noted that currently it is set up as a five year program but it has come to his attention that almost all the certifications are for three years. Councilwoman Yonchuk noted a concern that if every three years someone is required to get recertified, then it could be an ongoing regulation. This will have to be addressed. She also noted that wording in the policy will have to be addressed in regard to reimbursement for the employee's time since they would have been working if not at school.

Supervisor Kniffen reviewed outsourcing payroll. He compared the cost of purchasing new payroll software, including annual system support, with a payroll service. Since there were legal concerns with the original proposal from Paycheck payroll service, a proposal was obtained from ADP, which is a top of the line payroll service with a long history. Since the costs were comparable and software tends to become outdated in a few years, Supervisor Kniffen recommended going with the ADP service. He added that this would be a simple backup for the bookkeeper.

OLD BUSINESS:

78-10
SEQR
LL 10-2010
Amend
Traffic Ord.

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. 10-2010 entitled "A Local Law Amending the Traffic Ordinance of the Town of Kirkwood", in accordance with the attached SEQR Determination. Councilman 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. 10-2010 entitled "A Local Law Amending the Traffic Ordinance of the Town of Kirkwood, in accordance with the attached resolution. Councilman Weingartner seconded.

Discussion: Councilman Diffendorf said that he has been opposed to this from the beginning because of the short time the post office is going to be there. He does not want to see a law go on the books to solve a 7-month problem. The law would stay there forever. He said the no parking signs would affect all residents in the area. If they were to have a party they would not have the parking space that any other normal citizen in Kirkwood would have available to them. In regard to receiving a notice of an accident, Councilman Diffendorf said that notice was received years ago when an accident occurred and there have been so many accidents there are too many to count. He feels that the Town got into the liability issue when they allowed the troopers barracks to be built by condensing the parking spaces. According to Councilman Diffendorf there are only two legal parking spaces in front of the post office, which is something they would not allow anyone else to do. He noted a concern with parking near the hydrant. He does not feel that this ordinance should be passed.

79-10
Adopt
LL 10-2010
Amend
Traffic Ord.

Roll Call Vote:

Councilman Weingartner	- yes
Councilman Grubham	- yes
Councilwoman Yonchuk	- abstain
Councilman Diffendorf	- no

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Supervisor Kniffen - yes

MOTION CARRIED.

Additional Discussion: Supervisor Kniffen noted that Councilman Diffendorf made valid points but he said a serious accident needs to be prevented, whether the post office closes soon or not, and the citizens, as well as the Town, need to be protected. He added that he welcomes a citizens committee to look at the parking issue.

Councilman Diffendorf reiterated his concern about the liability of parking near the fire hydrant. Discussion as to options involving the fire hydrant. Nothing resolved; to be considered in future.

Councilman Weingartner moved to adopt resolution, after a Public Hearing, adopting SEQR Negative Declaration Notice of Determination of Non-Significance regarding Local Law No. 11-2010 entitled "A Local Law Imposing a 6 Month Moratorium on the Issuance of Floodplain Development Permits Pursuant to Flood Damage Prevention Local Law No. 11 of the Year 2003 of the Town of Kirkwood", in accordance with the attached SEQR Determination. Councilwoman Yonchuk seconded.

80-10
SEQR
LL 11-2010
Floodplain
Moratorium

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, after a Public Hearing, adopting Local Law No. 11-2010 entitled "A Local Law Imposing a 6 Month Moratorium on the Issuance of Floodplain Development Permits Pursuant to Flood Damage Prevention Local Law No. 11 of the Year 2003 of the Town of Kirkwood, in accordance with the attached resolution. Councilman Grubham seconded.

Discussion: Councilman Diffendorf said that he does not think this is needed or the right thing to do, it won't be for 6 months but probably for a year or more. Councilman Weingartner and Councilwoman Yonchuk noted that although this does not affect that many people, the public did not voice their opinion at the public hearing, which was a disappointment. Councilman Grubham said that even if there is one person who is allowed to build incorrectly and they flooded, the Town would be wrong even though now there is no law that states that. He said the Town is trying to protect people from doing something that could be wrong in the future. Councilman Diffendorf noted that Frito Lay would be included in this and if they wanted to build something, this would not allow them to. Councilman Grubham said that he feels they would be cognizant of the fact that the water would be a certain height eventually and build accordingly. Councilman Diffendorf said that he does not like not giving them an option.

Councilwoman Yonchuk suggested that if someone might potentially fall into the new categories of the flood maps and come asking for a building permit, would it be possible that code enforcement could inform them of this and make them aware of the choice they would be making, in lieu of the adopting the moratorium. Mr. Kiberd said that is what he is doing now. Supervisor Kniffen added that it should also be considered that although during a flood the people that are flooded are hurt the worst, other people's lives are put on the line, the firemen, Red Cross, etc. and also the cost to the Town. He noted that after the flood maps are approved and they are in the 100 year flood plain they will have to comply. He said that although things are not always fair he feels this is the Town's duty and the right thing to do.

81-10
Adopt
LL 11-2010
Floodplain
Moratorium
FAILED

Roll Call Vote: Councilman Weingartner - no
Councilman Grubham - yes
Councilwoman Yonchuk - no
Councilman Diffendorf - no
Supervisor Kniffen - yes

MOTION FAILED.

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82-10
Agreement
J. Griffin
Mowing
Cemeteries

Councilman Diffendorf moved to adopt resolution authorizing Supervisor to enter into an agreement with Joseph Griffin for mowing the cemeteries, in accordance with the attached agreement. Councilman Grubham seconded.

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

MOTION CARRIED.

83-10
Agreement
Sewer Pump
Station
Survey

Councilman Grubham moved to adopt resolution accepting the proposal from Hawk Engineering for survey work at the pump station at a cost of \$ 3,530.00. Councilman Weingartner seconded.

Discussion: In response to Supervisor Kniffen, Mr. Blaise noted that this is an increase of \$90.00 from their original proposal. He said that for this type of work the payment of a prevailing wage is required. It will not affect the other quotes since they were in the \$5,000.00 range.

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

MOTION CARRIED.

84-10
Agreement
D. Batzel
Mowing

Councilman Weingartner moved to adopt resolution authorizing Supervisor to enter into an agreement with Duane Batzel for mowing the lawns for the town hall, highway garage, and code building, in accordance with the attached agreement. Councilwoman Yonchuk seconded.

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

MOTION CARRIED.

85-10
Amend
Employee
Safety
Guidelines

Councilwoman Yonchuk moved to adopt resolution amending the Employee Safety Guidelines, in accordance with the attached guidelines. Councilman Diffendorf seconded.

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

MOTION CARRIED.

86-10
Sched PH
Amend
Zoning Ord.

Councilman Diffendorf moved to adopt resolution scheduling a Public Hearing for May 25, 2010 at 6:00 PM amending Zoning Ordinance regarding construction trailers. Councilman Grubham seconded.

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

MOTION CARRIED.

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NEW BUSINESS:

Councilman Grubham moved to adopt resolution to waive fee for use of pavilions #1 and #2 at Veterans River Park for Monday, June 14, 2010 for the “Bell Buddy Field Day” for Bell Elementary School students, sponsored by the PTO. Councilman Weingartner seconded.

Roll Call Vote:	Councilman Weingartner	- yes	
	Councilman Grubham	- yes	87-10
	Councilwoman Yonchuk	- yes	Park Pavilion
	Councilman Diffendorf	- yes	Waive Fee
	Supervisor Kniffen	- yes	

MOTION CARRIED.

Discussion – Barlow Road Project – Inspector. (GEK)

Supervisor Kniffen explained that this project is being funded by federal stimulus money along with management by NYSDOT. He said that a Clerk of the Works was hired to oversee the project with the understanding that this would not be a full-fledged DOT project, which normally requires a certain amount of expertise for reporting purposes. He said in actuality it has become a full-fledged DOT project and the Town voiced their displeasure with the information they had received, since the person hired did not have the expertise and was not comfortable with the reporting process. He said that a recommendation has now been received to hire a retired DOT engineer. Joe Gdovin has been hired for \$30.00 an hour as an independent contractor. He also noted that inspection charges are reimbursable.

Councilman Diffendorf moved to adopt resolution authorizing Supervisor to enter into an agreement with Joseph Gdovin as Clerk of the Works for the Barlow Road Culvert Project, in accordance with the attached agreement. Councilman Grubham seconded.

Roll Call Vote:	Councilman Weingartner	- yes	
	Councilman Grubham	- yes	88-10
	Councilwoman Yonchuk	- yes	Agreement
	Councilman Diffendorf	- yes	Clerk of Wks
	Supervisor Kniffen	- yes	Barlow Rd.

MOTION CARRIED.

AUDIT AND PAYMENT OF CLAIMS:

Councilman Grubham 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. Councilwoman Yonchuk seconded.

Roll Call Vote:	Councilman Weingartner	- yes	
	Councilman Grubham	- yes	89-10
	Councilwoman Yonchuk	- yes	Audit/Pay
	Councilman Diffendorf	- yes	
	Supervisor Kniffen	- yes	

MOTION CARRIED.

ADJOURNMENT:

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

MOTION CARRIED.

Meeting adjourned at 6:53 P.M.

Respectfully submitted,

Gayle M. Diffendorf
Town Clerk

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