

**TOWN OF KIRKWOOD
WORK SESSION**

May 25, 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

1. Proposed Summer Schedule for Work Sessions and Town Board Meetings: (GEK)

Resolution combining the June 29, 2010 Work Session and the July 6, 2010 Town Board Meeting into one night to be held July 6, 2010.

Resolution combining the July 27, 2010 Work Session and the August 3, 2010 Town Board Meeting into one night to be held August 3, 2010.

Resolution combining the August 31, 2010 Work Session and the September 7, 2010 Town Board Meeting into one night to be held September 7, 2010.

Resolutions for 6-1-10.

2. 2010 Agreements as follows: (GEK)

ACHIEVE

Police Athletic League (PAL)

Summer youth programs. Resolutions for 6-1-10.

3. Discussion – Resolution to Support Electronics Recycling and Extended Producer Responsibility Legislation for Electronic Wastes. (HAK)

Mr. Kline explained that this is a request from Broome County asking municipalities to join with them in encouraging the State Legislature to enact legislation dealing with recycling of electronic materials. Resolution for 6-1-10.

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4. 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 parks, such license to be effective upon the expiration of the previous permit and to continue in force for a period of one year:

C.L. Tai Properties, LLC, 49 Quilty Hill Road, Kirkwood, NY 13795
Owner: Charles Tai
Resolution for 6-1-10.

5. Discussion – Resignation of Dick O’Dea as Municipal Representative on the Broome County Empire Zone Administrative Board to be replaced by Len Basso. (GEK)

Supervisor Kniffen explained that under the current charter of the Empire Zone, organizational changes were made. He said that Kirkwood has 3 members, one of which is the Municipal Representative, which is the primary member because they meet every month. Since Dick O’Dea is no longer interested in serving in this position Len Basso has been asked to replace him. In response to Councilman Diffendorf, Supervisor Kniffen explained that of the 3 members, the other two terms have expired and a decision has not been made as to what they are going to do as yet. Mr. Kline added that members are rotated from the various towns. Resolution for 6-1-10.

6. Discussion – Recommendation from Planning Board – Temporary Portable Storage Containers. (HAK)

Mr. Kline explained that earlier this year the Planning Board recommended changing the Zoning Local Law regarding temporary storage trailers on property. Councilman Grubham suggested that the Planning Board consider modifying their recommendation by addressing how it would be known when the containers are at the sites, should a permit be issued even if at no cost, at the expiration of the 12-month period or so long as there is a valid building permit would someone be allowed to remove the container for a day and then put it back on the property, and how many storage trailers would be allowed at a site. This was referred back to the Planning Board and they made only one change, adding “cumulative” to the floor area of 400 square feet. Councilman Grubham said that he would like to take additional time to review this proposal. Councilman Weingartner questioned if 53 foot tractor trailer container trucks are considered temporary storage containers. Planning Board Chairman Marchie Diffendorf said that this proposal includes any trailer that is not licensed or does not have wheels. Held for additional review.

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7. Resolution pursuant to section 3A(e) of Local Law No. 2-1976 entitled "A Local Law Regulating the Use of Parks of the Town of Kirkwood", authorizing Town Clerk to issue a permit to the Kirkwood Town Fair, Inc., for the use of the entire Kirkwood Veterans River Park on August 12, 13, and 14, 2010 without any permit fee to guarantee proper clean up after each use.

Resolution for 6-1-10.

8. Discussion – ADP Payroll Service. (GEK)

Resolution for 6-1-10.

9. Universal Pump Station – Going to Bid – Hold Back? (HAK/RJJ)

Mr. Kline explained that Hawk Engineering had been approved to do the design and survey work for the pump station. They have completed the bidding documents and Mr. Kline made a number of changes. One question is whether the Town wants to hold back 5% for a year, which is traditional and Mr. Jones would like this. There also is a question as to whether there should be separate contracts for the heating/air conditioning/electrical, plumbing and general. He noted that last year the state legislature increased the amount from \$50,000 to \$250,000 and questioned if the project would go over the \$250,000. Mr. Jones said that he hopes it does not. Mr. Kline will talk to Hawk about this. As an alternative to holding the 5%, Councilman Grubham suggested possibly getting a Maintenance Bond. Mr. Kline will check with Hawk about this as well. Resolution for 6-1-10 authorizing bids returnable at next work session.

As a side note, Mr. Jones reported that the Barlow Road project is progressing well. In response to Councilman Grubham, Mr. Jones said that the Town will get reimbursed for Griffiths Engineering's inspection costs for this project.

10. Resolution approving the addition of Dave Travis to the 2010 Membership Roster for Kirkwood Fire Company, in accordance with the attached letter. (GEK)

Resolution for 6-1-10.

11. Resolution, pursuant to Not-For-Profit Corporation Law Section 1402(c)(3) approving the membership roster for the Five Mile Point 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. (GEK)

Resolution for 6-1-10.

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12. Discussion – Letter from Joseph P. Husnay – The Cold War Exemption. (GEK/HAK)

Mr. Kline explained that 2 years ago the State Legislature recognized that there were people who served in the military from the end of WWII, September 1945 thru December 1991 – the cold war era. According to the State Legislature, if a municipality wanted to recognize those veterans, they would qualify for the veterans exemption. Mr. Husnay of Conklin has sent a letter to every town and village in Broome County requesting that they consider enacting this. He said to his knowledge only Otego County and some of the towns in Otego County have adopted this. He noted that there is no way to know how many cold war veterans are in Kirkwood and how much of an impact this would have. It was noted that a person could be a veteran of one of the wars and also a cold war veteran but they would only be entitled to one exemption. Broome County Legislator Marchie Diffendorf noted that the County is in the preliminary stages of addressing this. It was noted that this would not affect school taxes. Following additional discussion the Board indicated they did not think there is much concern that it will have any significant impact on taxes so it was determined that Mr. Kline would draft a proposed local law in this regard to be addressed at a public hearing to be scheduled by resolution.

13. Audit of Claims.
Resolution.

Other.

Riverfront Project.

Dennis O’Dea is Kirkwood’s representative to the Riverfront Project. Dennis explained that this project is made up of all municipalities along the Susquehanna River with the exception of Binghamton and Johnson City, and they are looking at enhancing the public property along the river with walks, trails, etc. Kirkwood gave \$5,000 in 2009 as their share to getting bids out for a consultant who will do a comprehensive study of all the public lands along the river from the Pennsylvania border to the western edge of Broome County. He said this is required as a first step to develop any public lands along the river. One year ago they came up with a wish list for Kirkwood. He said the contract has just been approved by the State for hiring a consultant. There are eight consultants that have bid and they hope to award the contract for the study at the June 10th meeting. He is requesting a map of all the lands that Kirkwood owns along the river, including all the lands that were purchased since the last 2 floods and existing facilities along the river. Councilman Weingartner has the information for the FEMA buyout properties along the river and Dick Jones has the tax map numbers for the park and the property at the end of Trim Street. Dennis noted that Valley Park, although on Stanley Creek, is very affected by the Susquehanna River so it will be included. Councilman Weingartner questioned if the land Broome County was going to deed over to the Town has been completed (57 Geiger Lane). According to Mr. Kline he has not received the paperwork in regard to that property. Councilman Weingartner noted that they did remove the house from the

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property. Councilman Diffendorf said that this was a part of FEMA and was a late entry and the Town agreed to take it.

Millennium Pipeline PILOT.

Councilman Diffendorf expressed a concern regarding the PILOT agreement money, questioning if IDA received the \$100,000 a year. Mr. Kline said that he does not know if it was received. Mr. Kline explained that Supervisor Kniffen did an in-depth study on this by sending letters to every IDA along the Millennium line to see what, if any, strings Millennium put on the money they were getting. He said in every county, with the exception of Delaware County, it was pigeon holed for “economic development”. Councilman Diffendorf said that he feels Dick D’Attilio sold the Board a bill of goods; that he never told the Board the money would go to the IDA and he said that the gas line would not go through without a PILOT agreement. He said he feels the money belongs to the communities the pipeline goes through, not Broome County IDA. He said that he feels strongly about this and he can’t believe the other towns would not want part of the money. He does not think this is fair. Mr. Kline responded that the people that make the decision are the Board of Directors of IDA and they were the ones that chose to use it to pay down their debt to Broome County. Supervisor Kniffen and Councilman Diffendorf will attend the next meeting of the IDA to address this concern.

Engineering Fees.

Councilman Grubham noted that the Town is spending a lot of money for Dan Griffiths to do structural analysis of drawings for commercial buildings and he questioned if it is necessary. Mr. Kiberd said he would have to devote hours of his time otherwise. Councilman Grubham said that on those types of projects where the drawings are designed by an engineer and stamped he feels for the town to have engineering review is redundant. Mr. Kline said that there is a Professional Fees Local Law that would permit the Town to pass the cost back. Councilman Grubham said that it is his understanding that the contractor and the structural engineer have to sign off on a job when it is completed and he feels that should be sufficient. He added that the Town’s responsibility is more along the lines of safety issues, exit signs, fire extinguishers, etc. rather than whether it is structurally sound. An engineer hired by the Town spends hours and hours going over the drawings to determine if they are structurally sound which means he almost has to redesign it himself and Councilman Grubham does not feel that is up to the Town. Councilwoman Yonchuk questioned if there is a liability concern. Mr. Scofield noted that the drawings must be stamped by an engineer licensed in the State of New York. Councilman Grubham said that he is sure an engineer cannot stamp the drawings if he is not licensed in NYS. In regard to the Professional Fees Local Law, Mr. Kline noted that the process has to start before going to the engineer and explained the process to Mr. Kiberd. Councilman Grubham and Bob Kiberd will research this to determine if it is necessary; what a complete plan review consists of.

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Water metering.

Councilman Grubham said that it was his understanding that the water going out of the hydrants for pools, etc. was going to be metered. Mr. Jones said that the rates have been raised. Councilman Grubham said that he is not concerned about the cost, he wanted to keep track of the gallons to see what the difference is between what is being produced and what is being sold now that the leaks have been fixed. Mr. Jones said they can keep track of the tankers because they know how much they hold. Mr. Jones said they will have to pull from one metered hydrant, including the fire trucks. He also noted Broome County uses the hydrants when they are cleaning streets. A number of options to keep track of the usage were discussed; possibly a report from fire companies. Councilman Grubham said that this needs to be addressed since the last time a lot of water could not be accounted for; about 18 million cubic feet in 2009. Mr. Jones said that they are still studying this.

Councilman Grubham also questioned if backwater valves are required. Mr. Kline said that according to the local law backflow preventers are required.

Engineering Fees.

Councilwoman Yonchuk questioned if it has been determined if money has been saved by having an independent contractor as engineer instead of a Town Engineer. Supervisor Kniffen said that after the first year there was a significant savings. He noted that some of the fees were extra and would have been an extra charge even if a Town Engineer was still employed. The budget estimate was \$35,000 and the cost was well below that.

Union.

Councilwoman Yonchuk questioned where things stand with the teamsters union. Supervisor Kniffen said that the union representative has been away and a meeting will be set up fairly soon.

ATV Noise Concerns.

Councilwoman Yonchuk said that she has received several phone calls about a noise issue with ATVs in different areas of the town and she has noticed this around her home as well. She added that concerns also involve the fact that they are running on roads and posted property as well as back yards. She suggested that possibly an increased police presence might have an impact on this concern.

Bill Reynolds called many Board members with this complaint. He works nights so was unable to come to this meeting. The family across the street from Mr. Reynolds has a son who rides his 4-wheeler on a track on their property 1 hour in the afternoon. In response to the noise concern, Bob Kiberd measured the noise at Mr. Reynolds' property line and at 50 feet and the noise is within limits; 80 decibels was the maximum. Bob Kiberd also explained that last year there was a problem with a broken muffler but that has been repaired and is not an issue at this time. Supervisor Kniffen said that if a call is received

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about a noise issue it is checked out but sometimes it might be a law enforcement issue and possibly a civil matter. Councilwoman Yonchuk said that it is her understanding that the issue is when the ATVs are ridden on other people's property and possibly in the State Road cemetery. Mr. Kiberd said that he was told that the Wilson's son rides his ATV near the cemetery on a track on their property. Councilman Diffendorf added that after talking to Mr. Reynolds, his understanding is that people were riding on their own property and also on the road. He said that he does not see a violation but if they are riding on the road that is a law enforcement issue. Councilwoman Yonchuk said this concern should be addressed and she will try to get those with concerns to come to a meeting to discuss it. She is particularly concerned with the ATVs on the road. Supervisor Kniffen will check with the state police on this. Mr. Kline noted that there is a noise provision regarding ATVs on page 7043 of the code book.

Race Track.

Supervisor Kniffen reported that Jim Roach has another concern with the race track, a noise issue and Bob Kiberd has spoken to Mr. Roach about it. Mr. Kline said that Bob spoke to Oliver Blaise about this and there is an exception to the noise regulations for motor vehicles and motor cycles operating off public rights of way pursuant to permission or authority of the Town. The Town issues them a permit and that clearly fits in this exception. According to Mr. Kline, even if it did not fit in the exception, the track has a non-conforming use since the race track was there before the first zoning in 1957. He said if one could find out the amount of noise a stock car made in 1950 as compared to a stock car today, considering the number of races being run and the number of vehicles, you might be able to make a study, but the bottom line is it's a non-conforming use. This is clearly accepted in the ordinance.

Supervisor Kniffen said that Mrs. Stillman has called again in regard to race track issues.

Executive Session.

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 corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.

Councilman Grubham seconded.

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

MOTION CARRIED.

Work session adjourned at 7:15 to go into Executive Session.

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