

**TOWN OF KIRKWOOD
WORK SESSION**

August 3, 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

Supervisor Kniffen reported that the Town has been without a PERMA officer for quite some time and Dick Jones will be taking over temporarily until the position can be filled permanently.

1. Discussion – Proposed Local Law for Temporary Portable Storage Containers. (LCG)

Councilman Grubham explained that the changes he suggested are that no fee be charged for the issuance of a permit and when the special permit expires all containers must be immediately removed and the yard or lot must remain free of temporary storage containers for a continuous period of at least 60 days. Resolution to schedule PH.

2. Request from Ward Coe to attend the 2010 Continuing Judicial Education Program at the New York State Magistrates Association Annual Conference in Callicoon, NY at the Villa Roma Resort & Conference Center, September 26, 2010 through September 29, 2010 at a cost of \$50.00 for registration, \$\$588.00 (\$196.00/night) for lodging, with one nights lodging and mileage reimbursed back to the Town by the State through the Unified Court System.

Supervisor Kniffen explained that this is a request from Judge Coe to attend the above continuing education program which is for recertification which is required each year. Registration is for three nights; one night will be paid for by the NYS Magistrates Assoc. and the Town will pay for the additional two nights plus the \$50.00 registration. Resolution.

3. Discussion – Proposed Roadway Local Law. (HAK/GEK)

Supervisor Kniffen noted that Kirkwood was one of the first towns to adopt a local law concerning the weights on town roads in light of gas drilling. Mr. Kline explained that Broome County used Kirkwood's local law as a starting point, but due to a lot of political opposition from excavating companies, etc., they took out a lot of protections that Kirkwood had put in. He said that the County plan is to delegate everything to the

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County Commissioner of Public Works and let him deal with the details of the permit process. He noted that the towns are all going in different directions on this. For example, Fenton is going with Delta, who will take care of everything; Colesville directed their local law at the natural gas industry only; Windsor addressed certain vehicles of heavy weight and excluded others. The County is willing to allow the towns that adopt a local law somewhat similar to theirs to delegate from the town to the county the issues of permits; review the entire process. Mr. Kline has been working to put together a proposed local law, for any town that wants to go this route, where they would piggyback on the county law and enter into an intermunicipal agreement with the county. In about a month Mr. Kline's firm is going to hold a meeting with their municipal clients to give them all the options available so that each municipal can decide for themselves which plan they want to go with. He said there is plenty of time to address this since it most likely will be the end of this year before DEC finalizes the environmental impact statement.

Councilman Diffendorf noted that he is not at all interested in going with Delta.

4. Resolution Authorizing Settlement of Pending Assessment Review Proceeding Commenced by Inland Paperboard Corporation, in accordance with the attached resolution. (HAK)

Mr. Kline explained that the Board authorized appraisals to be done some time ago. One of the properties was under assessed and the other property was slightly over assessed. Inland has agreed to accept the numbers the Town has authorized. Resolution.

Mr. Kline noted that Windsor School has suddenly decided to get involved, so he had sent them copies of the appraisals for their Board and hope they will approve everything Kirkwood has done.

5. Resolution authorizing Supervisor to enter into an amended agreement with the Towns of Binghamton, Conklin, Dickinson, Fenton, and the Village of Port Dickinson regarding Outside Sewer Users, in accordance with the attached agreement. (GEK)

Supervisor Kniffen explained that this is an on-going consortium to address charges for effluents being sent to the treatment plant as outside users. He noted that Union has dropped out leaving Towns of Binghamton, Conklin, Dickinson, Fenton, Kirkwood and Village of Port Dickinson. This is an amendment to the agreement to allow Young, Sommer, LLC to proceed with the next phase. The total cost so far is \$16,000 and the cost of the next phase is about \$4,000 and Kirkwood's share will be about 1/3.

6. Discussion – Marcellus Shale Resolution. (GEK)

Mr. Kline explained that Barker adopted a resolution asking their state legislators not to pass a moratorium on gas drilling. He said this has never gotten out of committee and

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going nowhere so there seems to be no need for this Board to spend time on this issue if they don't want to.

7. Discussion and Scheduling Public Hearing – Amendment to Senior Citizen Tax Exemption Local Law. (HAK)

Mr. Kline explained that the 2009 Legislature gave an exemption regarding payments made to individuals because of their status as victims of Nazi persecution (money they may receive does not count as income) and to those with reverse mortgages, when people borrow money because they can't afford to make payments on their mortgages. To be consistent with the state law, a public hearing is required to amend Kirkwood's local law. Resolution to schedule PH.

8. Resolution authorizing Supervisor to sign agreement regarding the Stratmill Road Pump Station on August 20, 2010 with Pinnacle Construction, Inc., being the lowest responsible bidder at \$176,273, unless litigation contesting validity of July 20, 2010 Bonding Resolution is commenced by August 19, 2010. (HAK/GEK)

Mr. Kline explained that the bonding resolution was adopted at the July 20, 2010 special meeting and the time for someone to bring litigation opposing it expires on August 20th. This gives Supervisor Kniffen authority to sign the contract on August 19th. He noted that this is still within the 45 days from the date the bids were opened on July 6th. He instructed Mr. Jones to get Pinnacle's signature for return to Supervisor Kniffen by August 20th.

9. Discussion – Sale of Old Truck 39 with plow and sander to the Town of Chenango Highway Department for \$9,000.00 plus a 60" X 40" X 60" aluminized steel pipe with a value of \$4,400.30 for a total of \$13,440.30. (RJJ)

Mr. Jones explained that the Town of Chenango would like to purchase this truck by paying \$9,000 plus a aluminized steel pipe valued at \$4,400. They have a use for the oval pipe, which is new and in three sections. This is not quite what they wanted to get for the truck but since they first tried to sell it, hoping to get \$16,000, there are a couple of new issues on it which would cost about \$2,000 to put back in service and he does not want to do that. The truck has not been used for two to three weeks. He does not know the book value of the truck. The truck has already been replaced with a new truck. Hold for book value info until 8-17-10 special meeting.

10. Discussion – Quotes for the demolition of concrete water tank in Highland Heights. (RJJ)

Mr. Jones explained that some time ago the contract tank in Highland Heights was taken out of service and it is deteriorating worse now. There is money in the budget to

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demolish it and they received two quotes which are under the budgeted amount. Councilwoman Yonchuk questioned the quotes as to whether they were comparable as to what is included since they were quite different in price. It would also have to be determined if Poe has demolition insurance. Mr. Jones said that they intend to put another tank there in the future as a backup system. The new 150,000 gallon tank would be set on top of the existing concrete. The old tank would be buried behind it. It is not the plan to fill the hole in the ground at this time; this is a fenced, secure area. Mr. Kline said a signed agreement would be required prior to the work being done. He noted that prevailing wage rate must be paid since it is a municipal public works job. John Finch Jr. and Dick Jones are satisfied that everything they want done is contained in the quotes. Discussion on various aspects of this job including: ponding in the hole, covering the cement, a price for fill and hauling material away. Since the cost to go to bid on this project is minimal, the specs will be restructured by the town's engineer and it will go to bid, to be returnable 9-7-10. Resolution.

Councilman Grubham questioned whether the material needed (gravel) can be purchased and supplied by the town to save money. Mr. Jones said that right now the state price on the gravel, item 4, is the best at \$6.40 per yard. It could be delivered to the town's yard for the contractor to use on the project.

11. Discussion – Compensation Policy. (GEK)

Supervisor Kniffen explained that because of ongoing discussions with the highway department workers who have chosen to join the Teamsters Union, changing the health insurance and the compensation policy discussions were put on hold. Since they are significant factors when addressing the budget, Supervisor Kniffen has been advised by the town's legal advisors that they can now be discussed. In regard to the compensation policy he noted that it would only pertain to non-union personnel. He would like any changes to be made during the budget process since it would be affected.

Councilwoman Yonchuk said that she is not in favor of splitting percentages for employees. Even though this discussion is for non-union employees, if the percentage policy is still followed, she does not see the union agreeing to it. She feels there should be another way of dealing with it. She noted a concern if a non-union employee gets less of a percentage than a union employee. She also noted that 3% in this economy might be too much, but if it is to be cut back it should be cut back the same amount for everyone.

Supervisor Kniffen said that he feels the percentage is a separate issue from the compensation policy, but whatever is given the policy affects how it is distributed.

Councilman Weingartner said that last year the policy committee came up with a plan that the committee agreed upon but Supervisor Kniffen declined to bring it to the Board. Supervisor Kniffen said that he did not decline but he that he changed his opinion and that anyone on the committee could have brought it up. Councilman Weingartner said that he feels it would be a good place to start since there was consensus regarding the

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plan. It was noted that the plan was to give a flat amount and an additional amount for years of service. Councilwoman Yonchuk said that she agrees this would be the place to start and it would have saved money. It was also noted that there were concerns with the plan due to different part time positions and hours works, etc. Supervisor Kniffen said that the thought was that even if the maximums were taken out, the compensation plan could be left in place for hiring purposes. For additional discussion at the special meeting on 8-17-10.

12. Discussion – Millennium Pipeline. (GEK)

Supervisor Kniffen explained that Councilman Diffendorf brought up a concern as to where the \$108,000 was going to. He said that Kirkwood is on the committee now because the IDA voted not to use the money to pay off the debt they owe the County, in regard to the economic development section in Conklin. The money has now been set aside for economic development for all of Broome County instead of just the host communities of the Millennium Pipeline. The committee will decide what the criteria will be in dividing it up. Supervisor Kniffen explained that Millennium gave the money to the IDA in the form of a loan which will never have to be repaid and there will be no interest on it. He will take any thoughts of the Board to a committee meeting to be held tomorrow.

In regard to Conklin not contributing but benefiting from the EDZ, Leonard Basso, Kirkwood's Municipal Representative to the EDZ explained that he spoke to Margaret Scarinzi about this. According to Ms. Scarinzi, historically they have never been asked to contribute and a precedent has been set where they are not going to ask them to contribute. He noted that the sunset for the EDZ was June 30, 2010 and the Governor is in the process of putting a new program in place, the Excelsior Program, which has not been finalized. There will no longer be an geographic boundaries with the new program, it will be based solely on the creation of jobs. In regard to the check that was sent for this year, Mr. Basso said that it is his understanding that for the years 2010 and 2011 they are still going to ask for the contributions from the municipalities to cover some technical assistance and administrative support for the ongoing projects. This would be for support of the businesses currently in the program. He does not know how the program will be funded in the future. He does not know if there would be any repercussions if a contribution is not paid for 2011. He added that he spoke with County Executive, Barbara Fiala, about this and she could not give him a reason why Conklin has not contributed but she will check into it and get back to him. It is not known if there will be a municipal representative in the new program. There are no meetings scheduled at this time. Mr. Basso will keep the Board posted.

**13. Audit of Claims.
Resolution.**