

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

February 1, 2011

A regular meeting of the Kirkwood Town Board was held on February 1, 2011 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
Raymond Coolbaugh, DPW Deputy Commissioner
James Smith, Budget Officer
Robert Kiberd, Building & Code Inspector
Marchie Diffendorf, BC Legislator and Planning Board Chairman
Duane Travis, ZBA Chairman

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

January 4, 2011 Organizational Board Meeting
January 25, 2011 Public Hearing

PUBLIC PARTICIPATION: None.

COMMUNICATIONS:

Disclosure statement from Herbert Kline of counsel to Coughlin & Gerhart, LLP

COMMITTEE REPORTS:

Supervisor Kniffen reported that in response to an issue brought up at the last meeting by Ed Egan regarding reducing elections costs, he sent a letter to the NYS Association of Towns. He also noted that the Board of Elections is currently in the process of reducing the number of polling places in Broome County to 130, down from the current 190 sites for a significant savings. Marchie Diffendorf said that the boundaries are in the process of being determined and at this point the preliminary maps indicate that there will be no changes in the Town of Kirkwood. He added that the State mandates that there should be between 950 and 1150 registered voters per polling place.

Councilwoman Yonchuk explained that there is information in the newsletter on the Town's website regarding possible interest in establishing a very small town library in Kirkwood. She and her sister are looking into this in regard to location, grants, donations, volunteers, computers, etc. for possibly a 4-day, 4-hr. per day week. They have received input from Windsor, which has a small library, and Senator Libous and are looking forward to response from the community.

Councilman Grubham reported that he spoke with Ward Coe in regard to the rest of the money the Town was supposed to get from the grant. According to Judge Coe there is no grant money this year so they did not submit. It is questionable when there will be additional grant money available.

Marchie Diffendorf reported that the town engineer is reviewing the Phase I environmental study regarding the Kutz property so that the Planning Board can make a decision at their February 14, 2011 meeting.

Supervisor Kniffen reported that he attended a meeting of the Broome County Council of Governments for a presentation of the Smart Growth Program. He explained that this is a county-wide plan for future growth. They will make a presentation upon request to any municipality and there is a seminar on May 19th at the Forum. He suggested that members of the Planning Board and Zoning Board of Appeals might consider attending.

**TOWN OF KIRKWOOD
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February 1, 2011

OLD BUSINESS:

23-11
SEQR
LL #1-2011
Amend
Mobile Hm
Ord.

Councilwoman Yonchuk moved to adopt resolution, after a Public Hearing, adopting the SEQR Negative Declaration Notice of Determination of Non-Significance regarding Local Law No. 1-2011 entitled "A Local Law Amending the Town of Kirkwood Mobile Home – Trailer Ordinance, 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.

24-11
Adopt
LL #1-2011
Amend
Mobile Hm
Ord.

Councilman Diffendorf moved to adopt resolution, after a Public Hearing, adopting Local Law No. 1-2011 entitled "A Local Law Amending the Town of Kirkwood Mobile Home – Trailer Ordinance, in accordance with the attached resolution. Councilman Grubham seconded.

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

MOTION CARRIED.

25-11
Sched PH
Prof Fees
LL

Councilman Grubham moved to adopt resolution scheduling a Public Hearing for February 22, 2011 at 6:00 PM regarding Professional Fees Local Law Amendment. Councilman Weingartner seconded.

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

MOTION CARRIED.

26-11
SEQR
No Envir
Review
PO Lease

Councilman Weingartner moved to adopt resolution approving attached SEQR Determination that extension of post office lease was not an action requiring environmental review. Councilwoman Yonchuk seconded.

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

MOTION CARRIED.

27-11
Issue
Mobile Hm
Renewal
R. Morgan

Councilwoman Yonchuk moved to adopt 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 for 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:

Kirkwood Mobile Home Court, LLC, 41 Loughlin Road, Binghamton, NY 13904
Owner: Robert Morgan, etal

Councilman Diffendorf seconded.

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

MOTION CARRIED.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

February 1, 2011

Councilman Diffendorf moved to adopt resolution Waiving Training Requirements for 2010 for Members of Planning Board and Zoning Board of Appeals, in accordance with the attached resolution. Councilman Grubham seconded.

Discussion: Councilman Diffendorf questioned if there is a timeline in 2011 when the training has to be completed by since it is his understanding that the training requirements are waived for a short period of time only. It was noted that Mr. Kline offered to hold a training session through his firm at the Town Hall this month which would include members from Conklin and Windsor as well. Councilwoman Yonchuk noted a concern as well since the Board addresses this every year. Marchie Diffendorf noted that Broome County is holding a workshop next Thursday at the Town of Chenango at which members could make up training hours. Supervisor Kniffen noted that it appears to be in limbo who is responsible to ensure members make up their time. Councilwoman Yonchuk noted that there are members whose names appear every year and she is concerned as to whether or not they have ever gotten their training. Duane Travis said that he spoke with Mr. Kline and was advised that if a member without training votes on an issue the lack of training does not affect the ruling. Although there is nothing in the state law which requires training about enforcement, there is also nothing that precludes a town from passing a local law addressing it. Supervisor Kniffen will check with Mr. Kline on the date for training.

28-11
Waive
Training
PB & ZBA

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 reappointing Jason Griffin and Len Basso as Temporary Ad Hoc Members of the Zoning Board of Appeals, pursuant to Local Law No. 11-1986; to be compensated at \$30.00 per meeting attended, upon submission of a voucher to the Town Clerk. Councilman Weingartner seconded.

29-11
Reappoint
ZBA Ad Hoc

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

MOTION CARRIED.

Councilman Weingartner moved to adopt resolution reappointing Sandra Fox, Thomas Tracy, and Walter (Gordie) Woolbaugh as Ad Hoc Members to the Planning Board, pursuant to Local Law No. 1-2004; to be compensated at \$30.00 per meeting attended, upon submission of a voucher to the Town Clerk. Councilwoman Yonchuk seconded.

30-11
Reappoint
Ad Hoc
Pl Bd

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 Authorizing Additional Compensation to Town Attorney for Additional Work Relating to Water and Sewer Rolls, in accordance with the attached resolution. Councilman Diffendorf seconded.

31-11
Atty Comp
W&S Rolls

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

MOTION CARRIED.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

February 1, 2011

Discussion – Possible Water Budget Revenue Increase.

Supervisor Kniffen explained that a couple of years ago the water rates were reduced and they are now looking to get them back to their original levels over the next 2 years.

Mr. Smith presented a sheet with hypothetical rate impacts with modifications to the tier structure for the billing provided by John Finch. The minimum use customers, about 478 which comprise about 7 ½ % of water usage, were raising about \$15,774 annually. By getting the minimum up to \$48 plus 9¢ it would raise about \$26,000 in 2011 from the top users, which comprise about 63% of water usage, based on 2010 data. If \$26,000 is raised on an annual basis about \$15,000 comes from raising the minimum to \$48 and an additional \$11,000 comes from the addition increase of 9¢. Part of the rationale for even considering raising the minimum rates is the historical trend, and Frito-Lay in particular, to cut so much usage that revenue has to be made up somewhere else since volume is down. Mr. Smith suggested that the minimum rates are not all that need to be addressed, the rates for the higher users should be targeted as well. He said that when the water rates were reduced a couple of years ago because of the increase in sewer rates the affect on high volume users was negligent. At that time the Board was trying to make an impact on the lower volume household users. To lower the use of surplus in the future some discretionary equipment spending may have to be cut back on. With the loss of volume and in an attempt to get rates back where they were is a big strain on the fund balance. By scheduling a public hearing for the end of February the first reading in March will reflect the changes if adopted.

Extended discussion on replacing valves which will most likely be quite expensive and will have to be addressed in the near future. Although it was mentioned at the last meeting that residents should be encouraged to periodically shut off their own in-house valves, there was a concern with this so in the least this should be held until spring. It was determined that at this time there is more of a concern with valves at the street, especially in the older districts. Although the mains are a concern the magnitude of the problem regarding the valves needs to be determined. John Finch and Dick Jones will look into this and report monthly. John Cizauskas discussed various concerns regarding the valves with John Finch.

Councilman Diffendorf moved to adopt resolution scheduling a Public Hearing for February 22, 2011 at 6:05 PM regarding increase in water rates. Councilman Grubham seconded.

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

MOTION CARRIED.

NEW BUSINESS:

Councilman Grubham moved to adopt resolution authorizing the commencement of legal proceedings and the appointment of the Deputy Town Attorney to handle said proceedings pursuant to section 2A(b)(2) of Local Law 1-1978, constituting the performance of legal services which do not occur on a regular basis, namely litigation commenced by the Town, in accordance with the attached resolution. Councilman Weingartner seconded.

Discussion: Mr. Blaise explained that this stems from a long-standing problem at 171 Johnson Rd. owned by Larry and Maxine Soucie regarding keeping the property cleaned up due to the accumulation of construction equipment, general construction type debris, tools, tall grass, etc. There have been complaints from neighbors and the Soucies have been cited several times with slow compliance and then within 6 months there is a problem again. In 2009 Mr. Newberry contacted Mr. Soucie who promised compliance but problems still persisted through the summer of 2010. It is unclear at the current time if anyone resides there since no one is accepting mail. The house has been put into foreclosure by the mortgage holder. Mr. Kiberd said clean up has stalled. He provided pictures of the property that show an improvement. Councilman Weingartner noted that

32-11
Sched PH
Water Rate
Increase

33-11
Litigation
ithdrawn

**TOWN OF KIRKWOOD
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February 1, 2011

it is hard to see from the road. The Soucies were invited to attend this meeting to address the Board but did not appear. Mr. Kiberd noted that Mr. Newberry received a death threat from Mr. Fenson who at one point said he was representing the Soucies and then indicated he bought the property and told Mr. Newberry to stay off it, but there is no information that he purchased it. The proposal is to commence a Supreme Court proceeding to get an Order giving the Town the authority to go on the property and get it cleaned up. Under the Dumping Local Law the costs can be added to the taxes on the property or another proceeding can be commenced to recover the costs from the property owner.

After reviewing the pictures Councilman Diffendorf said that he did not see that much of great concern to him. Since there would be considerable cost to the Town, he would rather see this go through foreclosure and then the Town can deal with the bank in regard to clean up. Mr. Blaise did note that this would take the better part of a couple of years. The Board members agreed not to proceed at this time but noted that they would like Mr. Kiberd to keep track of it.

AUDIT AND PAYMENT OF CLAIMS:

Councilman Weingartner 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 4, 2011, all in accordance with the abstract of claims on file in the Town Clerk's Office. Councilwoman Yonchuk seconded.

34-11
Audit/Pay

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

MOTION CARRIED.

OTHER:

Councilwoman Yonchuk moved to adopt resolution to adjourn this meeting to conduct an Executive Session pursuant to section 105 paragraph d of the Public Officers Law to discuss proposed, pending, or current litigation. Councilman Diffendorf seconded.

35-11
Exec Sess

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

MOTION CARRIED.

ADJOURNMENT:

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

36-11
Adjourn

MOTION CARRIED.

Meeting adjourned at 8:05 P.M.

Respectfully submitted,

Gayle M. Diffendorf
Town Clerk