

**TOWN OF KIRKWOOD
WORK SESSION**

March 29, 2011

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
Raymond Coolbaugh, Deputy Commissioner of Public Works
Marchie Diffendorf, BC Legislator and Planning Board Chairman
Duane Travis, ZBA Chairman

1. Update – Water Valves. (RJJ)

John Finch Jr. reported that there are a little over 270 valves. They are trying to determine if certain valves work, some are buried and they are trying to uncover them to make sure they are all exposed and raised to ground level. Some of them only work sporadically which is a concern. A hydrant that was hit on Route 11 was referenced. It was snapped off, a casing broke loose, but the ground is so saturated no work could be done. They are trying to locate the vehicle involved.

**2. NYSEG Commercial & Industrial Rebate Program – Ed Personius.
(GEK)**

Mr. Ed Personius gave a short presentation to the Board regarding a NYSEG rebate program. Brochures were provided and are on file in the Town Clerk's Office. In July 2010 NYSEG began a commercial/industrial non-residential rebate program with rebate levels for lighting, air conditioning, natural gas furnaces, and variable frequency drives for HVAC equipment. He noted that in the materials provided that is an overview sheet regarding custom measures. He said if there is a proposal that is going to save electricity or natural gas NYSEG has a technical group that can evaluate it to determine if it would qualify for any funding. The program is funded by the rate payers and it a mandated program from the NYS Public Service Commission with the goal of reducing energy consumption by 15% by 2015. NYSEDA has had a residential rebate program in place for about 15 years but the Public Service Commission also wants the utilities to be involved in promoting energy conservation. There is also a small business energy efficiency program whereby non-residential customers can have their lighting changed out to more efficient lighting products with the program covering 70% of the cost. The program is funded through 2011 and hopefully will be funded through 2012 as well. This is for the Town as well as businesses in the Town to promote energy efficient equipment.

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3. Discussion – Recommendation from Kirkwood Planning Board – Metalico Aluminum Recovery, Inc. – Rezone 3 Parcels on Barlow Road from Industrial Development (I-D) to Industrial Development – Recycling (ID-R) – Condition of Special Permit. (GEK)

Supervisor Kniffen explained that all of the information that was presented to the Planning Board has been made available to the Town Board with additional information being supplied last Friday by Sarah Campbell, attorney for Metalico. He noted that it is now up to the Town Board to determine if they want to proceed with a public hearing in this matter.

Councilwoman Yonchuk said that she would like to proceed to a public hearing because the Planning Board put all the time, effort and research into the project and she also would like to hear what the people have to say on both sides of the issue. A public hearing would be a way for people attending to get information as well so it is only fair to have that hearing.

Councilman Diffendorf said that he is opposed to the project. He noted that there is a concern with the area being the gateway to Kirkwood and even used car lots have been discouraged, and he does not feel that this is part of the Town's Comprehensive Plan or anything that is really wanted there. He can think of no good reason to have this located there.

Councilman Weingartner said that he would like to hear what the feelings are of the other people involved.

Councilman Grubham said that he is in favor of a public hearing. He noted that the Board had an opportunity to not let another used car lot go in on the corner and they did and the person has not done a single thing that he said he was going to do. He noted that this might be an upgrade to the use as opposed to expanding the current use.

Councilman Diffendorf added that this is costing the residents money since they hired a lawyer who has made a lot of appearances. He sees no group supporting Metalico with the exception of Metalico and their lawyers. Councilwoman Yonchuk added that a resident of that neighborhood spoke to her in favor of Metalico.

Mr. Kline explained that resolutions are needed to schedule two public hearings for 4-26-11 beginning at 6 PM. The first hearing will be to amend the Zoning Local Law relating to scrap metal processors being allowed in the ID-Recycling District and the second hearing will be to rezone the specific parcel that Metalico wants rezoned to the ID-R district. Sarah Campbell will provide a survey description of the lot for the public hearing notice.

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4. Discussion – USDA Loan/Grant Home Repair Program. (GEK)
Supervisor Kniffen reported that USDA has a loan and grant program based on income for home improvements. The information will be available for review in the Town Clerk’s office.

5. Discussion – Sick Leave Bank. (GEK)
Supervisor Kniffen explained that a sick leave bank would be a program where employees could deposit a certain amount of sick days a year until a maximum amount is accumulated. If an employee got a catastrophic illness and was out of sick and vacation time, other employees might want to be donors of sick time to that person. Mr. Kline drafted a policy for review.

Councilman Weingartner said that the draft policy presented is not a true sick leave bank since a sick bank is comprised of a group of individuals putting sick time into a specific fund for anyone to take who has put into it. He noted a concern because in one place it says when the employee no longer has the need, the leftover donated days by the full time employees will then be returned to the donating employees to use as their own once again and this makes sense, but it also states that if a receiving employee terminates his/her employment before all transferred Sick Leave Bank credits are used, those credits will not be returned to the donating employee. He feels that whether they do not use all the sick time because it is not needed or if they leave, it should be handled the same way. Mr. Kline will remove the second reference. Councilman Weingartner also noted a concern with this policy because if someone isn’t so nice others may not want to contribute sick days, but with a true sick bank it is there for anyone who needs it whether they are nice or not. Councilwoman Yonchuk noted that concern as well and referenced policies that she and Councilman Weingartner have been involved with and that personality should not be involved. How the bank is established and maintained will be have to be addressed as well. It was determined that this would be considered a sick leave donation policy, not a bank. It was noted that if an employee is receiving a benefit in any form from the bank or employer then he is not eligible to receive compensation or disability. Mr. Valenzuela explained that aspect in more detail. These donations will be on a voluntary basis only. There is currently nothing in place at this time so this will enable someone to donate sick days. Donations will be anonymous. Mr. Kline will rewrite the policy for additional review.

6. Request from John Finch to attend the NYRWA’s 32nd Annual Technical Conference and Annual Business Meeting at the Saratoga Hilton Hotel and City Center on May 9 – 12, 2011 at a cost of \$847.00, plus mileage and all reasonable expenses paid.

Supervisor Kniffen explained that John Finch and Alan Glover are required to get recertified every year and this conference will accomplish that. Twice a year there is a down-sized one-day training seminar in Sydney to which Alan attends. It is a concern of John and Alan that if they both attend the training in Sydney no one will be on call.

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Supervisor Kniffen said that it is up to the Commissioner of Public Works to make sure that emergencies are covered. In addition, because Kirkwood has been participating for 10 years, at this year's conference they are going to recognize 10 year members.

Saratoga is a 4-day conference and Sydney is one day and the same certification is accomplished so Councilwoman Yonchuk questioned what the difference is. John said that in Sydney they basically have 2 speakers and a few vendors and they submit to the State for credits. At Sydney a person would get about 5-6 contact hours for attending. He did note that he and Alan have to be recertified every 3 years by attaining 30 contact hours over the 3-year period. Alan goes to Sydney in June and October and gets 10 to 12 contact hours per year, and John attends the Saratoga conference which consists of 2 ½ days of education, a banquet and there are 150 to 200 vendors displaying new products and ideas. John said that it is very informative and he usually gets about 12-15 contact hours.

Councilman Weingartner said it appears that there are much broader presentations at Saratoga. Councilwoman Yonchuk said she would like to see some kind of report or accounting of the education and information gained from attending the conference. Councilman Diffendorf noted a concern since this amounts to over \$1,000 by the time travel expense is added. John offered to go up on Monday morning which would reduce the cost about \$150 for one night. Supervisor Kniffen suggested that John could attend the Saratoga conference every other year. Resolution for John to attend the conference this year.

7. Discussion – Water Fracking. (GEK)

In regard to selling water for fracking, Supervisor Kniffen explained that Kirkwood has 3 wells and one of those wells is not used because of too much iron and he questioned if water is going to be needed for fracking why not have Kirkwood benefit and sell water to the gas drillers. Mr. Kline said that Elmira addressed this ahead of time by putting in a loading area and by allowing truckers to come in by special credit cards. He said the town might want to do something on the infrastructure to make it more accessible since the well is down by the river. Councilman Grubham's recollection is that the Board already discussed this and arrangements would be made so that they did not get treated water, but water directly from the well. Councilman Diffendorf said that he does not feel they should spend any money until it is more definite. John Finch said that the only concern he has, depending on the volume of water they will use, is the impact on the aquifer. He said that the well is only 120 feet away from the other well. A study will be needed so as not to draw down the other wells.

Councilwoman Yonchuk said that it is her understanding that the amount of water that the hydro-fracking process takes is huge and she questioned if it is realistic that it will be worthwhile for the gas drillers to buy the water. A cost analysis and impact on the wells will be requested from Town Engineer, Dan Griffiths.

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7a. Visit a Gas Drilling Site.

Supervisor Kniffen explained that years ago the County considered locating a resource recovery facility in Kirkwood which at the time was extremely controversial and the Town toured a similar facility in Peekskill. He would like to consider a similar visit to a gas drilling site. According to Marchie Diffendorf, Cheseapeake offers tours at their office in Towanda, PA . A tour consists of a two-hour class presentation followed by an hour and a half rig tour and ending with additional class time. He said it is very informative and the tours are free and held Monday thru Friday. Marchie will look into scheduling this.

8. Discussion – Ross Park Zoo Agreement. (GMD)

Supervisor Kniffen explained that the Town has donated to the Zoo for 25 years with up to 1,000 residents taking advantage of the free passes each year. The Zoo requested an increase in the Town's donation from \$4,000 to \$5,000 for the 1,500 free passes they supply annually. This year he is suggesting that the donation be kept at \$4,000 and limit the free passes to 1,000. According to Supervisor Kniffen in the past the Zoo has agreed to go to Bell school twice a year when asked and they would like to cut that to once a year. He did note that they have never been requested to come. They still agree to attend the Town Fair. Councilwoman questioned if Weeks shouldn't be included as well and Supervisor Kniffen said they are. It was noted that they will only do one presentation per year. Resolution.

9. Audit of Claims.

Councilman Diffendorf questioned why a storage container was rented from Matthews Service. Ray Coolbaugh said that it was before the potential flood and tool boxes and such were stored in there on higher ground. It is rented on a month to month basis.

Councilman Diffendorf questioned the renting of Poe's screening plant. According to Ray Coolbaugh they used it to remove the lumps from the road sand and then put the good stuff in the barn and set the lumps outside. The sand was purchased from Gorick and Caldwell. According to Councilman Grubham, Poe claimed they were very rough on his screens, bending them and breaking off fittings, so the Town bought screens as replacements. Councilman Diffendorf said renting the plant and paying for screens resulted in very expensive sand. Councilman Grubham questioned why sand was purchased from Boland for \$3.90 a yard but also from Colwell at \$4.70 a yard. Ray was not sure why that was although he did know that Boland wouldn't let them in if they didn't call ahead so they could have someone available. Boland has been the cheapest the last 2 years. Ray will look into this. Resolution.

9a. Sales Tax.

Supervisor Kniffen addressed the change in distribution of sales tax monies, noting that with the last change the recipient of any increase was the County. He explained that in the past the split between County and municipalities was 50/50, 52/48, and 53/47. He

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said the County keeps 4% of the sales tax; they keep all of the first percent and 3% is shared. Mr. Kline has drafted a resolution for the Association of Towns to consider asking the Legislature to reconsider their latest decision to split the entire 4%. He said this Town Board might want to consider passing it as well. A copy will be supplied to Board members for their review for a possible resolution April 5th.

9b. Riverfront Improvement Funding.

Councilwoman Yonchuk reported that the next meeting of the commission will be held April 6, 2010 and it is her understanding that they are requesting the Town's preferences. She noted that there are 50 to 60 potential projects with 4 of them directly impacting Kirkwood and she is assuming Kirkwood would prefer those projects. Supervisor Kniffen said that he will have Dennis O'Dea, the Town's representative on this project, attend the next meeting with an update.

9c. On Call Policy.

Councilwoman Yonchuk noted that an email was received today from Oliver Blaise in regard to a draft of an on-call policy. This will be held until next week.

10. Executive Session.

Councilwoman Yonchuk moved to adopt resolution 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 Diffendorf seconded.

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

MOTION CARRIED.