

**TOWN OF KIRKWOOD  
WORK SESSION**

**May 31, 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, DPW Commissioner

**1. Discussion – Metalico Project. (GEK)**

Supervisor Kniffen said that it is time to get a consensus of the Town Board as to which way they are leaning in regard to this project.

Mr. Kline explained the following local law considerations:

Local Law #1 would make certain changes to the ID-R District as recommended by the Planning Board and the local law would specifically rezone certain parcels on Barlow Road. Broome County is waiting to respond on the second local law until the Board decides what they are going to do on the first one. In regard to the first local law which deals with the ID-R District, there are two words used by Broome County that must be considered, “suggest” and “recommend”. According to the General Municipal Law if Broome County recommends disapproval or modifications to what is being considered it would require a super majority vote, (4 votes) and the reasons why the Board overruled it. In regard to the suggestions, this is considered less than recommends, and it is up to the Town Board and a 4/5 vote is not required if the Town Board does not decide to along with Broome County.

Mr. Kline reviewed the response from the Broome County Planning Department dated May 13, 2011 regarding their suggestions noting that these are mostly things dealing with Site Plan Review. Since there are many things in the existing ordinance dealing with SPR, so their suggestions are that these particular conditions be added to the Special Use Permit that the Planning Board recommended. They added numerous things dealing with that.

Regarding their recommendations, Mr. Kline noted these are things the Town Board would want to add to their local law because, once again, if they didn't it would require a 4/5 vote and reasons why they didn't do it.

In response to Mr. Kline, Sarah Campbell, attorney for Metalico, said that Metalico would not have any objection to adding into the local law the suggestions as well as the recommendations made by Broome County Planning.

**TOWN OF KIRKWOOD  
WORK SESSION**

**May 31, 2011**

Mr. Kline said that the Town Board has a couple of options. Option #1 would be to have Mr. Kline revise the current Local Law, adding in the suggestions and recommendations for review at the June 7, 2011 meeting. A public hearing would then be scheduled for the July 5<sup>th</sup> meeting. Also at that meeting the Town Board would address the Environmental Review. Metalico has filed a full EAF regarding that, which is on file in the Town Clerk's Office. The local law could then be voted on.

If there are not 3 Board members who are in favor of this amended local law, Mr. Kline explained that Option #2 could be that a public hearing would not be held and the environmental review would not have to be done.

So it now must be determined if there are likely to be 3 votes since 4 won't be needed because all the suggestions and recommendations will be included in the local law. If the public hearing is held and there are 3 votes, the ID-R District regulations will have been amended and then a public hearing will be scheduled most likely the following month so that Broome County could then respond to their second letter. He noted that in that second letter they recommend that the Board hold taking action on the rezoning of the subject properties until the first part is amended.

Councilwoman Yonchuk questioned whether or not Metalico opens a facility if the Board puts these new measures in place if it would regulate any business that would come into an ID-R District. Mr. Kline said that it would. It was noted that additional things could be added to the local law as well as work could be done on the suggestions.

Mr. Kline said that if this gets to the point where it is passed back to the Planning Board for SPR, suggestions can be sent to them by the Town Board, but they do not have to accept them. At the request of Warren Scofield, Mr. Kline read the list of suggestions and recommendations from the May 13, 2011 communication from Broome County Department of Planning & Economic Development, which is on file in the Town Clerk's Office.

Councilwoman Yonchuk questioned that if this is passed into the existing local law if it is retroactive to the businesses already operating. Mr. Kline explained that they have non-conforming uses and this would not be retroactive.

Councilman Weingartner said that he has been in favor of this from the beginning and still is, especially after the presentations and hearing Mr. Swift about the letter he received from Mr. Pope's office. He feels it is an opportunity for the Town to clean that place up and still have some business in there.

Councilman Grubham said that he is in favor as well, although he spent a lot of time on the fence. He said that all the neighbors that are close, Mr. Swift, the car dealership across the street and the person across the street are all fine with it. He said they have

**TOWN OF KIRKWOOD  
WORK SESSION**

**May 31, 2011**

talked about it being the gateway to the community yet NYS has a large rattle trap of a building that will probably sit there forever with the windows out, there is an old trestle and building after building that are not going to come down anytime in the future, so they don't seem to care about the gateway. He said there are 2 businesses on Loughlin Road that are never going to look as good as this business is going to look when it is done providing the Town makes them do what they say they are going to do. He feels the only exception is that if the Town does not do this will the Kutz operation go out of business and disappear completely and no one has the answer to that. If they don't then he would rather have this which he thinks will be a cleaner operation and the Town is not going to clean up that area any time soon.

Councilman Diffendorf said that he is against this. He does not want any more expansion of that type of business and if the Board expands this it will never go away and it is still his hope that someday it will. He is concerned that Metalico will not be able to live with that small of a site. He said there are currently 2 major recyclers in Kirkwood and they do a fine job but he does not think the Town needs to expand.

Councilwoman Yonchuk said that she does not feel that they have to say whether they are for or against Metalico at this point but she is in favor of improving the law. Whether or not Metalico or another business comes to Kirkwood or whether Kutz stays, she thinks that making the law better makes business. She feels they should go ahead with this piece of it. She also sees this as a potential for cleaning up that area. It is her sense that at this point they are not deciding whether or not Metalico can come in or not, but only looking at improving the local law. Supervisor Kniffen said that by changing the zoning they are saying to Metalico that essentially they can come in. Mr. Kline added that the Board is not changing the zoning yet. He said that after listening to Councilmen Weingartner and Grubham he thinks they might vote for the rezoning of that parcel after the law is changed and although Councilwoman Yonchuk wants to strengthen the law she has not indicated how she will vote in regard to rezoning the parcels to ID-R. Councilwoman Yonchuk added that she had hoped the public hearing would have given the Board more input from both sides on the issue. It was noted that this would apply to anyone who wanted to come in.

Supervisor Kniffen said this is nothing personal to Mr. Kutz. His family has been in Kirkwood for a long time and worked with the Beautification Committee and Code Department over the years and it is appreciated. He said that whoever it is, he would not choose to have that business there. When Metalico first expressed an interested in locating there he thought as part of the Beautification Committee it was great; that they might have the money that Kutz didn't, with the resources to landscape it and make it more acceptable with fencing and trees. He also gave pause hoping that possibly no one would follow Mr. Kutz if they did not pass this. He said that even if the Board does this, Metalico is not a done deal. They have to do Environmental Review and in light of that they may decide not come here and at that point it becomes a DEC problem and then it's an unknown if it goes away. Although he would rather not have either one of them there

**TOWN OF KIRKWOOD  
WORK SESSION**

**May 31, 2011**

he feels it's a missed opportunity if they don't approve this. After doing some measurements, he did note a concern about planting 12 foot trees since the existing fence is 34 feet from the middle of the road and leaves only 9 feet for landscaping taking into account the usual 25 foot right of way. Since there was no definitive answer to this it is one of the things that will have to be addressed.

Mr. Kline will redraft the local law for review and at the June 7, 2011 meeting a public hearing will be scheduled for the July meeting to consider the amended local law and it will also be sent to Broome County. Since Broome County has already seen this Mr. Kline is going to ask for their recommendation by the August meeting.

2. Update – Water Valves. (RJC)

No update at this time.

3. Discussion – Sick Leave Donation Policy. (HAK)

Minor discussion. It was noted that employees currently pay taxes on their sick time. Mr. Kline explained that this can be used now and changes can be made at a later date if needed. Since this is a policy a public hearing is not needed. Resolution.

4. Discussion – Resolution Authorizing Additional Compensation to Deputy Code Enforcement Officer Kenneth Newberry for Work Relating to Water and Sewer Rolls. (GEK)

Supervisor Kniffen explained that Mr. Kline is working on the water and sewer rolls and has requested some help in identifying some properties. Mr. Newberry has the time to help. He will be paid at his regular hourly rate. Resolution.

5. Discussion – AmeriPride Services – Rental Services Agreement (RJC)

Mr. Coolbaugh said they are trying to get a 2-year contract instead of a 5-year contract for carpet rental (runners) in all Town buildings. He noted that the service charge last year was 5% and they raised it to 6% this year. He will get more information for a final report to the Board next week.

6. Resolution approving the addition of Miranda Helms to the 2011 Membership Roster for Kirkwood Fire Company, in accordance with the attached letter. (GEK)

Resolution.

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

Resolution combining the June 28, 2011 Work Session and July 5, 2011 Town Board Meeting into one night to be held July 5, 2011.

**TOWN OF KIRKWOOD  
WORK SESSION**

**May 31, 2011**

Resolution combining the July 26, 2011 Work Session and the August 2, 2011 Town Board Meeting into one night to be held August 2, 2011.

Resolution combining the August 30, 2011 Work Session and September 5, 2011 Town Board Meeting into one night to be held September 5, 2011.

Resolutions.

**Additional discussion on reversing meeting nights requested by Roy Tondeur.**

Supervisor Kniffen explained that if changed per Roy's request, the Board Meeting would be held on the last Tuesday of the month and the Work Session would be held on the first Tuesday of the month. Mr. Tondeur added that by doing this there would be 3 weeks between a proposal and an adoption. He said that the internet is ineffective and is not adequate to get information to the public. He noted that prior to the storm people were putting out brush thinking the Town was going to pick it up because they were not aware the Town was not having a brush pickup this year even though it is on the website.

Councilman Weingartner said that vouchers would have to be addressed as well.

Councilman Diffendorf said that other towns that have two-week intervals between meetings do vouchers twice a month. He said the minutes of those towns still don't get out until right before the meeting. He also noted that if The Country Courier goes away there is no other paper to cover it anyway. He said he does not see a big advantage. Mr. Tondeur said that it would be unrealistic for the minutes to get out any sooner than they already get out, that they get out within 2 to 3 days. Councilman Diffendorf said that in other towns the minutes come out right before the meetings. Mr. Tondeur said that in other communities many times the agenda is published 14 days before the meeting so that if someone has an interest in a particular agenda they can show up at a meeting. Councilman Diffendorf said that the same group comes to Kirkwood's Board Meetings month after month and he doesn't feel anyone is missing anything because they didn't hear about it. Councilman Diffendorf said he feels the system works the way it is and if they change things a regular meeting will have to be held both times with vouchers. Although there was some confusion as to what Mr. Tondeur's intent was, he reiterated that his suggestion was to reverse the Board Meeting night with the Work Session night. He said he did not suggest changing the work session to the third Tuesday of the month because he thought it would be too complicated and confusing since the meetings have always been the first and last Tuesdays. Supervisor Kniffen said that although he feels any time information can be made more available it should be done but no one will know unless they start showing up at meetings anyway. He did note that when there is a big issue people show up but most people do have computers and they still don't show up at regular meetings. He will look into this and discuss it again next week.

**TOWN OF KIRKWOOD  
WORK SESSION**

**May 31, 2011**

8. 2011 Agreements as follows: (GEK)

ACHIEVE

Police Athletic League

Resolutions.

9. 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 11, 12 and 13, 2011 without any permit fee to guarantee proper cleanup after each use.

Resolution.

**Additional discussion – Request of Roger Studer to hold car show at Veterans River Park.**

Supervisor Kniffen explained that since Hickories Park in Owego is closed due to flooding, the car club that Roger Studer belongs to is looking for an alternate location to hold their car show and they are requesting the use of Veterans River Park July 9<sup>th</sup> from 8 AM to 10PM and July 10<sup>th</sup> from 8 AM to 6 PM - approximately 200 cars. They put on an abbreviated type of the car show annually at the Kirkwood Town Fair in the far reaches of the park by the tennis courts and they would like to use the same area.

Councilman Weingartner said that he is familiar with this, that it involves a car show, they sell cars and there are vendors set up to sell car parts. This is much bigger than the show at the Town Fair and involves many classes of cars.

The Town Clerk added that Roger Studer called and inquired about using pavilion number 3 at the park for both days, but that it is already booked for Saturday as well as the other 2 pavilions being booked. The area that the car club uses during the fair is very near pavilion number 3.

Councilman Weingartner said that this is huge and cars would have to park on the ball fields and there would be a tremendous amount of traffic.

Mr. Kline said that there are 2 Local Laws involved. It would fall under the Amusement Local Law because it deals with ...shows so they would be subject to paying a \$50 fee per day unless the Board exempts them and they would not automatically be exempted because they are not a charitable organization. The second law is the Mass Gathering Local Law whereby if there are going to be more than a total of 3,000 people there are requirements they would have to follow and a permit would be required.

**TOWN OF KIRKWOOD  
WORK SESSION**

**May 31, 2011**

Councilman Grubham said that the Town Fair benefits the organizations of the Town but this could be a concern because in his opinion the park was never intended for things like this, but only for picnics, ball games, family things, etc. It would also be a lot of wear and tear on the park itself. He said that he is not in favor of this.

Councilman Diffendorf said that it would be nice to allow it but there are a lot of negatives. There is not the greatest access to the park and this could be a concern with a lot of traffic. Very little time to act on as well.

Supervisor Kniffen said that he would have a concern with damage given the type of year we've had so far.

Councilwoman Yonchuk said that she agrees with Councilman Grubham and she is hesitant since the park would kind of be out of commission for those 2 days and there is always the concern with weather.

Supervisor Kniffen will contact Mr. Studer to advise him that this will not be an option.

10. Resolution ratifying a resolution authorizing the Transfer of Funds, in accordance with the attached resolution.

Resolution.

11. Resolution appointing Raymond Coolbaugh as Commissioner of Public Works until December 31, 2011.

Supervisor Kniffen explained that Dick Jones retired as of yesterday from his elected position of Highway Superintendent along with his appointed position of Commissioner of Public Works so the Board needs to make an appointment. Since this is not a regular election year there will be a special election in November for that position and because the term will be up next year there will be an election for that position next November as well. Mr. Kline explained that whoever is Highway Superintendent automatically becomes the Commissioner of Public Works by Local Law. See Special Board Meeting minutes this date for resolution.

12. Audit of Claims.

Resolution.