

**TOWN OF KIRKWOOD
WORK SESSION**

November 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, DPW Commissioner
James Smith, Budget Officer

Prior to the first order of business Supervisor Kniffen informed everyone present that the Town of Kirkwood's Historian, Sam Borruso, passed away. Sam did a wonderful job as historian and it was evident that he loved doing it. He also worked in the Code Office and he managed the FEMA buyout program after the 2006 flood which he did very effectively. A moment of silence was observed for Sam.

1. Update – Water Valves. (RJC)

John Finch Jr. reported that they located valves that were hard to get to. The valve near Vail Balou will not turn but there is a cluster of them that will. The valve that does not turn feeds Felchar Mfg. It is about 40 feet off the main and after referring to the water rate ordinance and the water main local law it was determined that it is the responsibility of the property owner. It was also noted that if there is a break between the main and the valve pit there is no way to turn it off. John said that they are checking on other valves as well to be sure they operate. He explained the problem with the valve at the corner of Acre Place and Barlow Road and the process to replace.

2. Discussion – Resolution authorizing Supervisor to sign letter to New York State Department of Health regarding providing of emergency medical care, in accordance with the attached resolution. (HAK)

Mr. Kline explained that the letters received from the fire companies in regard to the fact that the Town would have no liability for the first responders for the fire companies referenced a section of the Public Health Law which deals with first responders. After conducting his research, Mr. Kline discovered that the protection to the Town is in the Volunteer Fireman's Benefit Law and this has been verified with Albany. The proposed letter to be signed by Supervisor Kniffen that will be sent to the fire companies states that the Town understands the provisions of the law do give the Town the protection they want. Mr. Kline is satisfied that the Town has protection if any member of the volunteer companies renders first responder service at the scene of an accident even if there is not an EMC or ambulance person present. Resolution.

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3. Discussion – Amendment to Professional Fees Reimbursement Local Law. (HAK)

Mr. Kline explained that in 1995 the Town adopted a Professional Fees Reimbursement LL. If a developer came before a Board and needed extra services from the Town Engineer, Attorney, etc. outside of the ordinary meetings and there was special review the developer would pay those costs. At that time, in order to encourage development in the Town, if the development was approved and the building permit was issued they would get back 50% of Professional Review Fees and if they were denied they would get back 100% of the fees. He said that most other municipalities have changed this. Now if it is approved the Towns feel they should pay whatever the cost is. For example if Dan Griffiths is required to attend a meeting and the project is approved, the cost to have Dan attend should come out of their deposit. The thought now is, if the project is denied then the developer should get half back of whatever the expense was.

Supervisor Kniffen said his thought is that they should give back more for an approved project since it would be bringing jobs to Kirkwood. Councilman Weingartner said in light of the tax cap he feels the new law should be developed. Councilwoman Yonchuk said that although it would be hard to gauge the fees on various projects she would tend to agree with Councilman Weingartner. She said that these are only one time fees and she would assume a developer would be looking at the long run and she doesn't feel that these engineering and legal fees would determine if the developer pursued this or not.

Mr. Kline said that the gas industry is the driving force on this. In many communities the gas drilling companies are contacting the towns to meet with the engineers and attorneys about the laws on the books, requirements for town roads, private roadways, permits, etc. These municipalities are requiring a deposit to reimburse their town for those expenses which otherwise would be the burden of the Town. To this point there has been absolutely no resistance since they are happy to get cooperation.

Councilman Diffendorf said that the small projects are more of a concern to him because usually the big projects can afford the big dollar. Mr. Kline said that with the small projects they would only need SPR or possibly Zoning Board action. Councilman Diffendorf said that he is going to support this. Resolution.

4. Discussion – Procurement Policy Revision. (HAK)

Mr. Kline said that there are changes in the state law regarding competitive bidding. He said that according to the present law if equipment is now purchased at \$20,000 or more (was \$5,000 to \$10,000) or if the Town is engaged in a public work, which is defined as something with labor and materials together, the amount has been raised to \$35,000 for competitive bidding. This would bring the Town's Procurement Policy up to the standards of the state law. Supervisor Kniffen said that he feels they should update this policy but it would not prohibit them from going out to bid any time they want. Resolution.

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5. Resolution authorizing Commissioner of Public Works to enter into an agreement with Gorick Construction Company, Inc. regarding Flood Remediation Work, in accordance with the attached agreement. (RJC)

The job is complete. Resolution.

6. Discussion – Request from Jody Flagg to amend permitted uses in an ID district to add daycare facilities. (GEK)

Marchie Diffendorf, PB Chairman, reported that the Planning Board is recommending that the Town Board approve this request. He said the Planning Board had quite a lengthy discussion regarding this. It was felt this is where day care will be required so people can drop off their children near or in the same building where they are working. Resolution to schedule PH for 12-27-11.

7. Resolution scheduling a Special Town Board meeting on December 27, 2011, after the Work Session, for the purpose of auditing year end bills and any other business that may come before the Board.

Resolution.

8. Audit of Claims.

Resolution.

Public Participation:

Laila Cherfan said she has owned the Woodhill Court Apartments (4 buildings) for 25 years and she pays the taxes. About 15 years ago she and the man that owns the house on the corner had a disagreement about parking – the police were called. The police said they could do nothing because there are no parking signs posted. He said he was going to put signs up across from her building and he said he has the upper hand in the Town of Kirkwood and he can do whatever he wants – and he did put up the signs all the way through. Recently she had new signs put up from her building 3 all the way through to the house John Boyd built for his daughter. Other signs were put up as well. She would like to know why Kirkwood favors these two people who told her they can do whatever they want. She also noted that since the new house went in she has problems with flooding in the parking lot of building 3. She said although she was told something would be done it was not. She said Ray Coolbaugh did come but it was too late.

Supervisor Kniffen said that no one has any special consideration from the Town – all are treated equally. He said that is them saying that. Ray Coolbaugh said that he does not know when the signs across from her apartments were put up. He said they replaced the old signs with new, no new posts were put in. Laila said they were originally put up in

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the summertime. Supervisor Kniffen did note that no parking signs were authorized up the road further by John Boyd.

After a very lengthy discussion Mr. Kline said that it will have to be determined if the signs are on the Town's right of way or private property. There is nothing in the ordinance authorizing the no parking signs. He also noted that years ago some roads were taken by use instead of deed so that will have to be checked as well since that would not give the Town a 50 foot right of way. If it was taken by use it would have been the traveled portion at the time it was used. He added that the property owner owns to the middle of the road and the Town only has a right of way. This will be investigated further and Mr. Boyd and Mr. Chatterton will be contacted. Councilwoman Yonchuk and Councilman Diffendorf noted a concern that the no parking signs look official whether they are legitimate or not so this has to be resolved. The deed to Woodhill Ave. will be checked.

Executive Session:

Councilwoman Yonchuk moved to adopt resolution 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. All voted in favor.
MOTION CARRIED.