

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

December 27, 2011

A regular meeting of the Kirkwood Town Board was held on December 27, 2011 at 6:52 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: Herbert Kline, Town Attorney
Gayle Diffendorf, Town Clerk
Raymond Coolbaugh, DPW Commissioner
John Rudy, Code Enforcement Officer
Marchie Diffendorf, BC Legislator & Planning Bd. Chairman
Duane Travis, ZBA Chairman

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

December 6, 2011 Town Board Meeting

PUBLIC PARTICIPATION: None.

COMMUNICATIONS: None

COMMITTEE REPORTS:

Councilman Diffendorf reported that he spoke to Assessor Dan Giblin about the tax exempt status of the former Cedarhurst School. He will be sending them a request to prove their tax exemption before March 1st, or it could be taken care of on Grievance Day. Dan will have to assess the property.

John Rudy reported that they completed a fire inspection on the building about 2 weeks ago. They found 2 rooms that were being used to store about 2,500 pair of shoes. They were told that they could not use the property as a warehouse. Propane tanks were found inside. It was determined that all the children found in the building were children of employees that work there. A roster will be set up for them to sign as to their location in the building and it will be submitted to the fire company as a safety measure in case of a fire. A question arose as to whether it would be considered a day care facility but Mr. Kline said that day care is a permitted use in a residential district if licensed by the state. Councilman Grubham said that it is zoned multi-residential. Councilwoman Yonchuk noted that there are no classes being held there or technology development. According to John they indicated they should be receiving their certification from the State in February. Marchie Diffendorf stated that it doesn't sound like they are doing anything that was addressed during site plan review by the Planning Board. John Rudy also noted a concern that they are not following safety guidelines if it is being used as day care. Mr. Kline will look into the regulations when there are a multiple number of children and/or families involved.

Councilman Grubham thanked the Fire Mile Point Fire Company for hosting the children's Christmas Party at their station on Crescent Drive. He said that it worked out well and they have offered the use of the station for next year as well.

John Rudy reported that he was contacted by Terminex about locating at 27 Link Drive. It was noted that there are three suites in the building and only one is currently occupied. They will have to come before the Planning Board for site plan review.

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OLD BUSINESS:

165-11
SEQR
LL 8-2011
Amend
Water Rates

Councilwoman Yonchuk moved to adopt resolution, after a Public Hearing, adopting the SEQR Determination that Proposed Activity Does Not Require Environmental Review regarding Local Law No. 8-2011 entitled "A Local Law Amending an Ordinance Establishing Water Rates and Connection Charges for Water Districts of the Town of Kirkwood", 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.

166-11
Adopt
LL 8-2011
Amend
Water Rates

Councilman Diffendorf moved to adopt resolution, after a Public Hearing, adopting Local Law No. 8-2011 entitled "A Local Law Amending an Ordinance Establishing Water Rates and Connection Charges for Water Districts of the Town of Kirkwood, 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.

167-11
SEQR
LL 9-2011
Amend
Sewer Rents

Councilman Grubham moved to adopt resolution, after a Public Hearing, adopting the SEQR Determination that Proposed Activity Does Not Require Environmental Review regarding Local Law No. 9-2011 entitled "A Local Law Amending a Local Law Establishing Sewer Rents to be Imposed Upon Properties Within Sewer Districts and Extensions Thereof in the Town of Kirkwood", in accordance with the attached SEQR Determination. Councilman Weingartner seconded.

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

MOTION CARRIED.

168-11
Adopt
LL 9-2011
Amend
Sewer Rents

Councilman Weingartner moved to adopt resolution, after a Public Hearing, adopting Local Law No. 9-2011 entitled "A Local Law Amending a Local Law Establishing Sewer Rents to be Imposed Upon Properties Within Sewer Districts and Extensions Thereof in the Town of Kirkwood", in accordance with the attached resolution. Councilwoman Yonchuk seconded.

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

MOTION CARRIED.

169-11
SEQR
LL 10-2011
Prof Consult
Fees

Councilwoman Yonchuk moved to adopt resolution, after a Public Hearing, adopting the SEQR Determination that Proposed Activity Does Not Require Environmental Review regarding Local Law No. 10-2011 entitled "A Local Law Providing for Reimbursement of Professional Consultation Fees", 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.

**TOWN OF KIRKWOOD
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Councilman Diffendorf moved to adopt resolution, after a Public Hearing, adopting Local Law No. 10-2011 entitled “A Local Law Providing for Reimbursement of Professional Consultation Fees”, in accordance with the attached resolution. Councilman Grubham seconded.

170-11
Adopt
LL 10-2011
Prof Consult
Fees

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, after a Public Hearing, adopting the SEQR Negative Declaration Notice of Determination of Non-Significance regarding Local Law No. 11-2011 entitled “A Local Law Amending the Town of Kirkwood Zoning Local Law” (child day care centers), in accordance with the attached SEQR Determination. Councilman Weingartner seconded.

171-11
SEQR
LL 11-2011
Day Care in
ID District

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, after a Public Hearing, adopting Local Law No. 11-2011 entitled “A Local Law Amending the Town of Kirkwood Zoning Local Law” (child day care center), in accordance with the attached resolution. Councilwoman Yonchuk seconded.

172-11
Adopt
LL 11-2011
Day Care in
ID District

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 Commissioner of Public Works to enter into an agreement with Gerald A. Williams d/b/a Poe’s Construction regarding Flood Remediation Work, in accordance with the attached agreement. Councilman Diffendorf seconded.

173-11
Flood
Agreement
Poe Const.

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

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution reappointing Lori Nemcek to the Youth Advisory Board for a term to expire December 31, 2018. Councilman Grubham seconded.

174-11
Reappoint
L. Nemcek
Yth Adv Bd

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

MOTION CARRIED.

**TOWN OF KIRKWOOD
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Councilman Grubham moved to adopt resolution reappointing Peter M. Maciak to the Zoning Board of Appeals for a term to expire December 31, 2016. Councilman Weingartner seconded.

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|---|-----------------|------------------------|-------|
| 175-11 Reappoint P. Maciak ZBA | 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 Kevin Balachick to the Planning Board for a term to expire December 31, 2016. Councilwoman Yonchuk seconded.

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|---|-----------------|------------------------|-------|
| 176-11 Reappoint K Balachick 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 Supervisor to enter into an agreement with Roger Studer d/b/a Studer's Body Shop & Garage, in accordance with the attached agreement. Councilman Diffendorf seconded.

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|--|-----------------|------------------------|-------|
| 177-11 Agreement Studer's Body Shop | Roll Call Vote: | Councilman Weingartner | - yes |
| | | Councilman Grubham | - yes |
| | | Councilwoman Yonchuk | - yes |
| | | Councilman Diffendorf | - yes |
| | | Supervisor Kniffen | - yes |

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution authorizing the continuation of petty cash funds for 2012, subject to audit by the Budget Director, for the following departments at specified amounts, pursuant to Town Law Section 64, Paragraph 1(a):

| | | |
|------------------------------|---------------------------|-------------------------------------|
| 178-11 Petty Cash 2012 | Bookkeeper | \$100 |
| | Building & Code Inspector | \$100 |
| | DPW Commissioner | \$200 and \$35 for Water Department |
| | Supervisor | \$200 |
| | Town Clerk | \$200 |
| | Town Justice | \$200 |
| | Town Justice | \$200 |

Councilman Grubham seconded.

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|-----------------|------------------------|-------|
| 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 amending Section 6A. of the Town of Kirkwood Benefit Plan, in accordance with the attached plan. Councilman Weingartner seconded.

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|--|-----------------|------------------------|-------|
| 179-11 Amend Sec. 6A Benefit Plan | Roll Call Vote: | Councilman Weingartner | - yes |
| | | Councilman Grubham | - yes |
| | | Councilwoman Yonchuk | - yes |
| | | Councilman Diffendorf | - yes |
| | | Supervisor Kniffen | - yes |

MOTION CARRIED.

**TOWN OF KIRKWOOD
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Councilman Weingartner moved to adopt resolution authorizing Supervisor to enter into a Stormwater Control Facility Maintenance Agreement with Kirkwood Development, LLC, in accordance with the attached agreement. Councilwoman Yonchuk seconded.

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|-----------------|------------------------|-------|------------|
| Roll Call Vote: | Councilman Weingartner | - yes | |
| | Councilman Grubham | - yes | 180-11 |
| | Councilwoman Yonchuk | - yes | Stormwater |
| | Councilman Diffendorf | - yes | Agreement |
| | Supervisor Kniffen | - yes | Kirkwood |
| | | | Dev LLC |

MOTION CARRIED.

AUDIT AND PAYMENT OF CLAIMS:

Councilwoman Yonchuk 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. Councilman Diffendorf seconded.

181-11
Audit/Pay

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|-----------------|------------------------|-------|--|
| 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. Councilman Grubham seconded. All voted in favor.

182-11
Adjourn

MOTION CARRIED.

Meeting adjourned at 7:14 P.M.

Respectfully submitted,

Gayle M. Diffendorf
Town Clerk