

**TOWN OF KIRKWOOD
WORK SESSION**

January 31, 2012

Present: Supervisor Gordon Kniffen, presiding
Councilman Robert Weingartner
Councilman Lewis Grubham
Councilman William Diffendorf, Jr.

Absent: 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 & Pl. Bd. Chairman
Duane Travis, ZBA Chairman

1. Report – Water Valves. (RJC)

John Finch Jr. reported on the status of the water valves in the area of Barlow Road, Upper Court St, here and across the highway. There are 30 6” valves, (not including the hydrant valves) 14 10” valves and 58 12” valves. There are problems with 3 12” valves. \$10,000 is budgeted to replace one of those valves this year. John received a quote of \$4,800 from Vacri Construction to dig up and repair the valve and a quote of \$3,000 for the materials needed from H D Waterworks. This does not include any type of gravel, sand or blacktop. He also received a quote for the replacement of a 6”, 10” and 12” valve. John said there are 2 other valves that are leaking by, one of which is the first one as you come into Kirkwood from Binghamton. It won’t shut completely. It is in a cluster of valves so 2 can be shut down if needed. There is another 12” valve located in the front of Milton Cat in the Industrial Park which starts to leak when they go to operate it, coming up out of the valve box. He said they haven’t touched it in years since it did that because it is located right in the middle of the road and is 12 feet deep. It doesn’t leak anymore but if they have to shut it off it most likely will break. There are also 3 10” valves that they found last year in the Industrial Park which were leaking by. One is on the corner below L3, one by the sewer lift station across the road and one at the intersection of Triple Cities Metal Finishing. All the other valves have been checked with the exception of the ones located under blacktop. This is work the Town can do as needed. Their goal is to make sure they are all operational. Discussion regarding various valves that are leaking by. John explained the process if one of the valves were to fail unexpectedly. Because of the looped system usually there will be no loss of water but that would not be the case for lines that dead end. Supervisor Kniffen wants a budgeted plan submitted by John Finch and Ray Coolbaugh for future valve replacement by the end of February. Budget Officer, Jim Smith, will be contacted as well. Mr. Kline noted that prevailing wage rates must be used.

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2. Discussion – Resolution regarding availability of agenda items prior to meetings. (HAK)

Mr. Kline explained that there is a new state law under the Open Meetings Law which requires that agenda items that are submitted at least three business days before the meeting must be posted on the Town's website at least 24 hours prior to the meeting. If an agenda item is submitted less than 3 days before the meeting, it is not a requirement to post it. This involves meetings of the Town Board, Planning Board and Zoning Board of Appeals. If someone wants copies of an agenda item that is 20 pages or less they must make the request no later than noon on the day of the meeting. If the item is more than 20 pages, the request must be made at least 24 hours before the meeting. The fee for copying is 25¢ per page as is the requirement of the Open Meeting Law for all FOIL requests. It was noted that currently the Town does not have the ability to scan resolution attachment items to post to the website. The agendas are already being posted. Councilman Weingartner noted a concern that if someone comes in close to the deadline and requests a lot of copying, what the time frame is to comply. Mr. Kline said that the Town Clerk would have from noon until the time of the meeting to comply. Resolution for 2-7-12.

3. Resolution authorizing Supervisor to enter into an agreement with Coughlin & Gerhart, LLP regarding paralegals of the attorneys, in accordance with the attached agreement. (HAK)

Mr. Kline explained that this refers to the use of paralegal services to lessen expenses. Resolution for 2-7-12.

4. Resolution authorizing Supervisor to enter into an agreement with Coughlin & Gerhart, LLP regarding legal counsel and assistance to the Town Planning Board and Town Zoning Board of Appeals, in accordance with the attached agreement. (HAK)

Mr. Kline explained that this is for the services of Reinaldo Valenzuela, who handles Planning Board and ZBA matters. Resolution for 2-7-12.

5. Resolution authorizing Supervisor to enter into an agreement with Coughlin & Gerhart, LLP regarding retaining special counsel as independent contractors to provide legal services relating to special matters or proceedings, in accordance with the attached agreement. (HAK)

Mr. Kline explained that this would be for any labor negotiations. Resolution for 2-7-12.

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6. Resolution authorizing Supervisor to enter into an agreement with Coughlin & Gerhart, LLP regarding retaining attorneys employees by the Attorneys to assist the Town Attorney, in accordance with the attached agreement. (HAK)

Mr. Kline explained that this would involve any litigation. Resolution for 2-7-12.

7. Discussion – Gateway Energy – Energy Costs. (RJC)

Supervisor Kniffen reported that Jim Smith provided a comparison between NYSEG and Gateway in regard to electricity costs. Ray Coolbaugh said that Gateway will lock the Town in for one year at a fixed rate of .045, which he said would save the Town about \$6,000. According to Ray, Jim Smith is suggesting the Town sign again with Gateway. Councilman Diffendorf inquired if there were any hidden costs involved. Ray said he was told there are none and also that NYSEG will not offer a fixed rate. Mr. Kline said that the Gateway agreement is horrible. He said that if the Town does not use 90% of what was used the year before there is an extra charge, if Gateway doesn't give the Town the electricity they need, the only penalty to Gateway is to pay one month's payment that the Town made to them during the past year, and there is also a concern about termination. He said that the Town has no protection whatsoever from the company. He also noted that after the year is up, the agreement continues automatically unless they terminate the Town and it then changes to a variable rate. He also noted a concern as to who should be called in the event of an emergency. Mr. Kline will review the prior contract from Gateway.

Resolution for 2-7-12.

8. Resolution appointing Walter G. Woolbaugh as Member Planning Board to fill the unexpired term of Henry Jones for a term to expire December 31, 2015. (GEK)

Resolution for 2-7-12.

9. Discussion – Training for 2011 – Planning Board and Zoning Board of Appeals:

Following have not met their training requirement for 2011:

Tom Tracy – needs 2 hours for 2011

Sandy Fox – needs 1 hour for 2011

Jason Griffin – needs 4 hours for 2011

Len Basso – needs 4 hours for 2011

Mr. Kline reported that Sandy Fox and Jason Griffin have requested CD's from him to complete their training requirement for 2011. Supervisor Kniffen will contact Tom Tracy and Len Basso.

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10. Discussion – Settlement Claim from Flood Insurance. (RJC)

Ray Coolbaugh explained that the settlement is for the highway garage for the 2011 flood and the completed claim form is past due but that he does not agree with some of the figures. He said that they are requesting that the Town sign it so that the process can start and then the Town has 6 months to contest whatever figures they don't agree to. In referring to the Proof of Loss form, Mr. Kline read "The furnishing of this blank or the preparation of proofs by a representative of the above insurer is not a waiver of any of its rights." He explained that this means that the Town can send additional things in. In explaining the meaning of subrogation, Mr. Kline said that if they lay out money to the Town, they can go against FEMA to try to get reimbursed. Mr. Kline is questioning their depreciation figure of almost \$600,000 for the building which was built in 1977. He noted that there were additions and or capital improvements since then so everything should not have been depreciated since 1977. Councilman Grubham noted that many items have been left out and he does not understand how they depreciated items since it does not seem to be consistent. He also noted that the items missed add up to quite a bit of money, most specifically the epoxy floor at \$29,000. Jim Smith will be contacted for his assistance. Councilman Grubham suggested that the Town get more assistance from their insurance agent at Haylor, Freyer & Coon.

11. Training for John Finch, Jr. (RJC)

Ray Coolbaugh explained that last Friday John went to Cortland for his 6-hour training at a cost of \$40.00. Resolution to ratify for 2-7-12.

12. Request from Randy Coolbaugh to attend the Grade C Water Treatment Operator Certification Course to be held May 14, 2012 – May 18, 2012 in Cortland, NY, at no cost for the course, with all reasonable expenses paid, including mileage and lunch. (RJC)

Ray Coolbaugh explained that the Broome County Health Dept. will cover the training cost for Randy's Grade C Operator's License to be held May 14-18. The only cost to the Town will be his wages for the week and minimal travel expense and meals. John Finch explained that the Grade C license will allow Randy to run the plant under the off-site supervision of either himself or Alan Glover. Currently Randy is not authorized to do that. Resolution for 2-7-12.

13. Discussion – Park Equipment – Kubota replacement & Jacobson. (RJC)

Ray Coolbaugh explained that 2 tractors that were in the 2006 flood were repaired but they are unreliable and do not work most of the time. They can trade both the 2000 Kubota and the Jacobson with \$6,000 left in the 2011 budget for equipment and \$5,000 budgeted for equipment for 2012 and a trade-in of \$6,000 from Goodrich. It would only amount to a couple of hundred dollars out of pocket to replace two tractors (mowers)

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with one. He said they will only need one since they are cutting back on help and one of the tractors sits most of the time anyway. Mr. Kline said Ray would have to verify that the budgeted money from 2011 is available with Jim Smith. Resolution for 2-7-12.

14. Discussion – Reach Mower – CHIPS. (RJC)

Ray Coolbaugh explained that there is about \$34,000 CHIPS money left over from 2011 that must be spent by March 15, 2012 and since equipment can be purchased with the money he is requesting the authorization to purchase a reach mower for the tractor. The one they have is a 1991 and it is in disrepair. He has received 2 estimates and will get an additional one. The quote from New Holland is \$31,360, which includes the installation of the reach mower on the tractor. It was not determined if the equipment has to be ordered or the money actually spent by March 15th. Ray will check into that as well as an additional quote. Mr. Kline suggested that Ray check the state contract price as well.

15. Audit of Claims.

Resolution for 2-7-12.

Additional Items of Discussion.

Councilman Diffendorf questioned Ray Coolbaugh as to what the future plans are for the pavilion at Valley Park. Ray said that he thinks they can repair it by using the loader and replacing the 4 posts. They will work on it as soon as the weather breaks.

Councilman Diffendorf questioned Ray Coolbaugh regarding what can be done about the water that is coming across Crescent Drive from along side the little restaurant building across from Schneider's Market. There is a lot more water coming down there than in the past, possibly from some construction that has been done up above. There is a concern about the water freezing on the road. Ray said that he thinks this is something the State has to take care of because they take care of that portion of Crescent Drive, but he will check into it.

Councilman Diffendorf reported that 21 street lights have been submitted to NYSEG to be turned back on and to his knowledge all the brackets have been replaced. In regard to the street lighting issue near the hardware store on Route 11, it turned out to be their light so that has been taken care of. Most of Kirkwood Gardens is now empty and there are 5 to 6 lights located there so it has to be determined what should be done with them. It costs approximately \$120 per pole a year or about \$720 total. This is in a lighting district. There is minimal usage of the properties, possibly only summer home use. Light district charges are based on assessed value, and most of the properties were buyouts from the 2006 flood so the Town owns those properties. Councilman Grubham questioned if no lighting on Kirkwood Gardens would cause an area of concern, but Councilman Diffendorf said he doesn't think the lights have worked since 2006 anyway.

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Possibly the lights closest to Main Street could be left on. Councilman Diffendorf will look into this further and make a recommendation.

Councilman Grubham questioned Ray Coolbaugh as to a plan to get Valley Park back in operation. Ray said as soon as the weather breaks the plan is to work on it.

Supervisor Kniffen reported that he will give an update next week in regard to the impact of the sewer facility costs to the outside users.

Mr. Kline explained that this meeting will now be recessed for a private discussion based on the assertion of the attorney client privilege as legal advice may be requested even though litigation is not an issue.