

TOWN OF KIRKWOOD WORK SESSION

April 28, 2015

Present: Supervisor Gordon Kniffen
Councilman Robert Weingartner
Councilman Lewis Grubham
Councilwoman Linda Yonchuk
Councilman William Diffendorf, Jr.

Also Present: Herbert Kline, Town Attorney
Gayle Diffendorf, Town Clerk
Joseph Barton, Deputy Commissioner of Public Works
John Finch, Jr., Chief Water Treatment Plant Operator
James Smith, Budget Officer
Marchie Diffendorf, Planning Board Chairman

As a follow-up to a past discussion regarding the repair of the railroad crossing at Herb Kline Way, Supervisor Kniffen explained that instead of going with a temporary crossing, which is quite extensive and expensive, they will work on one half of the crossing at a time. The project should take about 2 days. Willow Run, Dorfab, American Pipe & Plastics and Felchar have been asked to share the security costs involved. At this point 3 of them have agreed.

1. Discussion – Sewer Rent Rate. (GEK/J. Smith)

Supervisor Kniffen explained there recently was an article in the paper where Binghamton and Johnson City were requesting reimbursement of \$14 million for capital costs that had not been used and if that is the case the outside users would share it based on their percentage of flow. There was also a rumor that they would have to go out and refinance the capital costs and the outside users would be given a 25% surcharge. According to the City of Binghamton's Comptroller this is not the case. \$14 million is actually surplus funds and Binghamton and Johnson City are only asking for \$4 million. They are asking the Joint Sewage Board to come up with a plan for the other \$10 million. Supervisor Kniffen also explained that in 2013 all the users got a last minute surprise with a big increase and they couldn't plan and they also asked for justification. The Comptroller said in 2013 they had put a \$2 million budget in for capital costs and it wasn't used, which is part of the problem. There are so many issues involved. Supervisor Kniffen and Jim Smith have been looking at the rates and are considering a reduction for Kirkwood users. Mr. Smith reviewed a summary of sewer rent rate for recent years. In 2012 Kirkwood was being charged a little over \$4.00, but due to SEMOM they knew a big increase would be coming in 2013. In May of 2013 the rate was about \$5.41 so in trying to stay ahead and pay the bills on time the rate to Kirkwood customers was raised to \$5.75. In December 2014 they finished their final accounting for 2013 and it still stayed above \$5.00 and the Town kept their rate stable. At that point it was not evident if their rate would remain stable or would be bouncing around. The provisional rate from them is now \$4.62 so the Town's rate is over \$1.00 more. Mr. Smith is suggesting that the Town lower the rate to the Kirkwood customers to about \$4.90 or \$5.00 which he feels can be maintained even into 2016. Supervisor Kniffen noted that these figures do not take into account a possible reimbursement due to the \$4 million request which could be about \$200,000 for Kirkwood. If there is a reimbursement, a special rate would be needed to reduce that to the customers. If the Board agrees to a rate reduction to \$4.90 it would become effective September 1st. Councilman Diffendorf

TOWN OF KIRKWOOD WORK SESSION

April 28, 2015

questioned what this would mean to the average household. It was determined to be \$25.00 a year. Councilman Grubham noted the big advantage would be to the large municipal users. Mr. Kline said a resolution should be scheduled at the July meeting for a public hearing to be held at the August meeting. John Finch said the September billing is for usage from the prior 4 months of billing - May through August. Mr. Smith questioned if the same protocol must be followed with the rate going down as it would be if the rate were being increased. Mr. Kline said it is the same process since it deals with a local law. He said the new rate of \$4.90 would be effective September 1st, it would not affect usage from May through August which is being billed for in September. John Finch clarified that the readings for the September billings take place starting August 1st with the bills going out on September 1st. The new rate would actually be billed January 1, 2016 for usage from September 1st to December 31st. Mr. Kline explained that the local law states that the rate for water consumed will be charged at the rate in the present local law. Supervisor Kniffen suggested going ahead and scheduling the public hearing for June, rather than wait. Mr. Smith questioned if there could be flexible language included due to a possible sizable reimbursement. Possibly adding wording that would lower the rate for the January 1st billing if the windfall refund was received. Mr. Kline will look into it.

2. Discussion – Post Office Lease. (GEK)

Supervisor Kniffen explained that the last time this was discussed Councilman Grubham expressed a concern with the health of the post office building and thought a longer lease should be considered and Councilman Diffendorf questioned in the proposed renewal lease it said the post office has the right to add another 5-year lease at a certain rate. He said the post office does not want a longer lease than 5 years. He suggested establishing a post office reserve fund by depositing their rental payment into the reserve fund for possible repairs in the future which would protect the Town somewhat. Mr. Kline said that is an option. In regard to the post office extending for an additional 5 years, he noted it is only a 3% increase. Since for the next 5 years they are giving the Town a 5% increase, the Town asked for a 10% increase and the post office agreed. Either party has the right to walk away with a 30 day notice. Board members in agreement. Resolution.

3. Discussion – Park Maintenance Costs. (RJC)

Supervisor Kniffen explained this was recently discussed and Ray Coolbaugh provided expenses and permit fees for neighboring municipalities. Additional ways have been discussed to try to cut additional expense. Since an employee is required to sweep the road on Sundays after a race and they have to be paid for 2 hours, it has been suggested that this same employee check the parks. Joe Barton said it is his understanding that the road near the track is supposed to be swept every Sunday morning before a set time. He is questioning what the criteria is that determines when it is needed. He feels since the pits are now on the back stretch of the race track and if the weather has been dry there is not always a need and he is questioning how this should be handled. Supervisor Kniffen said someone has to check it out every week to determine if sweeping is needed. Joe said Ray is at the track almost every Saturday night and he goes as well and they get a good feel for whether sweeping will be needed on Sunday morning. He said they are also having an issue getting enough water down on the road to prevent dust and there is the noise factor from the broom. He said those residents have to listen to the races and then deal with the noise and dust before 8 AM on Sunday so that is a concern. He said he thinks it is a good call to change the time to later on Sunday morning to sweep and the DPW Commissioner or Deputy can make

TOWN OF KIRKWOOD WORK SESSION

April 28, 2015

the call whether or not it is needed. Councilman Grubham suggested the same person could do the parks earlier in the morning and then sweep the road if needed. John Finch noted they are paid 2 ½ hours to come in on Sunday so they should be able to do both jobs in that amount of time. If they should happen to run over ½ hour it would still cost the Town less than to pay 2 employees 2 ½ hours each.

Discussion regarding the issue of whether this is an emergency call in or a scheduled call in. It has always been 2 separate jobs with 2 separate employees in the past. Councilman Grubham said the parks are there for the taxpayers and others and if things are handled the way they have just been discussed, a lot of the cost has been cut by not having someone go down on Saturday and Sunday. It was noted that the Town Clerk supplies a list of pavilion rentals for each weekend so if there isn't much activity there would be no need for anyone to check on the parks. He feels that the money that would be saved by doing things like that might be enough so that a raise in pavilion rental fees would not be needed. Supervisor Kniffen said he feels the focus should be more on reducing costs than raising the fees. Councilman Grubham reminded the Board that someone could go to the park before leaving work on Friday instead of going on Saturday morning. He also suggested that the lights should not be on all night. It was noted that the parks close at 9:00 PM. Joe Barton will look into that situation. He also said they will try to combine the road sweeping and the parks before going to a rate increase. It was noted if there is a large event scheduled for the weekend the process might be different.

4. Discussion – Boat Launch Project. (GEK/HAK)

Supervisor Kniffen explained this involves flood buyout property on Geiger Lane that must remain green, and the Town now owns. DEC is willing to help with the boat launch, hopefully both monetarily and physically. Assemblyman Crouch is also supportive of this project. Mr. Kline said money can be taken from the Parks Development Reserve Fund which has ample funds. Marchie Diffendorf said costs have not been determined, although there is concrete involved. Mr. Kline suggested that the Town contact Jim Bukowski who works for the Town of Vestal. They have had issues with their boat launch at Arnold Park breaking up in the winter.

5. Discussion – Quotes for Pipe Wrap & Air Stripper Insulation for Well 1. (J. Finch)

John Finch explained this is for re-wrapping the air stripper and the piping that goes from the water treatment plant to the clear wall. This is in the 2015 budget. He received 2 quotes. They will have Southern Tier Insulations do the job at a cost of \$9,100. This includes stripping off the old material, which is rotted and cracked. They will put protective aluminum wrap around it so this won't happen again. This will be done on site and includes prevailing wage rates. Resolution.

6. Discussion – Replacement of Fencing at the Johnson Road Water Tank. (J. Finch)

John Finch explained the fence is in bad shape and needs to be replaced. There are 7 or 8 posts that have heaved over the years to the point where they have pushed themselves out of the ground. They will rip all that out and repair a damaged corner. All the damaged barbed wire will be replaced and they will install all the new posts. He budgeted this last year for \$10,000 based on the proposals he received last year but this year he received a proposal for \$4,035. Resolution.

**TOWN OF KIRKWOOD
WORK SESSION**

April 28, 2015

7. Discussion – Coyne Textiles – Mat Carpets. (RJC)

Joe Barton said it is his understanding that Coyne will be the new supplier for carpets. This will not take effect until August at the time the current contract with Ameripride runs out. Carpets will be supplied bi-weekly from May 1 to November 1 and weekly service from December 1 to May 1. Mr. Kline provided a contract for Coyne to review. There were a number of things in their contract that needed attention. Councilman Diffendorf questioned the fuel surcharge. Joe was not familiar with that although in the proposed agreement it says \$6.05 per week. Mr. Kline will look into that. Resolution.

8. Discussion – Request approval for legal assistance from Oliver Blaise on a two (2) code matters. (GEK)

Supervisor Kniffen explained Scott Russell is requesting approval for legal assistance from Oliver Blaise on issues involving Robert Hamm and Robert Davis. In regard to the Davis issue, Councilman Diffendorf said he spoke with Scott about the carbon char on the lumber and Councilman Diffendorf is not sure it is against the code. He said Scott could not show him in the Code Book where it is against the code. He knows many homes that have had fires in them and boards are nailed to them, and the carbon has not been removed. He is not in favor of this for the Davis case. Councilwoman Yonchuk questioned if this has anything to do with fire inspection laws and/or state laws. Councilman Diffendorf said Scott could not come up with anything. Councilman Grubham said there are also electrical problems since apparently some of the wiring melted and he went ahead and did it without an inspection and said he isn't going to get an inspection. He feels it is a problem because Bob should know better. He questioned when is something like this considered serious. In the other case Bob Hamm is a contractor. Even though they may not want to go through this process he does not know how to avoid it and even have a code. It was noted that Bob Davis isn't even the owner, the property is owned by Jerry Wilson who apparently pressed Scott about this. Councilman Weingartner said he spoke with Scott about this and Scott is trying not to get Oliver involved unless it is absolutely necessary. Because of prior histories, he feels it behooves the Town to get it done the right way, and having Oliver would get it done the right way. Councilman Grubham said in cases that have been authorized in the past it really hasn't cost much. The cases haven't been settled but the people are proceeding once the threat was made. Councilman Diffendorf said he feels Scott should be here to represent the case to the Board when he wants to get a lawyer involved. He is not comfortable with this. Councilman Grubham said Scott did put a stop work order out but he is still proceeding. Councilman Diffendorf said he thinks Scott shouldn't have to depend on an attorney to back him up. In his mind he has to know if what he is saying is right. Supervisor Kniffen said that if something legal comes up, Scott is not a lawyer which could prolong things. Mr. Kline said what they used to do was if the defendant showed up with a lawyer, the judge would adjourn it and then the Town would provide a lawyer at the next hearing. He said Scott has been in office for a number of years and by this time he should be able to present his own cases in court without a lawyer. He added that Scott has not issued tickets yet, he has only issued a stop work order. He has to start with issuing a ticket in court to get the defendant to appear for a possible useful remedy. Councilman Grubham suggested that these two cases be handled that way and see what happens. Councilman Weingartner said so if they show up with a lawyer it will be adjourned, but questioned if

**TOWN OF KIRKWOOD
WORK SESSION**

April 28, 2015

the Board has to give the approval to reconvene with the Town's lawyer. He feels they should do something saying that. Mr. Kline said if the other side shows up with a lawyer, Scott can ask for an adjournment to come back with a lawyer at a time after the Board's next meeting. It would give the Board a chance to approve having Oliver assist Scott. Councilwoman Yonchuk questioned if a judge could refuse that request. Councilman Weingartner said he would like to go with some type of contingency plan so the matter can be fixed, with an adjournment for a couple of days as opposed to a month. Mr. Kline said the resolution can be worded that way. Resolution.

9. Discussion – Summer Help in Parks and Water Department: (RJC)
Terry Everett – Parks – Beginning May 6, 2015 for 90 days at 10.64 per hour, and
Eugene Bailey – Water Department – Beginning May 20, 2015 for 90 days at \$10.64 per hour.

Joe Barton explained that Terry worked for the Town during the flood cleanup and Eugene worked last year. Councilman Diffendorf questioned if Terry is a town resident. Joe said he believes he is but he will check on it. Resolution.

10. Discussion – Aquifer Permit Notice of Renewal – Publication Expense.
(HAK/GEK)

Mr. Kline explained that the last time there was a renewal of an aquifer permit, the publication expense from the Press came to the Town to pay. There is nothing in the Aquifer Protection Local Law like there is in the Zoning Local Law that the applicant pays for the publication in the Press and the Town pays for publication in The Country Courier. It is felt the same thing should be done for an aquifer permit as it is done for zoning. Resolution to schedule public hearing.

11. Summer Schedule:

Resolution combining the June 30, 2015 Work Session and July 7, 2015 Town Board Meeting into one night to be held June 30, 2015.

Resolution combining the July 28, 2015 Work Session and August 4, 2015 Town Board Meeting into one night to be held August 4, 2015.

Resolution combining the August 25, 2015 Work Session and September 1, 2015 Town Board Meeting into one night to be held September 1, 2015.

Resolution.

12. Resolution cancelling the November 3, 2015 Town Board Meeting due to Election Day and rescheduling for Monday, November 2, 2015.

Resolution.

**TOWN OF KIRKWOOD
WORK SESSION**

April 28, 2015

13. Discussion – Highway Road Repair Listing. (GEK/RJC)

Supervisor Kniffen explained that the Highway Superintendent is supposed to give a list of road repairs every year to the Town Board for their approval. In the past they have been getting the list part way through the year and it should be looked at in the prior year. So they have decided to do that. One of the problems is that they never know how much money they are going to get from CHIPS. They actually put a -0- in for CHIPS because they keep threatening to take it away, although so far they have not. Also during the winter there may be other roads that need repair, other than those on the list already submitted. His suggestion is to include in the budget a certain amount for unexpected repairs for a safety net. This would be a way to come as close as possible to complying with the law because it is not always known in December what the roads are going to be like in April. Mr. Kline said it is a state requirement that a list of roads be submitted. If other roads are done, instead of the ones on the list the Highway Superintendent is personally liable. He would have to go back to the Board to approve the substitution to spend the money. Supervisor Kniffen said since nothing is put in the budget for CHIPS that could be the safety net. Mr. Kline added as a reminder that the original list would then have to be amended.

14. Discussion – New York State Deferred Compensation. (GEK)

Supervisor Kniffen said this was looked at a number of years ago and at that time no one was interested. Recently some employees indicated they are interested. This is solely a contribution on the part of the employee, there is no Town contribution. The only impact on the Town would be with the bookkeeper. To do this the employees need the approval of the Town Board by resolution. This is needed before NYS can even talk to the employees. Supervisor Kniffen said he sees no problem with this. Mr. Kline added that what killed this last time was the minimum contribution being 1% of compensation (but not less than \$10 per day). Resolution.

15. Discussion – Add generator installation and playground installation to the list of items on the fee schedule that require building permits. (HAK)

Mr. Kline reported that Scott Russell has an application to install a generator and playground equipment and in the Town's schedule of fees under the Building Code, there is nothing for either of those items. Scott does not know how much to collect. Mr. Kline suggested having Scott survey other communities and come back to the Board with the information.

16. Discussion – Request from William Diffendorf to attend the PERMA Schooling at the Sagamore Hotel in Bolton Landing, NY to be held May 21 – 22, 2015 with all reasonable expenses paid.

Councilman Diffendorf said all expenses are covered with the exception of travel. Resolution.

17. Audit of Claims.

Resolution.