

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

August 4, 2015

A regular meeting of the Kirkwood Town Board was held on August 4, 2015 at 7:12 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
Scott Russell, Code Enforcement Officer
John Finch Jr., Chief Water Treatment Plant Operator
Marchie Diffendorf, Planning Board Chairman
Duane Travis, ZBA Chairman

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

June 30, 2015 Public Hearing
June 30, 2015 Town Board Meeting

PUBLIC PARTICIPATION:

In response to Roy Tondeur, Supervisor Kniffen verified the company that wanted a marijuana distribution facility in Kirkwood was not chosen so that is no longer on the table.

In response to John Cizauskas, Ray Coolbaugh said the sluice work will be done on his property before the end of the year.

COMMUNICATIONS: None.

COMMITTEE REPORTS:

Councilwoman Yonchuk reported the movie night held by the Kirkwood Fire Company at Veterans River Park last Saturday evening was a very successful community event and well received with over 500 people attending. Although there was considerable expense involved, the fire company actually made a small profit.

Councilman Diffendorf reported a refund check of \$11,586 was received from PERMA which was due to low incident reports and over billing.

Councilman Diffendorf said that he is glad the marijuana facility is not coming to Kirkwood, noting there is a federal law about selling marijuana so this would be breaking the law. He does not think NYS supersedes federal law. He added that he thinks the federal law has more power but they don't enforce it. He wouldn't want to get into the position of choosing what laws they start enforcing. He said there is definitely a money problem involved with this as well. He feels it is a relief they don't have to break the law, which is something they don't want to do.

John Finch reported that last weekend Kirkwood participated in a water taste test at the Broome County Fair and came in first place. They will compete in the regionals in Syracuse and hopefully the NYS Fair in September.

In regard to the \$165,000 rehabilitation project for the railroad crossing at Herb Kline Way, Supervisor Kniffen reported the railroad is funding the project with Kirkwood putting in \$35,000 and the railroad asking for \$12,000 for the cost of security. Originally the four companies that use the crossing were asked to chip in \$3,000 each – Willow Run,

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Masonite, American Pipe and Felchar, which is no longer there, leaving only three businesses. Masonite backed out and Willow Run cannot pay more than \$3,000. He approached then Senator Libous as well as Assemblyman Crouch for the \$12,000 with no luck. Assemblyman Crouch is now working on trying to find \$6,000 for the project to supplement the \$3,000 from both Willow Run and American Pipe. Supervisor Kniffen is concerned since the railroad is bearing the brunt of the funding and Willow Run uses the crossing the most.

In regard to the Upper Court Street rehabilitation project, Supervisor Kniffen reported a meeting will be held with Debbie Preston, Jack Williams, Assemblyman Crouch, Scott Baker and whoever else would like to attend, to try to get funding and get the creek diverted to alleviate flooding by the motel on Route 11 near Colesville Road. The motel is in extreme disrepair and taxes have not been paid in four years. With the announcement today of the new jobs it would be a good time to get the gateway to Kirkwood cleaned which should be a priority. The design was done in 2006 but funding is the issue.

Supervisor Kniffen reported the Governor was in Kirkwood today to make the official announcement on the jobs coming to Kirkwood which is very exciting since the Link building has been unoccupied for a number of years.

OLD BUSINESS:

102-15
Adopt EAF
LL 5-2015
Peddlers
License

Councilwoman Yonchuk moved to adopt resolution, after a Public Hearing, adopting the Short Environmental Assessment Form regarding Local Law No. 5-2015 entitled "A Local Law to Provide for the Licensing and Regulating of Peddlers and Solicitors", regarding increasing the annual license fee from \$50.00 to \$100.00, in accordance with the attached Short EAF. Councilman Diffendorf seconded.

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

MOTION CARRIED.

103-15
Adopt
LL 5-2015
Peddlers
License

Councilman Diffendorf moved to adopt resolution, after a Public Hearing, adopting Local Law No. 5-2015 entitled "A Local Law to Provide for the Licensing and Regulating of Peddlers and Solicitors", regarding increasing the annual license fee from \$50.00 to \$100.00, in accordance with the attached resolution. Councilman Grubham seconded.

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

MOTION CARRIED.

104-15
Appt Deputy
Tn Attorney
Repp code
issue

Councilman Grubham moved to adopt resolution authorizing the commencement of Repp legal proceedings and the appointment of the Deputy Town Attorney to handle said proceedings as outside the scope of work contemplated by the retainer agreement with the Town, in accordance with the attached resolution. Seconded by Councilman Weingartner.

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

MOTION CARRIED.

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Councilman Weingartner moved to adopt resolution Adopting a Road Use Preservation Policy, in accordance with the attached policy. Councilwoman Yonchuk seconded.

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

105-15
Adopt
Road Use
Preservation
Policy

MOTION CARRIED.

Councilwoman Yonchuk moved to adopt resolution authorizing Settlement of Pending Assessment Review Proceedings Commenced by Southern Tier Communities, LLC, in accordance with the attached settlement. Councilman Diffendorf seconded.

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

106-15
Settle
Assessment
Rev – So Tier
Communities

MOTION CARRIED.

Councilman Diffendorf resolution authorizing the appointment of the Deputy Town Attorney to represent the Town of Kirkwood in the tax certiorari proceedings filed in Broome County Supreme Court by Penske Truck Leasing as work outside the scope of work contemplated by the retainer agreement with the Town at an hourly rate of \$200.00, with payment requests to be submitted by voucher. Councilman Grubham seconded.

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

107-15
Appt Tn
Attorney
Pensky
Assessment –
Tax Case

MOTION CARRIED.

Councilman Grubham moved to adopt resolution authorizing the Supervisor to execute Intermunicipal Agreement between Town of Kirkwood and Town of Conklin relative to water sale, in accordance with the attached agreement. Councilman Weingartner seconded.

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

108-15
Conklin
Water
Agreement

MOTION CARRIED.

Councilman Weingartner moved to adopt resolution authorizing Supervisor to enter into an extension of water services agreement with property owners residing on Susquehanna Lane, Kirkwood, NY, in accordance with the attached agreement. Councilwoman Yonchuk seconded.

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

109-15
Susq. Lane
Water
Agreement

MOTION CARRIED.

NEW BUSINESS:

Councilman Weingartner moved to adopt resolution recognizing the outstanding ability of the Kirkwood Kryptonight 10U girls' softball team for winning various tournaments: Taylen Webb, Alanah Gibson, Dari Burlingame, Kayla Dean, Cali Dreb, Emily Allegrino, Lizzy Beagell, Andrea Medovich, Emily Sindoni, Lilly Devine, Mya Casey, Katelynn Youngs, Kyla Good, Jillian Barnes and Madison Evans. Councilwoman Yonchuk seconded.

110-15
Honor
Softball
Team

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

MOTION CARRIED.

Councilwoman Yonchuk moved to adopt resolution establishing \$25.00 fee for issuance of permit for installation of stand-by generators, amending Section 1a of the Building Code Fee Schedule established by the Kirkwood Town Board by adding new subdivision 13.

111-15
Add
Generator
Fee to
Bldg Code

Councilman Diffendorf seconded.

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

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 6, 2015, all in accordance with the abstract of claims on file in the Town Clerk's Office. Councilman Diffendorf seconded.

112-15
Audit/Pay

Discussion: Councilman Diffendorf questioned payment made for damages to a car due to a pot hole on Barlow Road. Ray Coolbaugh said since it was \$100, which is less than the Town's deductible, it was not turned into the insurance company. The pot hole has since been fixed. Councilman Grubham said his understanding is that for something like that the Town had to be notified about it. Mr. Kline said that would fall under the Prior Notice of Defect Local Law where notice has to be given to the Town Clerk if there is a defect in a Town highway so that the Town can remedy the defect. If such notice was not given then the person who suffered the damage cannot collect from the Town's insurance company. Ray said that he did not know about the pot hole before the accident.

Councilman Diffendorf questioned the use of Poe Excavation on North Woodhill. Ray Coolbaugh said Poe cleaned up the creek where the Town could not get with their excavator. Poe brought the material down to a Town truck and they took it away. On May 18th heavy rain washed all the gravel down from the corner of the creek all the way even with the pipe. He said this is on North Woodhill near Loughlin Road.

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

MOTION CARRIED.

OTHER:

Councilman Diffendorf moved to adopt resolution to adjourn this meeting to conduct an Executive Session pursuant to section 105 paragraph h of the Public Officers Law regarding the proposed acquisition of real property when the publicity would substantially affect the value thereof. Councilwoman Yonchuk seconded.

113-15
Exec Sess

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

MOTION CARRIED.

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ADJOURNMENT:

Councilman Weingartner moved to adopt resolution to adjourn the meeting.
Councilwoman Yonchuk seconded. All voted in favor.

Meeting adjourned at 8:30 P.M.

Respectfully submitted,

Gayle M. Diffendorf
Town Clerk