

# TOWN OF KIRKWOOD WORK SESSION

November 24, 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  
John Finch, Chief Water Treatment Plant Operator  
Marchie Diffendorf, Planning Board Chairman  
Duane Travis, ZBA Chairman

## 1. Discussion – Upper Court Street Flood Remediation. (GEK)

Supervisor Kniffen reported a meeting was held since the last Board Meeting with NYSDOT, Marchie Diffendorf, Duane Travis, Assemblyman Crouch, a County Executive Representative, Mike Maciak and himself. Although this started in 2006 it has been 9 years wasted. They started out trying to get Stratmill Creek redirected so as it hits Route 11 it would go under the road there and would not affect all the businesses and primarily the motel area. The Regional Director told them at the meeting they were not funding the project and are only doing the design study as a favor to the Town. Supervisor Kniffen said he had documentation that they were going to fund it in addition to the design approval. During the 9 years the Town could have been looking elsewhere for the money so now they have to start from scratch. It will be a long hard struggle to find the money. They also wanted to include not only the motel, but DOT on the corner of Colesville Road and Route 11. He feels their best chance it to get some business people to join them to say formally that if you can fix the problem this is a good site for economic development. The DOT director said the project would cost \$3 ½ million but Supervisor Kniffen feels that's a little high. Councilman Grubham said the problem is almost all of this is state property and they are going to make things be done a certain way and it might not be the cheapest way. Supervisor Kniffen said they will not give up on this.

## 2. Discussion – Rogers Mountain Way. (GEK)

Supervisor Kniffen explained they are waiting to hear from Norfolk Southern, who owns the track at Rogers Mountain Way. Last week they still did not have an answer for the Supervisor, noting that it is not easy for them not to stop there. It doesn't make the Town of Kirkwood's case very strong that the Town of Dickinson has already started the road since the railroad realizes there is a way in and way out. Councilman Weingartner said the road is done.

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### 3. Discussion – Building Permit Fees. (LCG)

Councilman Grubham provided copies of the Building Code Fee Schedule that is currently in the Code Book as well as his proposals for changes. He would eliminate Item 6, noting that it should be under each item, either commercial or residential. He doesn't feel 5 b. makes any sense and should be eliminated as well. It is already included above for accessory buildings and it should be the same cost no matter what. He is proposing that under Item 3 commercial and industrial construction would stay the same as the initial which is \$100 plus 5 cents a square foot. Repairs - \$150 for structural, electrical and mechanical since that is what the Town is interested in. Alterations - \$150, which are normally minor things inside or outside the building, and Roofing - \$200 for a replacement. The NYSEG roof replacement is what brought this about. The Town charged them almost \$4,000 in fees for the roof replacement and the Town has hardly anything to do with it at all. They charged exactly what it would have cost to build the building new because that is what is in the code now. They complained, and rightly so in Councilman Grubham's opinion since it does not make any sense. He noted that Triple Cities Metal was doing roof work at the same time and they were charged \$50. It was not nearly as big a job but there is no \$50 charge in the Code Book. He feels for any kind of a roof replacement or repairs \$200 should be adequate since the Code Officer doesn't have to do much. Roof replacement is usually designed by an engineer and there also is a warranty involved and almost always the company supplying the product sends someone to oversee the project since they will not warranty the roof unless they know it has been installed correctly. In Item 5, in regard to residential areas, he proposes adding Additions - \$50, Repairs - \$25 for structural, electrical and mechanical, Roofing - \$25 for replacement (which is already in the Code) and Alterations - \$25. He noted most homes are not nearly as complicated as commercial or industrial construction. He feels this is fair.

Councilman Grubham provided a copy of what is on-line for the Code Department, noting that most of it does not match anything in the Code Book. There are many discrepancies. Supervisor Kniffen questioned how this would happen. The Town Clerk noted that each department is responsible for the information posted to the Town's website. Since there are so many discrepancies the Town Clerk suggested that the information be removed from the website until it can be updated with the correct information.

In response to Councilman Diffendorf, Councilman Grubham explained that a roof replacement is considered tearing off the old roof and putting on a new roof. A contractor has to get a permit for that. If an owner is doing the job himself he is not required to get a permit. This is due to the asbestos issue. Councilman Grubham also noted that NYSEG was charged under Item 6 which does not include roofs over commercial buildings. This was not written right and does not make any sense.

In regard to alterations, Councilman Grubham said this pertains to changing something inside or outside the building, particularly with commercial structures such as electrical, mechanical or structural changes.

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Councilman Weingartner cited a case where someone took out a load bearing wall but put a beam up and there is a concern if someone does not know that they are doing. Councilman Grubham said windows are not a code issue.

Supervisor Kniffen will see that the Code Department information is removed from the website pending updates.

For review and additional discussion at the next meeting.

4. Resolution authorizing Supervisor to enter into a Collective Bargaining Agreement with Teamsters Local 693 of the International Brotherhood of Teamsters, in accordance with the attached agreement. (GEK)

Since the current Collective Bargaining Agreement expires at the end of this year a new agreement was negotiated for 2016-2017. Supervisor Kniffen reviewed the changes:

Dates were changed to coincide with the new expiration date of the agreement.

New wage rates listed for each union employee with the 45 cent increase.

Co-Pay insurance plan.

Co-Pay listing what Town will cover.

Employee Contribution: From 7 ½% to 9 % and 12 ½% to 14%.

Medicare Reimbursement Pool (MPR) \$2,400.

Add: If an employee goes home due to an illness, the employee shall not be allowed to work until the next work day, beginning at 12:01 AM. This would include weekends if called in for overtime. (Requested by Ray Coolbaugh)

Add: It is the responsibility of each driver to check fluids and other safety specifications such as brakes, tires, etc. before operating Town equipment.

In response to Mr. Kline, Supervisor Kniffen said the changes to the health benefit plan are the same for the non-union employees. Resolution.

5. Discussion – Request from Town Court – A defendant with 2 civil dog charges. Court needs to schedule a Pre-Trial Conference regarding the prosecution of these charges. At that time we request that designated prosecutor, Deputy Town Attorney, be present and conduct the prosecution of the charges.

Supervisor Kniffen explained there could be pre-trial conference as well as a trial and they would like to have the Town's attorney present. The DCO issued the tickets. Resolution.

6. Discussion – Crown International Bond. (HAK)

Mr. Kline reported there is a cell tower at 50 Fuller Road. The Town Clerk received a notice from the bonding company that the current bond has been terminated. He explained when someone is given a permit to put up a cell tower they have to put up a bond so if someone gets hurt or if the tower has to come down, the bonding company would pay for it if the cell

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tower company does not. He sent numerous letters requesting a replacement bond to Crown International in Texas, the last letter was sent Certified, RRR, with no response. This month he notified them that if they do not respond the Town Clerk would have no alternative but to ask the Town Board to schedule a public hearing to make them take down the tower. The question is who would pay for it. A public hearing could be scheduled or the Town could get estimates to take the tower down and then sue Crown International.

Councilman Weingartner questioned if the tower was being used. He said they could cut the wires. Mr. Kline said a hearing would have to be held before that could happen. He noted that the property owner is Crown International as well. Councilman Grubham said they need to determine if the tower is still being used and also how much it would cost to tear it down and consider putting the cost on their taxes. If a hearing was held possibly someone using the tower would come in. Mr. Kline said the Town cannot go back on the bonding company since the bond has expired. Councilman Grubham said he feels the only thing the Town can do is figure a way to squeeze them monetarily. Councilman Weingartner said possibly someone would take down the tower and use the metal for scrap. Mr. Kline will check to see if they are current on their taxes.

Marchie Diffendorf questioned if this could be handled as with property maintenance issues. If the Town incurs expense in that regard it can go on their taxes.

Ed Egan questioned how other towns handle this type of situation. Supervisor Kniffen said he is not aware of any other towns that are dealing with something like this. Mr. Kline will look into that through his attorney contacts.

Councilman Diffendorf said they don't want to get into tearing it down.

Held for additional discussion at next meeting.

## **7. Discussion – Landscaping Quotes. (GEK)**

Supervisor Kniffen explained there are 5 properties in Town that were not occupied and not maintained and Scott Russell, Code Enforcement Officer, got quotes to have the grass cut and boarding up of some of the homes. He only received one quote, the job has been done and a bill has been submitted for \$4,000. The way the Town's Local Law reads is that the Code Office contacts the Highway Department to do the job, which Scott did, but the Highway Department was too busy at the time. So then it should have been approved by the Town Board prior to contracting for the work. While the procedure was not followed it is no fault of the contractor. According to Mr. Kline, although there is a new law that involves foreclosures and payment to the Town, it does not apply in this case because none of the properties are currently in foreclosure. Involved discussion as to whether or not the cost can be used as a lien on property taxes. It appears some of the taxes are current and some are not. Mr. Kline said if they are not paying their taxes then Broome County will take it out of money they owe to the Town. Councilman Grubham said he feels the Town has to pay the

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contractor but it will have be determined when it can go on their taxes. It was noted that if Broome County forecloses and sells a property for less than what is owed them, they get their money first. If they sell it for more than what is owed, the Town would get paid. Mr. Kline said there is a deadline in the Real Property Tax Law and it will have to be determined if the deadline has passed for these to be included as liens for unpaid property bills. There is a specific section of the law that deals with water and sewer bills which allows a town or village to add it to the roll, but he is not aware of a section dealing with maintenance. Councilman Diffendorf said he feels they should be added now if possible.

8. Resolution Adopting Assessment Rolls for 2016 for Sewer and Water Districts. (HAK)  
Resolution.

9. Audit of Claims.  
Resolution.

10. Resolution regarding Fire Contracts for 2016.  
Resolution.

11. Resolution scheduling Special Board Meeting for December 29, 2015.  
Resolution.