

TOWN OF KIRKWOOD WORK SESSION

January 26, 2016

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

Also Present: Oliver Blaise III, Attorney
Gayle Diffendorf, Town Clerk
Raymond Coolbaugh, Commissioner of Public Works
Marchie Diffendorf, Planning Board Chairman
Duane Travis, ZBA Chair

Corporate Drive.

In regard to the portion of Corporate Drive that Kirkwood had paved in the past, Supervisor Kniffen reported that NYSDOT is going to resurface it in another way which will give it a longer life than what was done by Kirkwood. Originally Kirkwood was going to be a co-payer but DOT is now going to pay 100% of it. In parallel with that, the Town approached Assemblyman Crouch to have the state take that road over. Assemblyman Crouch said that it might happen in 12 years but today a notice was received from him that he is ready to present it to the Assembly. Kirkwood needs to adopt a Home Rule Resolution at the February 2nd meeting which will state that they do want this to happen and it will then be forwarded to Assemblyman Crouch.

1. Discussion – Court Clerk.

Supervisor Kniffen explained that Judge Coe's clerk left last week for another position which created a vacancy. Judge Coe had no luck advertising through the court system, but he has since found someone that has no previous court experience but he feels is trainable. When Judge Weingartner had a vacancy they hired someone that had court experience and they were brought in at the same salary as Judge Coe's clerk. Although Judge Coe would like this clerk's salary to be the same, Supervisor Kniffen discussed this with him and suggested possibly a probationary period would be better. The new person would start at a lower salary with an increase in a year and again at 2 years to work up to the current salary of the existing clerk. Judge Coe said he would like the increases to be at 6 months and 1 year. He feels confident that the girl he has hired will work out well, noting that she is energetic. Supervisor Kniffen said the Board does not get involved with the interview process with the clerks in the court but they are involved with the salary.

Councilwoman Yonchuk questioned if they actually advertised for the position. Supervisor Kniffen said both judges have gone through the court system. Judge Coe added that 2 other towns are currently looking to fill vacancies so there was no one available. He did not advertise for the position but he also went through the credit union. He became aware of a person currently working part time in the Town Clerk's Office that was interested in the

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position but he had already hired someone. He will keep other applications on file in his office in case this hire does not work out. Councilwoman Yonchuk said she is not sure that she is comfortable with the rate since they would be equating someone with a lack of experience to someone with a number of years of experience. She would like to see the numbers on this. Judge Coe said his clerk that just left was making \$29,500 and they were talking \$26,500 for the new position with a \$1,500 increase at 6 months and \$1,500 at a year.

Councilman Diffendorf said he is alright with that if that is what has been worked out. Supervisor Kniffen said this was a starting point.

Councilman Grubham said he could be alright with this since they should know within 6 months if this person is trainable and is trained. He asked for clarification on the advertising aspect of this. Judge Coe noted he had contacted his credit union and Janet Smith who has been President of the State magistrate court clerks and Broome County court clerks, but said he found this girl when he called Sydney about another matter. The person he hired is the wife of an investigator working out of Sydney. Councilman Grubham said as a general matter of hiring someone, the jobs should be advertised for to ensure they are getting the best person for the job. He doesn't feel word of mouth is the best way to be handling this. Supervisor Kniffen said normally it is the Town's policy to advertise to hopefully get someone from the Town. He noted that when Judge Weingartner had a vacancy he handled it exactly the same way as Judge Coe just did. Councilman Grubham said there should be a policy in the future that everyone knows about so they are assured they are getting the best people for the jobs. Supervisor Kniffen said that it should be handled that way in the future.

Councilman Weingartner said he feels \$3,000 after a year is quite expensive. This is someone who has absolutely no court experience whatsoever. He said he is probably more familiar than most of the Board in regard to what the job entails. He said it will take her a long time to learn it and it will take a lot from the other girls to teach her. He is not sure if there will be a little dissension there if after a year she will be making what the current court clerk is making and she taught her everything. He thinks this is pretty excessive in one year.

Councilwoman Yonchuk stated she is assuming the other clerks will be training the new clerk. Judge Coe yes and no. He said probably within a year there will be mandatory court clerk training, which is similar to what the judges do. There is other training besides just being trained in the office. Councilwoman Yonchuk said her concern is that given that one of the current clerks is part time, she would not want to see something taking away from them doing their duties to train another clerk, and her concern about the money is somewhat echoed in what Councilman Weingartner said. It sounds like a huge increase.

Judge Coe said the job of a court clerk is very demanding and trying. The state changes things from month to month. He is not saying she will be absolutely proficient after a year

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but she will learn a lot. She will have a lot of responsibility towards him. He strongly feels this increase is warranted.

Supervisor Kniffen asked if Councilman Weingartner and Councilwoman Yonchuk agree with the way they are approaching this, to give this person the increases. If they agree with the plan but not the timeline, he would like to know what they feel the timeline should be. He noted that they did the same thing with the judges in the past and he feels this would be a consistency within the courts.

Councilman Weingartner said the judges are an elected position so therefore it is the same type of a salary, just like the council members. A court clerk is not elected, but is someone that is hired and when they gain experience they get a higher salary. For someone to come in at \$26,500 and in one year make as much as someone who has been there for a number of years and has this much experience, to him it doesn't seem right. Supervisor Kniffen asked if at some time he feels the new person should get up to the salary of the other clerk, and if so what would be the time frame. Councilman Weingartner said she probably will get as much if she stays long enough, but maybe not. He said he has been teaching for 30 years and the person who started 5 years after him is not making as much as he is making. They may when they finally retire. With experience comes the benefit of more pay. He did note that this is the first he heard about this so he has not given it a lot of thought.

Councilwoman Yonchuk said she agrees with Councilman Weingartner, that experience earns pay increases. She added that a year from now if she were one of the other court clerks and now someone else is making the same amount of money and she trained her and she's been here longer, she has a problem with that.

Councilman Diffendorf said he does not have a problem with that. He feels if someone does the job they get paid the same.

Councilman Grubham said the last time this happened they paid the new clerk the exact same amount as the current clerk on the basis that she was doing exactly the same job. Councilman Weingartner added that at that time the new clerk's experience was actually more than the clerk currently working. Councilman Grubham said in the past that is what they have done. He is still in favor of getting her to that point but the question is the time frame when that may happen. Possibly this should take place over 2 years to make sure she is well trained by the time she gets that money.

Supervisor Kniffen suggested \$1,500 at a year and \$1,500 at 18 months. Judge Coe said he would agree to that. Mr. Blaise said a resolution will be needed for the next meeting confirming the hire on the advice and consent of the judge and setting forth the pay scale.

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2. Discussion – Soft Starter for Well 3 Pump. (J. Finch)

Ray Coolbaugh explained once in a while when well 3 kicks on it blows a circuit breaker. They replaced it and once in a while it still happens. A soft start will eliminate a hard start and ramp it up slow. This is in the budget since they expected to do this later this year. Two proposals were received: \$5,250 from J&R Electric and \$5,731 from Bill's Electric. This price includes installation. Although Councilman Grubham questioned if an additional bid is required, it was determined that only 2 written bids were needed. Resolution.

3. Discussion – Request from Chad Moran to attend required training at Binghamton University March 31, 2016, May 10, 2016 and May 24, 2016 at a cost of \$ 180.00.

Supervisor Kniffen said this is for local training for the new code officer. Resolution.

4. Discussion – Request from Jim Kavalesky to attend required training at Binghamton University on May 10, 2016 at a cost of \$ 72.00.

Resolution.

5. Discussion – Kirkwood Warehouse Investors. (ONB)

Mr. Blaise explained that Mr. Kline had been handling this with Dan Giblin last year. This is the LLC that bought the Penguin warehouse and discussions between Dan and the owner about reducing the assessment didn't go anywhere. They filed a tax petition against the Town but there was a procedural defect and Mr. Kline was able to get it tossed out of court. An appeal has been filed on that and then they tried to do a procedural end run around the dismissal that Mr. Kline was able to secure and filed a new petition in Supreme Court to try to get back in on what they lost out on last year. He has been in discussion with Dan Giblin, Bob Behnke, the County's attorney and Cheryl Sacco who represents the school, and they think they can have this procedural end run tossed out. This will be in Supreme Court with a return date of February 19 for the motion and will be a matter out of retainer so he would need to be appointed to handle this. He has an associate ready to put the motion papers together. Councilman Diffendorf questioned how much this will cost. Mr. Blaise said the motion they just brought should be \$1,000 or less. The issue at Supreme Court is a very narrow procedural issue so they won't have to argue the whole assessment case. The reason for the dismissal is they named the wrong school, which is a big procedural defect. They are now going to sue the right school district and there is a provision under the law that says in certain types of cases if you missed the statute of limitations there are certain exceptions that will buy an extra 6 months. The statute of limitations to file their tax assessment challenge ran out last year. They are basically saying they qualify for that exception. Mr. Blaise feels they do not meet the exception. The appeal they filed will be more expensive because there is more work to an appeal but that appeal is on the narrow issue of whether it should have been dismissed for serving the wrong school.

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Supervisor Kniffen said they are asking for a lot. When the tax breakdown is computed, the Town gets about 10%, the County about 15% to 20% and the school gets the rest. So Kirkwood gets the least but has to hire an attorney to fight this. This is totally unfair but Mr. Blaise said the entire burden of these things rests with the municipal entity that has the smallest stake. The legal theory is that the municipality is the taxing entity that assesses the property. Occasionally a school or county will help out but they do not have to, and the majority of the time they don't. Supervisor Kniffen said if this is settled for quite a bit they could try to get money from the county or school. Councilman Diffendorf clarified that this is about last year's taxes to keep it at the assessed rate and they are in the process of getting this year's lowered. He asked if that would be any part of this. Mr. Blaise said it would be, it's a much slower process. He said they have to file 3 years in a row. If they filed in 2015 and everything went smoothly the Town would appoint an attorney to handle this. Generally for 3 years they wouldn't have much to do other than just monitor the papers they are filing and if they get into some serious negotiations, which generally Dan would handle, in the end they would come in and put the settlement papers together. Only rarely do these cases go to trial when appraisers are brought in to argue over what the value should be. This case is different because of the procedural issues that they are fighting to keep their claim for reduction in 2015 alive. Councilman Diffendorf questioned if the Town wins the case for 2015, if the 3 years would start in 2016. Mr. Blaise said that is correct. If the Town loses the 3 years would start in 2015.

Mr. Blaise responded to a question from Councilwoman Yonchuk that they filed a challenge which is an Article 7 of the Real Property Tax Law and there is a time frame when they have to be filed which is in the summertime. Councilwoman Yonchuk said Mr. Blaise seems pretty confident that the procedural issues will be upheld, but if the Town loses on that issue she questioned if there is a final assessment. Mr. Blaise said there would not be and then they would go back to 2015. Mr. Blaise added the vast majority of these cases are settled through negotiations. He said there was a case just settled where Dan did a fantastic job.

6. Discussion – Authorizing Coughlin & Gerhart to represent the Town of Kirkwood in the Tax Certiorari Proceedings filed in Broome County Supreme Court by Kirkwood Warehouse Investors 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. (ONB)

See discussion in item 5. Resolution.

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7. Resolution pursuant to Not-For-Profit Corporation Law Section 1402(c)(3) approving the Membership Roster for Five Mile Point Fire Company, with the understanding that the members so approved will be assigned for which they have been qualified, in accordance with the attached roster. (GEK)

Councilwoman Yonchuk noted that Dick Clendening is included on the list and since the list was submitted he suddenly passed away. He was a long time resident of the Town of Kirkwood, the husband of Kirkwood's long-time Tax Collector, as well as a member of the Five Mile Point Fire Dept. for 44 years and he had over 20 years in the fire police service. Resolution.

8. Resolution accepting the Recertification of the Record of Activities for James R. Smith, Budget Director, in accordance with the attached recertification. (GEK)

Resolution.

9. Discussion – Agreement for the Expenditure of Highway Moneys. (RJC)

Ray Coolbaugh said this is basically the same information as submitted last month. Councilman Grubham questioned item #2, if from Herb Kline Way to Fairway Drive was from the railroad tracks to the water plant. Ray said it was all the way to Willow Run and is .3 of a mile. It was noted that the cost of the work for the crossing is included. There is no information available as to whether the crossing project is happening this year or not. Supervisor Kniffen noted this is the plan but it will depend on CHIPS money. Ray said he will be going to Albany for Advocacy Day on March 9th and he should find out soon after if they will be getting CHIPS and if so how much. Resolution.

10. Audit of Claims.

Councilwoman Yonchuk referenced an invoice for toner for Ray's department. She questioned if this is for a laser copier, noting there are 5 cartridges and they are expensive. Ray said they were bought from a company in Illinois because they were cheaper. He said Sue does a good job finding the best price, even with shipping. He noted this printer prints the water bills.

Councilman Grubham questioned the voucher paying for tires and contaminated material to the landfill at a cost of almost \$2,000. Ray said the dirt is from sweeping the roads and the catch basins that were cleaned. He said according to stormwater regulations that is where they have to send it. It was \$600 a load. Councilman Diffendorf noted there are more tires on Brink Road.

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Stormwater Coalition.

Ray Coolbaugh said that John Mastronardi has been working with the Stormwater Coalition. Through the DEC a member of the Susquehanna Coalition called him about planting trees along the river bank to help keep the erosion down. He received the plans today for Valley Park. They are going to plant 70 flowering trees along both sides of the creek. The trees will start blooming in the spring and various trees will bloom all summer long. One of the tree species will bear fruit which will be good for the birds. All the Town has to do is water them and watch for vandalism. Ray noted trees will be planted on the river bank in the area of the boat ramp.

Carpets.

Ray Coolbaugh said that Coyne, the company that supplies carpet runners for the town offices, went out of business and Cintas and another company bought them out. Cintas has this area but they aren't supplying carpets on the regular schedule established with Coyne of Mondays or Fridays. Since it appears they don't want the Town's business Ray has contacted Dempsey for the service. He did get another quote but he does not feel the service would be any better than they have now. The service from Dempsey is only \$10 a week more than it was with Coyne. Dempsey is located in Pennsylvania. Mr. Blaise will review the contract with Coyne to determine if the Town is doing what is required to terminate it. Ray said he has spoken with them about their service and Sue has emailed them.

Pressure Washer.

Ray Coolbaugh said the Carcher pressure washer they purchased for the shop for \$4,000+ in 2003 recently burned up. Today the same equipment would cost \$7,500+. Although that is a good machine he found another one that will do the same amount of work and has more pressure for \$4,500+. He would like approval to purchase this HHS Series pressure washer. He noted the problem with Carcher is, it is made in Germany and the parts are expensive and they take a long time to get. The HHS model is standard with basically universal parts. He said this is sold locally by Bob Chapman and the next closest one is in NYC. This will come out of the equipment budget line. Resolution.