

TOWN OF KIRKWOOD WORK SESSION

June 27, 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
John Finch, Jr. – Chief Water Treatment Plant Operator
Marchie Diffendorf, Planning Board Chairman
Duane Travis, ZBA Chairman

1. Discussion – A Local Law Opting Out of the Solar, Wind and Farm Energy Real Property Tax Exemption Provided by RPTL § 487. (GEK)

Supervisor Kniffen explained that at the last meeting the Board adopted a one year moratorium on solar energy activity in Kirkwood but held on addressing the opting out on property tax exemptions for solar pending additional discussion. Councilman Weingartner said he does not have an issue with this. Councilman Grubham said the question had come up about residential versus commercial/industrial uses and they were looking for clarification from Dan Giblin, the Town's Assessor, particularly in regard to residential. Supervisor Kniffen said as he reported at the last meeting, he had talked to Dan who told him other municipal assessors are not increasing the property value at all. Dan told him that right now they are exempt so he is not doing anything. In regard to residential property only, Councilman Grubham said if the value of the property is not increased opting out means nothing. He said his understanding is if a person's property value increased because they had solar that is what they would be opting out of. Councilwoman Yonchuk agreed that only the increase in value because of the solar is what they would be opting out of. Supervisor Kniffen said he felt it was not so much about the residences being tax exempt but the businesses not being taxed. Mr. Blaise said there is nothing in the state statute that allows it to be split like that. Councilman Grubham said in actual practice if they don't think there is going to be any increase on residential property then it's kind of a moot point. Supervisor Kniffen said again he is more concerned about the businesses. Councilman Grubham said he is in favor of opting out. Mr. Blaise clarified that would mean the Assessor could assess an increase on the property if he feels the solar increases the value. Councilman Diffendorf and Councilwoman Yonchuk said they are in favor of it as well.

Marchie Diffendorf questioned the status of the ones that are already existing. Mr. Blaise said by law if they are already in place or have been started they are exempt. Councilman Diffendorf questioned why they are exempt, stating that the Town is rescinding something. Mr. Blaise said the Board is actually opting out of the exemptions automatically provided by state law. Councilman Diffendorf referred back to his question of last month as to whether or not there is a paper trail that shows that someone puts in for the exemption or is this something that no one

TOWN OF KIRKWOOD WORK SESSION

June 27, 2016

knew about and no one ever raised the taxes on the assessment. He said he thinks there should be a paper trail, that someone shouldn't just get a tax reduction without filing paperwork for it. Councilman Weingartner said his understanding is that Dan Giblin said no one has ever filled out the paperwork, and Councilman Diffendorf and Councilwoman Yonchuk agreed. Mr. Blaise said the exemption is automatic under RPTL Sec. 487, it is written into the law. If someone puts a solar system in place they are exempt unless their municipality has passed a local law opting out of the automatic exemption. Councilman Diffendorf said according to Supervisor Kniffen Dan Giblin said no one has ever applied for the exemption. Councilman Weingartner said that is why he doesn't have a problem with rescinding it because no one has ever taken advantage of it. Mr. Blaise read information from the NYS Dept. of Tax & Finance that he referred to when developing the local law. This referred to the 15-year exemption from real property taxation for the increase in value resulting from the installation of a qualifying system. It said that municipalities that have taken no action one way or the other, in terms of opting out, the exemption is in effect. Councilman Weingartner said there must be some type of paperwork involved since it is a 15-year exemption and otherwise how would anyone know when the 15 years started. Mr. Blaise went on to read that an opt out cannot be made retroactive. Councilman Grubham said if they had had something in their zoning about the construction of these things where people had to actually come in and get a permit to do it, there would be a date. Since the Town didn't have that, technically all the people that have these shouldn't have been allowed to build them because they are not in the code. Mr. Blaise said along that line it is up to the municipality to police these things; if an addition is put on a house there should be a building permit that states when the addition was added so that the next time around taxes on the property could be increased. So since these solar additions weren't tracked the question is how it would be known when the 15 years begins to opt them out. In the guideline from Tax & Finance there isn't anything that says there is actually paperwork the resident or business has to file to qualify. Councilman Grubham questioned if someone does something that is not allowed by Code and the municipality doesn't catch it, if it is the municipality's fault. Mr. Blaise said yes and no. No it doesn't excuse the homeowner because they should have gotten a building permit, but for Dan's purposes how can we go back now and track it. Since now there is a moratorium, Councilman Grubham said anything from here on, if anything does happen in this regard in the future, a permit will be obtained and they'll have a date. They will have to make sure this doesn't continue and the installations are stopped. Assuming this is passed today, Mr. Blaise said that anything that was started before today is exempt for 15 years. The question remains as to what the starting date is for the ones that already exist. Councilman Grubham said they will have to identify where there are existing installations and the starting date will be today, if the resolution passes. Mr. Blaise said for the ones in the future there is actually a moratorium in place so the Board will have a year to put in the code how they want to track things, etc. Councilman Grubham said after the sites have been identified the owners will be have to be notified as to the situation. Councilman Weingartner questioned if they should solicit individuals who do have this. Councilman Grubham said unless Dan increases their taxes because of it there really isn't an increase. In terms of a residential small panel system that may help someone individually, Councilwoman Yonchuk said until solar energy becomes widely used and therefore more widely in demand it's not going to have as great an impact on a

TOWN OF KIRKWOOD WORK SESSION

June 27, 2016

residential value, as compared to the installation of water and/or sewer which has a direct impact on the value of a home. Mr. Blaise said he would tend to agree and when you put these things on there is a long-term pay back of the investment and maintenance costs including replacement of roofs, etc. Councilman Diffendorf said many of the panels are not on roofs but in yards on the side which eliminates weight problems and there is less of a maintenance problem. Mr. Blaise noted that fire departments don't like them on roofs due to the extra weight. Marchie Diffendorf noted that in the case of a fire and the power is turned off at the pole the solar panels are still producing power. Mr. Blaise said it will have to be determined if a small panel array in a yard increases an assessment. Resolution.

2. Discussion – Recycle bins for town parks. (RFW)

Councilman Weingartner explained that Pat Beebe's third grade class from Bell School had some kids that played baseball in the Town parks and being that they are very environmental conscious they want to know why there are not any recycling bins in the parks for bottles. They saved \$47 which they are willing to give to the Town. He received letters from them asking if he could get something going. To the delight of the kids he responded to their letters. He asked Ray Coolbaugh if they could get some type of recycling bins in each of the parks. Councilman Weingartner suggested the type for bottles and cans only with a round hole in the top. He realizes many of the deposit bottles will be taken by people but added he thinks this is a nice community minded thing from kids. Ray Coolbaugh will take care of seeing that some are put in the parks near the pavilions and ball fields.

3. Discussion – Resolution appointing Chad Moran Building & Code Inspector-OC of the Town of Kirkwood on a probationary status effective June 28, 2016.

Supervisor Kniffen explained that Chad has completed training and passed the civil service test and he now goes on to a probationary period. Councilwoman Yonchuk said hiring anyone for a civil service position is always going to be contingent upon them taking the civil service exam plus any required courses, but until this point she questioned what his status was. Although there wasn't an official status until he took the civil service test Councilman Grubham said he was basically temporary until he could be hired for the probationary period. Mr. Blaise added that it is a position that you could put someone in temporarily so the position is not vacant. Councilman Grubham said he would remain temporary until there is a civil service test, no matter how long that is. It was noted that Chad has been on the job for 6 months. Resolution.

4. Discussion – Meeting with Adam Meinstein/Equilibrium Equities. (GEK)

Supervisor Kniffen explained that Adam Meinstein is the CEO of Equilibrium Equities, which is in the old Penguin book building. They met with him last week and he gave them an overview of his company and how he got started. He is in the business of buying buildings and rehabilitating them if needed and puts in businesses. Mr. Meinstein paid about \$7 million for the building. Most of the building has been painted with the exception of the robotics part. Currently his tenants are Felchar and Rogers. The entire building is approximately 400,000

**TOWN OF KIRKWOOD
WORK SESSION**

June 27, 2016

square feet with the robotics section being about 90,000 square feet. There is nothing happening in the robotics section now. Supervisor Kniffen said there is a net increase of 55 jobs. He said that Mr. Meinstein is challenging his assessment. Originally the papers were sent to the wrong school but the judge issued a decision in their favor in that regard so they are now back to the negotiating table. He said it is really all about the robotics section.

5. Discussion – Request from Ward Coe to attend the NYSMA 2016 Annual Conference at the Crowne Plaza, Lake Placid, NY to be held September 25-28, 2016 at a cost of \$687.75 plus \$50.00 pre-registration fee with the State reimbursing towards one night of lodging and full mileage reimbursement at current rate per mile.

Resolution.

6. Discussion – Purchase of a 7.5 Hp ABBVFD pump drive to replace the Square-D 7.5 Hp VFD pump drive for the Kirkwood Avenue lift station at a cost of \$3943.00.

John Finch explained they had a VFD (Variable Frequency Drive) fail at the pump station on Route 11. Joe Rosati verified it was the actual controls that failed. The cost to replace it is \$3,943 which includes materials and labor. The unit is on order and is expected in 4 weeks if not sooner. This is an emergency situation since they are running on only one pump now. This unit is about 15 years old and their lifespan is usually about 7 to 10 years but since they alternate them the life expectancy is a little bit longer. They are looking at transformer issues with the units as well. Councilman Diffendorf questioned if this is a pump problem or a motor problem. John said the VFD cycles it up and down so there is not so much wear. It is the controls that went bad inside a panel. The actual pumps are not being replaced. Ray Coolbaugh said it is basically the computer for the pump. Resolution.

7. Discussion – Quotes for mowing vacant properties at 15 and 47 S. Sunset Drive, 114 Ostrum Road, and 640 Stratmill Road:

Andrews's Lawn Care	\$1500
Tim Sisson Construction	\$1100

Supervisor Kniffen explained there are some vacant properties that Chad has identified on Sunset, Ostrum and Stratmill that need mowing. Councilwoman Yonchuk noted a surprise at the amount of the bids. Councilman Grubham said they are not talking about hand mowing, this includes brush hogging all the properties and then mowing, which is reflected in the cost. Councilman Diffendorf said he looked at three of the properties but not Stratmill since it wasn't on the list last week. He noted that he felt the grass wasn't that high on one of the properties on Sunset, but possibly the vacant lot between houses may have been a little high. Councilman Weingartner said that is all one property. Councilman Diffendorf said he doesn't know if they want to get into saying which area is actually people's yard, noting that some people have 5 acres and they only mow ¼ acre. If the vacant lot is the one Chad is talking about he doesn't think that

**TOWN OF KIRKWOOD
WORK SESSION**

June 27, 2016

one needs to be done. Councilwoman Yonchuk said she travels Stratmill Road and has not noticed one that is out of control.

8. Audit of Claims.

Councilman Grubham questioned the cost of \$87 for a gallon of paint from Sam's Club. Ray Coolbaugh said it is epoxy floor paint for the walkway from the parking lot and the bathroom floor.