

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

November 1, 2016

A regular meeting of the Kirkwood Town Board was held on November 1, 2016 at 6:00 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: Oliver Blaise III, Attorney
Gayle Diffendorf, Town Clerk
Raymond Coolbaugh, DPW Commissioner
John Finch Jr., Chief Water Treatment Plant Operator
Marchie Diffendorf, Planning Bd. Chairman
Duane Travis, ZBA Chairman

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

October 4, 2016 Town Board Meeting: A correction was made in regard to the spelling of Robby Weingartner.

October 25, 2016 Special Town Board Meeting
(2) October 25, 2016 Public Hearings

PUBLIC PARTICIPATION: None.

COMMUNICATIONS: None.

COMMITTEE REPORTS:

Water Pump Station Update.

In regard to the status of the Town's water contract with the City, as a result of a review of Mr. Kline's files, Mr. Blaise reported there was a 30-year agreement dated 1964 (expired in April 1994) for the production of water going both ways. Binghamton agreed to furnish Kirkwood with ample water to serve District #3. Since the construction of Kirkwood's water treatment plant both Kirkwood and Binghamton provided the other with water on occasion when needed in times of emergency. However, this was subsequent to the expiration of the original contract and there was no evidence in the file that any type of formal arrangements were made, it was done on an as needed or emergency basis. In about 2000 Mr. Kline drafted a potential agreement between Kirkwood and Binghamton to formalize the rights of each party in the event of a water emergency. The agreement also set forth the responsibilities of either municipality in regard to caring for the pipelines on each side of the boundary. After review of Town of Kirkwood Board meeting minutes it was determined it was never acted upon by either side. There is nothing in place with the City regarding providing water or maintenance of the lines.

Supervisor Kniffen reported that he contacted the City Comptroller in this regard and they have to do some things on their end to get the water turned on. He questioned the Comptroller as to the price of the water if it were needed and noted a municipal agreement would be needed. The City will be getting back to Supervisor Kniffen with additional information and in the meantime Kirkwood will keep pursuing this.

Ray Coolbaugh said someone from W2O checked the pumps and determined the pump motors were shorted out. There is no way they can be used until they are pulled apart. He said all the valves were checked and they all turn so they won't need to be replaced. The piping should be fairly decent as well. W2O suggested they pull out the pumps to see how much repair is needed. In regard to the electrical system to the fuse box, Ray said they pried out the fuses and they are so corroded new fuse boxes and wiring will be needed to run it. W2O will pull the pumps out for \$1,500 and tear them apart for \$1,500 to determine if it all will need to be completely rebuilt or just the motors themselves. Ray added that the \$3,000 for both pumps does not include any electrical work. He also noted

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the cost is just to check them out, not for repair. In response to Councilman Diffendorf, Ray said they might be able to pull the pumps themselves. He said once they are out they can then decide how far they want to go.

Supervisor Kniffen said they still have to determine if they want to go ahead with the hook up with Conklin or refurbish the pump station. Ray said the original quote he received included replacing the valves.

Councilman Diffendorf said he thinks contracting with Binghamton is the way to go because they can supply water if needed. He doesn't think Conklin can supply water to Kirkwood because his information is that they told Susquehanna Valley not to water the football field this year due to a lack of water.

Councilman Grubham said they should determine the worst case scenario regarding the cost to replace the pumps and motors.

TIME WARNER CABLE.

Supervisor Kniffen reported that Time Warner Cable has been purchased. Kirkwood is currently negotiating an agreement with them in the hopes of expanding service in Kirkwood.

CREDIT CARDS.

(Due to the fact that the Town's recording equipment malfunctioned during this portion of the meeting the following may only include portions of the comments made regarding the use of credit cards and adopting a Town policy.) Supervisor Kniffen said the Highway Department has credit cards and Ray Coolbaugh and John Finch are the only ones that currently carry them. The other employees have cards with their names on them but they are held in a lock box until needed. He added that they need them when they pick up a purchase to prove they are an employee of Kirkwood. Supervisor Kniffen said they are proposing a simple written policy. He said the policy would say that the purpose is to provide a written policy regarding the use of Town of Kirkwood credit cards for personal use by Town of Kirkwood officials and employees. The use of Town of Kirkwood credit cards for personal use by Town of Kirkwood officials and employees is strictly prohibited. Mr. Blaise suggested they add that a violation of this policy could result in a disciplinary action up to and including dismissal at the discretion of the Town Board. Councilman Diffendorf questioned if right now someone uses a town credit card for their own use if it is considered a crime. Mr. Blaise said it would depend on whether the funds were reimbursed, if there are no interest charges, no cost to the Town. Councilman Diffendorf said it is clear to him that it should be considered a crime. Supervisor Kniffen said he doesn't know if it is a crime or not but they certainly don't want to have it happen. A number of scenarios were discussed and Mr. Blaise noted that it may not be a crime but it is certainly an abuse of public trust and a policy would give the Town leverage to institute discipline. Mr. Blaise said with a credit card the bill is not due for 30 days, so if it is paid in that time frame there is no cost to the Town so he can see why someone might argue that it is not a crime. Supervisor Kniffen added that they wouldn't want an employee to get a special price by riding on the back of the Town. Councilman Diffendorf said he does not see how someone could take town property to their home that they used town money to buy and it's not a crime. Councilman Weingartner said he feels it is smart to put it in writing to stop this from becoming an issue before it ever happens here. Councilman Diffendorf said it wouldn't stop it, it would just add a penalty. Supervisor Kniffen said it should be made clear that a town credit card can't be used even if the money is paid back before the 30 days. Councilman Diffendorf said he thinks anyone should be charged with a crime if that happens. Councilman Grubham said it is not up to the Board to make that call, only a prosecutor can determine that. Mr. Blaise said a policy would give the town recourse even if the prosecutor determined it wasn't a crime stating again that a violation of this policy could result in a disciplinary action, up to and including dismissal. He added this would leave the Board's options open depending on the situation at the time and gave some examples of possible emergency situations. Councilwoman Yonchuk said if someone used a Town credit card they could get the Town's tax exempt status or may get a deal or municipal price. They may pay the money back but they would still be getting a town benefit. Councilman Weingartner said a policy would prevent that from happening.

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Councilman Diffendorf cited a concern that some purchases would end up at someone's home, noting this could happen if the Town had an account with a business, not only by using a credit card. Mr. Blaise said that would get turned over to the DA. Councilman Diffendorf said with the policy they would have something in place for purchases with a credit card but nothing in place for purchases made at another location with a purchase order and things end up at someone's home. Mr. Blaise said using a credit card is different, someone would have a period of time to pay the amount. He said if the amount is paid back before the expiration date, from a legal perspective he questioned if there is an intent to defraud the Town. He added that if the Town ordered lumber or something for a highway project and some items were taken to someone's home after the Town paid for them, that's a different situation. Supervisor Kniffen talked with Ray and Sue about that situation and he was told that after making the purchase the employee gives Sue a copy of the bill and Sue compares the receipts with everything that is bought when the employee gets back. Ray Coolbaugh said they have credit cards at a number of businesses and open accounts at others. Councilman Diffendorf said Sue does do a good job with that on the vouchers, but something purchased at another location is the same problem as if purchased with a credit card. Councilman Diffendorf said he did not realize purchases were currently being made by credit card and when he signs a voucher he thought he was authorizing payment. Councilman Grubham said they will have to be vigilant and question the concerns they have after reviewing the vouchers.

OLD BUSINESS:

Grievance Day Hearing.

A hearing was held for the purpose of reviewing, hearing and considering any objections to the various sewer and water district assessment rolls which have been completed in connection with the operation and maintenance of the facilities and equipment service in said districts. Minutes in this regard are on file in the Town Clerk's office.

Councilwoman Yonchuk moved to adopt resolution, after a Public Hearing, adopting the Town of Kirkwood Comprehensive Plan. Councilman Diffendorf seconded.

148-16
Adopt
Comprehensive
Plan

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

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution, after a Public Hearing, Adopting Annual Budget for 2017, in accordance with the attached resolution. Councilman Grubham seconded.

149-16
Adopt 2017
Budget

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

MOTION CARRIED.

Councilman Grubham moved to adopt resolution scheduling a Public Hearing for November 29, 2016 at 6:00 PM on the Year 2017 Fire Contracts. Councilman Weingartner seconded.

150-16
Sched PH
2017 Fire
Contracts

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

MOTION CARRIED.

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151-16
Sched PH
Amend Water
Rates

Councilman Weingartner moved to adopt resolution scheduling a Public Hearing for November 29, 2016 at 6:05 PM regarding amendments to the Water Rates, An Ordinance Establishing Water Rates and Connection Charges for Water Districts of the Town of Kirkwood. Councilwoman Yonchuk seconded.

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

MOTION CARRIED.

152-16
Amend W&S
Unit Guide

Councilwoman Yonchuk moved to adopt resolution Amending the Guide for Unit Assessment in all Water and Sewer Districts, in accordance with the attached Guide for Unit Assessment, as additionally amended. Councilman Diffendorf seconded.

Discussion: Mr. Blaise said language should be added saying there is an exemption from the square foot assessment for commercial and industrial buildings for those structures not attached to primary structures in or without water or sewer utilities.

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

MOTION CARRIED.

153-16
Adopt 2017
W&S Rolls

Councilman Diffendorf moved to adopt resolution, after a Public Hearing, Adopting Assessment Rolls for 2017 for Sewer and Water Districts, in accordance with the attached resolution. Councilman Grubham seconded.

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

MOTION CARRIED.

154-16
Aduit/Pay

AUDIT AND PAYMENT OF CLAIMS:

Councilman Grubham 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 5, 2016, all in accordance with the abstract of claims on file in the Town Clerk's Office.

Councilman Weingartner seconded.

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

MOTION CARRIED.

NEW BUSINESS:

Credit Cards – Additional Discussion.

Councilman Diffendorf questioned why they are going to pass this if it's not a crime. Mr. Blaise said it could be a crime, that it would be up to the District Attorney. Supervisor Kniffen said they are doing this because it is not right. Councilman Weingartner said with the policy they are saying they are not going to allow Town employees to use their credit card. Councilman Diffendorf said he thinks that is right but if the Board can't agree that it's a crime then he is questioning why they would pass something. Councilman Grubham said whether it is a crime or not this is the penalty for doing it. Mr. Blaise said whether it is a crime or not is completely beyond the control of the Town Board, that it would be the determination of the District Attorney's Office or the Attorney General's Office. If in a given situation the AG or the DA comes back and says we aren't going to charge anyone

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criminally, even though by the proper enforcement authority it was determined not to be a crime, the employee is still going to get fired by the Town because of the policy and they violated it. It gives the Board an extra layer of protection. If the DA decides it is a crime, then they are basically doing the Board's job for them. Supervisor Kniffen said whether it is determined to be a crime or not, they don't want it to happen in Kirkwood. Although he agrees with that point, Councilman Diffendorf said he can't agree that it's not a crime. Councilwoman Yonchuk said she doesn't think they are necessarily disagreeing with that, only that it is not the Board's decision.

Councilman Grubham moved to adopt resolution to adopt a policy of the Town of Kirkwood that the use of Town of Kirkwood credit cards for personal use by Town of Kirkwood officials and employees is strictly prohibited. A violation of this policy could result in disciplinary action, up to and including dismissal, at the discretion of the Town Board. Councilman Weingartner seconded.

155-16
Adopt Credit
Card Use
Policy

Discussion: Councilwoman Yonchuk said she knows of cases at the school where people have been burned because of the language "at the discretion of". Her concern is that the minute it is perceived that the Board is inconsistent with that then there is a problem, citing a personal situation. Councilman Weingartner said discretion is in the eye of the beholder and sometimes you just have to go with something and if someone disagrees with what you believe in then so be it. Mr. Blaise said the last clause could be removed if it is a concern but basically anything the Board decides on is discretionary. Councilwoman Yonchuk said she is basically looking at it if they have to do this with 2 employees, their perception could likely be that the Board handled it differently if they don't handle it exactly the same way. She noted that she does think the Board should do this.

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

MOTION CARRIED.

ADJOURNMENT:

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

MOTION CARRIED.

Meeting adjourned at 7:32 P.M.

Respectfully Submitted,

Gayle M. Diffendorf
Town Clerk