

# TOWN OF KIRKWOOD WORK SESSION

**December 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  
John Finch, Jr., Water/Wastewater Maintenance Crew Chief  
Marchie Diffendorf, Planning Bd. Chairman  
Duane Travis, ZBA Chairman

## 1. Discussion – Proposed purchase of the L-3 building. (GEK)

Supervisor Kniffen explained that earlier this year Modern Marketing received some grant money and loan money from NYS to hopefully bring 600 jobs to the area, in the half of the L-3 building that was not occupied. Unfortunately that didn't happen and now there is another developer who is interested in taking over that building, Todd Grubham and a silent partner who are working through the Agency, which was formerly called the IDA. The Agency is financing this for 20 years for the developer. Modern Marketing was going to have a PILOT for 20 years and the PILOT for Todd and his partner is identical to what Modern Marketing would have received. Todd met with the Agency last week and they authorized the sale and would like to close as soon as possible. Prior to doing that, they need to wrap up the PILOT and have an agreement as to what the PILOT is. Basically this is a PILOT of 20 years and for the first 3 years the taxes are held. After the third year and up to year 10 taxes increase 1% every year and in the last 10 years they increase 2% every year. The percentage of taxes received is split between Windsor School, Broome County and Kirkwood, with the school getting the largest percentage, then the County and lastly, Kirkwood. This PILOT was originally put together back in 2000 when Link was leasing the building and the current PILOT is exactly the same as it was back then. He questioned Mr. Blaise as to whether this is enough information to accept the agreement or if more information is needed. Mr. Blaise responded that he thinks it is enough, especially with the attached schedule setting what the payments will be. He said even though the Agency wants the Town's consent, they can still do it the way they want in the end. Supervisor Kniffen said the Board has been briefed on this and asked if they have any questions or concerns at this time.

Councilman Diffendorf said he would like to look at it a little longer. He said they met before but didn't have quite the right numbers at that time. Supervisor Kniffen said they verbally have said they are for this, and Councilman Diffendorf said that verbally he is still for it and added he does not have email and he has not seen this before. Supervisor Kniffen explained that although Councilman Diffendorf does not have email, and since information can be shared with the other Board members by email as long as it is not considered a meeting, the same information is forwarded to Councilman Diffendorf by regular mail. Supervisor Kniffen explained that the reason why they had questions when the first PILOT came out was because it

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looked like the only one sharing in this PILOT giving relief to the developer, was the Town of Kirkwood and Broome County, with the School getting 100% of their taxes. In searching the files back to 2000 they found out that wasn't so. Windsor gets 67.7%, the County gets 24.5% and Kirkwood gets 7.8%. That is typically what the percentages break down to, so the School is actually contributing. For the first year Windsor School gets \$179,475, the County gets \$64,498, and the Town gets \$28,858, for a total of \$264,831. In addition to the PILOT tax formula, the developer has offered an additional lease tax as the property is occupied. As there are 475,000 total square feet and the current lessees, L3 and AL George occupy 49% (232,750 sq. ft.) of the building, the remaining footage is approximately 242,250. As they lease this vacant area, they will charge the lessees an additional 10% which will go in full to the Town of Kirkwood, approximately \$24,250. Councilman Diffendorf said he doesn't think it has been agreed to as to who would get the \$24,000. Supervisor Kniffen said he thinks the Town would get it. Mr. Blaise questioned if it wouldn't be split up as to the percentages noted above. If they rent out additional footage the question is where that additional amount will go. Mr. Blaise said although the Board wants that to go to Kirkwood they have to make sure that the Windsor School and the County are on board with that.

After Todd Grubham arrived Supervisor Kniffen informed him of the above discussion. In regard to the 10 cents per square foot for additional leases, he said the Board would like to see that come to the Town. Todd said that was his intention since he felt the percentage to the Town was low and if it is not written that way it should be. Although the Board is in agreement on this Mr. Blaise noted that he is not so sure the Windsor School and the County will be in agreement. Supervisor Kniffen said the PILOT is written with a 3-way split but this would be kind of an addendum, that as Todd starts to lease square footage out that he wants to charge them so much more for that and give the Town 10 cents per square foot. He will check into this before the next meeting.

## 2. Discussion – Water treatment plant positions. (GEK)

Supervisor Kniffen explained that since John Finch won the election there will be a change in the position of Highway Superintendent as of January 1<sup>st</sup>. Since John is currently the water treatment plant operator, that will require a transition. With John going to Highway, the idea is to have Alan Glover move into John's position. Alan has been in the water department for 15 years and has the required license certifications to operate the water treatment plant, the same as John. They also need to replace Alan so they advertised, held interviews and someone has been recommended for the job. The salary needs to be set for Alan. Supervisor Kniffen said John Finch made \$52,686 as water treatment plant operator and Alan as his assistance made \$42,140. The new person was hired at \$15.50 an hour, which is \$32,240 a year. The suggestion is to increase Alan's salary to \$45,760 and added with the new hire's salary of \$32,240 it amounts to a total of \$78,000. Currently those 2 positions cost the Town \$97,179, so there would be a savings of \$19,178. Supervisor Kniffen said the question is if this is fair to Alan since John was making \$52,686. He said Alan has the license and experience but not the years of employment, since he has 16 years and John has 22 years. He said as an example, if you start year 1 with \$35,000 and give a 3% increase each year, which is typical in Kirkwood,

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for those 6 years it would be around \$42,000. He feels Alan making \$45,000 versus John's \$52,000 is more than fair. This has to be addressed right along and was anticipated due to the election. Supervisor Kniffen said he spoke to both John and Alan about this and is asking for the Board's approval.

Councilman Grubham asked John Finch if he is on board with this. John said that Alan is his assistant and he does fill in when John is not there. Other than that he is doing other jobs that are not the responsibilities of the water treatment plant. He is doing maintenance, upkeep and he is definitely a good worker but John said he is not sure if they might not want to wait to see how he performs in the position before they give him a raise or just step him up a little bit gradually but not all at once. John would like to know what the Board members feel about this. Supervisor Kniffen said he does not think that is fair to Alan since he's been there for 16 years, he's certified and been working with John and works every other weekend. He certainly knows the job and has been a good employee. Supervisor Kniffen does not see why he should be put on a probationary period. He said if it doesn't work out they would talk to him to fix it or if it can't be fixed address that. He doesn't see why, in the meantime, Alan should be penalized for doing a job that John is doing for almost \$53,000 and have him sit at his current salary. He said that is not fair.

Councilman Grubham said he just wants to make sure, because John will now be in charge, that this is what John would like to see happen too. Supervisor Kniffen said apparently John is not on board with this and the Board has to make a decision and do what is fair. He asked if anyone thinks what he said is not fair.

Councilman Diffendorf questioned if it does not work out, although he does not know why it wouldn't, what the plan would be. Supervisor Kniffen said it is the same plan as with any employee, if they are not doing the job, the first thing would be for the person in charge to document any problems and there should be a time period for fixing those problems. If they can't be fixed then the matter should come before the Board. If the problem cannot be fixed and the job isn't being done then they would be replaced. Councilman Diffendorf said he doesn't think it is that simple. He said he would raise his pay up a little and give him some time at the job and see if he likes being the guy doing the water and then get him up there on a scale. Although he does not see it happening, Councilman Diffendorf questioned if someone doesn't like a job if they couldn't go back to doing what they were. Supervisor Kniffen said there will already be someone in that job and they can't be pushed out. Supervisor Kniffen said the question is if Alan is capable of doing the job and apparently John is not so sure that he can or he would agree to raise his salary, so should there be a probationary period, or whatever.

Councilman Grubham said he has kind of the same thought as Councilman Diffendorf and he wants to make sure there are no issues. He would not like for Alan to decide he doesn't want the job and then lose the job altogether. Supervisor Kniffen said that is the case with every position. Councilman Grubham said it could be a concern if Alan moves up and John decides it's not working and they fire Alan. He said he is not sure how that would all work and it

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concerns him. He wouldn't want that to happen to Alan if he decides he doesn't want the job. Supervisor Kniffen said that is not the Board's problem right now. The problem is that they need to start someone there January 1<sup>st</sup> and they know Alan is qualified, but John has doubts. That needs to be put aside because they are asking this man to do the job and he doesn't think it would be fair to ask him to go try it and after probation maybe give him some more money. Councilman Grubham said his concern is not with the money.

Councilman Weingartner said he has no problem with increasing Alan's salary from \$42,140 to \$45,740 because he has had zero experience being the head of it and there is the difference since John was the head of it for 22 years making \$53,000. He sees no problem not increasing all the way up to what John is making now. Alan has technical experience of being able to do the job, but not the guy in charge.

Councilwoman Yonchuk questioned if this shouldn't be an executive session discussion since it is about a particular person. Supervisor Kniffen said they are strictly talking about a job, job description and salary and that is public knowledge. Mr. Blaise said this is basically about the salary and salaries are open business. He said if they went into specifics about an individual they could go into executive session. Councilwoman Yonchuk noted a concern that they were headed in that direction. She said she has no problem with the salary increase but she questioned if the job title in the resolution is different from John's job title. It was noted that the titles are the same. She also questioned if they should consider making it a probationary appointment to that job. Supervisor Kniffen questioned if they ever hire anyone for a probationary period. It was noted that past resolutions don't actually state that but the question is, whether or not it is assumed. Mr. Blaise questioned what the Board thinks the meaning is when they refer to probationary. He said basically probationary means a person can be let go if they don't perform as expected. They should have no expectation of being appointed after a certain period of time. He said he does not think adding the word probationary gives them anything that they don't already have.

Supervisor Kniffen said he feels they should treat this like any other job. If they think the salary is fair and he's qualified and certified, if he doesn't work out, just like any other job the supervisor comes to the Board with the problem. He doesn't think they should anticipate this but assume he can do the job. He doesn't think anyone can say now that he can't do the job.

Councilwoman Yonchuk said she thinks one of the issues is, because Alan is a current employee, that no one wants to see a situation where if it turns out he doesn't want the job then he doesn't have a job. That is her concern. Supervisor Kniffen said they can't anticipate all this. Councilman Grubham questioned if Alan understands that if this doesn't work out for whatever reason that he doesn't have a job anymore because he can't go back to the other job. Supervisor Kniffen said if Alan decides he can't make it in the new job they would have no reason to get rid of the other person for no cause, they could get sued for that. Mr. Blaise said if he has Civil Service protection they can't, but if he is more of an at will employee you can. If he is Civil Service exempt, you can terminate someone's employment for a good cause or no

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cause, just not bad cause, for discriminatory reasons. He said his guess is this position is exempt, that they did not hire Alan or the new person off the list. An exempt classification can be dealt with as they please. John noted that Alan is Civil Service so Mr. Blaise said according to Section 75 rights they can only get rid of him for cause, unless he is considered exempt from Civil Service protection.”

Councilman Weingartner said he thinks it should be like any job, if you’re not doing the job... He said he understands what Supervisor Kniffen is saying, that they’re kind of damning him before he gets a chance to do the job, but you’re hired to do the job that you’re hired to do and if you’re having a difficult time doing it, you work with someone and get better and he thinks that is something that John, as his boss, would have to do, if that happens. He added there have been people with great resumes and they flop and other people do a great job because they have pride in their job. He said he thinks they are making a little too much of this but he thinks they should give him a chance. Supervisor Kniffen said if everyone is in agreement they will vote on it tonight at the special meeting. He will talk to Alan tomorrow to let him know there is always the possibility this won’t work out and he may not have a place to go. He added that if Alan has any confidence at all that won’t be a problem. Resolution.

3. Resolution appointing Alan Glover as Water/Wastewater Maintenance Crew Chief effective January 1, 2017 at a rate of pay of \$ \_\_\_\_\_ per hour. (12/27/16)

See discussion in item 2 above.

4. Resolution appointing Brian Kinney as Laborer effective January 3, 2017 at a rate of pay of \$15.50 per hour. (12/27/16)

Resolution.

5. Resolution, on recommendation and approval of the Code Enforcement Officer, pursuant to section 304.3 of the Mobile Home – Trailer Ordinance, authorizing the Town Clerk to issue license for the following mobile home – trailer parks, such license is for the year 2017: (12/27/16)

Southern Tier Mobile Home Park, 1794 US Route 11, Kirkwood, NY 13795

Owner: Robert and Mouna Hartley

Quilty Hill Mobile Home Park, 49 Quilty Hill Road, Kirkwood, NY 13795

Owner: Charles C. Tai

Kirkwood Mobile Home Court, Inc., 41 Loughlin Road, Binghamton, NY 13904

Owner: James and Charles Williamson

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Resolution.

6. Resolution authorizing Supervisor to enter into an agreement with Roger Studer d/b/a Studer's Body Shop & Garage, in accordance with the attached agreement. (GEK) (01/03/17)

Resolution.

7. Resolution authorizing Supervisor to enter into an agreement with Southern Tier Zoological Society, Inc., in accordance with the attached agreement. (GEK) (01/03/17)

The Town Clerk noted that in 2015 470 passes were given out and only 351 passes were given out in 2016. Councilman Weingartner said he thinks this has something to do with the lack of public relations for the zoo and with a new person coming in they might get more people interested in going to see it. Resolution.

8. Discussion – Amending the Building Code Fee Schedule. (01/03/17)

Mr. Blaise said currently on page 2234 of the Building Code Fee Schedule it reads “The fee for renewal of a building permit when construction has not been completed within one year shall be Five Dollars (\$5.00)”, and they want to change it to include “for every three (3) months”. Resolution.

9. Resolution reappointing Kevin Balachick to the Planning Board for a term to expire December 31, 2021. (12/27/16)

Resolution.

10. Resolution reappointing Peter M. Maciak to the Zoning Board of Appeals for a term to expire December 31, 2021. (12/27/16)

Resolution.

11. Resolution authorizing the continuation of petty cash for 2017, subject to audit by the Budget Director, for the following departments at specified amounts, pursuant to Town Law Section 64, Paragraph 1(2): (12/27/16)

Bookkeeper	\$100
Building & Code Inspector	\$100
DPW Commissioner	\$200 and \$35 for Water Department
Supervisor	\$200
Town Clerk	\$200
Town Justice	\$200

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Town Justice

\$200

Resolution.

12. Discussion – National School Choice Week – January 22-28, 2017.  
(GEK) (01/03/17)

Supervisor Kniffen said he received a request for a Proclamation supporting National School Choice Week, but historically whenever something like this is done it is by Board resolution. Councilman Weingartner said if this has anything to do with charter schools and vouchers he does not want to have anything to do with it. Councilwoman Yonchuk agreed. Councilman Grubham read that School Choice Week is celebrated across the country by millions of students, parents and educators to raise awareness of the need for effective educational options. Supervisor Kniffen will look into this before the next meeting.

13. Resolution appointing Jessica Kinney as Deputy Town Clerk, effective January 1, 2017 at a salary of \$7,097.00. (12/27/16)

The Town Clerk announced that after placing an ad in the paper for a new Deputy Town Clerk and interviewing a number of applicants, she would like to request that Jessica Kinney be appointed to the position. Resolution.

14. Discussion – Intermunicipal agreement for the Assessor's position.  
(GEK/ONB)

Supervisor Kniffen explained that Kirkwood has been without an assessor for well over a month because Dan Giblin retired. After the position was advertised and applicants were interviewed, a decision was made to work with the City of Binghamton through an Intermunicipal Agreement to use Scott Snyder as assessor. The committee that interviewed Scott were very impressed with him and Supervisor Kniffen said he is impressed as well. They have also received excellent feedback about Scott from outside the Town. Mr. Blaise has reviewed the agreement supplied by the City and a final draft has been submitted. Supervisor Kniffen said the Town's most recent assessor was receiving about \$33,000 a year. The new assessor will work in Kirkwood about 8 to 10 hours a week in addition to any hours on the City's time or vice versa. Both the City and Kirkwood took into account all the benefits involved, such as social security, retirement, health benefits, etc. He will not be an employee of the Town but there will be an Intermunicipal Agreement with the City of Binghamton, which the Town has had before with various municipalities. Kirkwood will pay them \$33,000 in 4 installments. He is currently working 35 hours a week in Binghamton at \$56,000 so they will raise him to \$70,000 for 40 hours a week, including his hours in Kirkwood. This is a 2-way positive. The City will actually save about \$15,000 and Kirkwood will save about \$10,000 by doing this. He said this is historic and they are always looking to do things better, especially with the tax cap, to save money and still do the job. By sharing in this case, each municipality is recognizing a savings. Mr. Blaise said the final draft is basically the same agreement that was introduced earlier in the month, there were no substantive changes. The Board will review the agreement prior to the next meeting. Marchie Diffendorf said they are paying the City

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\$33,000 for an average of 9 hours a week so that comes out to \$70.50 an hour. If he worked a 40-hour week for a full year it would be \$146,000. Supervisor Kniffen said that is what assessors get.

**15. Transfer of Funds. (12/27/16)**

Councilman Diffendorf questioned the last entry regarding the \$15,000 interfund transfer to water repair reserve from contingency. John Finch said this is being transferred to the reserve fund for repairs. They are trying to get that fund built back up after the repairs for well #3. Resolution.

**16. Discussion – Co-pays – Excellus BCBS. (GEK)**

Supervisor Kniffen explained that last year the insurance with Excellus changed once again. Not only do the premiums go up once a year they added the following co-pays:

Hospital Admittance	\$150
Emergency Room	\$75
Ambulance	\$75
Pregnancy Admittance	\$150
Inpatient Mental Care	\$150
Inpatient Substance Abuse	\$150
Skilled Nursing Facility	\$150
Hospice	\$150
Inpatient Physical Rehab	\$150

At that time employees were asked to contribute more to the insurance again so on this occasion the Town decided to absorb the co-pays. For 2017 they have increased the co-pays. The co-pays for 2016 totaled \$1,275 and with the increases for 2017 the total is \$2,200. That is not a large increase, but Kirkwood was one of the last municipalities to ask employees to contribute to insurance and even though they contribute, Kirkwood still lags behind what other municipalities ask their employees to contribute. The Town also supplements certain medical conditions and prescriptions by \$425 per dependent as well as absorbing the co-pays last year. Supervisor Kniffen said they have to put a stop to it. They always try to check to see what is available and different, always in mind to keep the cost down along with the quality of benefits. There may come a time when by trying to keep the cost down they won't be able to give as good a coverage as they would like. Councilman Weingartner questioned what the Board members thoughts are with keeping the reimbursement for co-pays at the same level as last year and the employee will pay the additional cost added in 2017. Supervisor Kniffen said he is suggesting they keep the co-pays at the current reimbursement levels. Councilman Weingartner said the total listed for all co-pays is irrelevant because there is no way to know how many people will use the co-pays each year. Councilman Grubham questioned how this would work with the Teamsters Agreement. Supervisor Kniffen said it is spelled out in the agreement that the Town will pay the co-pays as listed for 2016, so that won't be a problem because they are not changing that. He added that it doesn't read that whatever the co-pays are the Town will cover, it specifies the amounts they will cover. It was noted that currently employees pay 9% and this is in the agreement as well. Councilwoman Yonchuk questioned if



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the insurance company notifies the employees of these changes, noting that the Town should if they do not. She wouldn't want someone to be blindsided by this. Mr. Blaise said he would assume Excellus would have to advise everyone of the changes for the coming year. He added that in the agreement it was negotiated that the Town would cover x dollars, and they wouldn't want to give that up for bargaining reasons. Supervisor Kniffen said they will send out a memo. He did note that in regard to emergency room care, 4 employees used it a total of 8 times last year. Councilman Diffendorf questioned if it has been determined how many of the other services were used, because if it was only \$750 he doesn't think that is a lot. Councilwoman Yonchuk suggested for budgeting purposes they should track these over 3 years. Then when they go into the next negotiation they will have a better handle on what the amount of money involved is.

17 Discussion – 2017 Expenditure of Highway Moneys. (JAF)  
(01/03/17)

John Finch provided the Agreement for the Expenditure of Highway Moneys for 2017 but noted page 2 is missing regarding information for Page Ave. The road is 300 feet and the cost will be \$3,258. Councilman Grubham questioned if they charge per lineal feet for stone and oil. John said that is how Sue figured it to get the price per lineal foot. He said it is based on the tons of stone and distance. It is a combined number, they are not just working with tons. He noted that although the width of the roads vary a little, the average is 20 feet wide. Review prior to resolution for 1/3/17 agenda.

18. Audit of Claims.  
(12/27/16)

Resolution.