

**TOWN OF KIRKWOOD  
TOWN BOARD MEETING**

**February 7, 2017**

A regular meeting of the Kirkwood Town Board was held on February 7, 2017 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  
John A. Finch, Jr., Commissioner of Public Works  
Marchie Diffendorf, Planning Board Chairman

**PLEDGE OF ALLEGIANCE:**

**APPROVAL OF MINUTES:**

January 3, 2017 Town Board Meeting

**PUBLIC PARTICIPATION:**

Roy Tondeur of Kirkwood Avenue addressed the Board regarding the brush and leaf pick-up programs. He said he is aggravated because when John Finch made the proposal to reinstate this and do it within the budget this year at no extra charge, he got the feeling that John was being ridiculed. He said it seemed so ridiculous that the Board was finding negative things to say for what would turn out to be a free service for this coming twelve months. John ran for the position he now holds and it was quite clear to the majority who put him in office that he intended to reinstate these programs and that by itself should be reason enough to give this some serious consideration. He said these were the reasons given for not reinstating the programs: The damage to Councilman Weingartner's driveway. Roy said he is sure the Highway Superintendent doesn't want his crew damaging the driveway, but to eliminate the leaf and brush pick-up just because his driveway got damaged would be like Roy requesting no snow plowing in Kirkwood because they took out his mailbox once. The second reason is imported items to be picked up by Kirkwood. Roy said he can't speak for Pennsylvania, but he doesn't know of any small community that adjoins Kirkwood that doesn't provide this service already and many of them pick up weekly, with phone-ins from residents in many cases. If the Town can go to Boland's and dispose of a large truckload of brush or leaves at a charge of \$15, Roy questioned why anyone would drive across the border to dump it in Kirkwood for Kirkwood to pick up; that it doesn't make any sense and he doesn't think there is any evidence that it does take place. Councilman Weingartner said he doesn't believe he referred to imported items. He said people were clearing lots. Councilman Grubham said he brought that up back when they were providing the service 15 years ago. Back then other towns were not picking up brush, although they are now, and at that time Kirkwood was getting brush from other towns, particularly Conklin. Roy said in September of 2010 Supervisor Kniffen made the statement that the Board was saving \$90,000 and one of the items included in the savings was the discontinuation of the brush pick-up, so that's why he thinks it was discontinued in 2011. He said he brought that up because Councilman Weingartner said in the 12 years he's been on the Board he thinks only 6 people have spoken to him about the lack of the service. Councilman Weingartner said it was no more than 6. Roy said if he is correct that it was discontinued in 2011, for 50% of the time that Councilman Weingartner has been on the Board why would they approach him about a service that they were already given. After Councilman Weingartner championed the cause to cancel it and convince the Board to go along with him, Roy said on the day following the Courier coming out 8 days after the meeting, he got more than 6 calls with concerns about the Board's decision. He said when he explained that Councilman Weingartner lead to the charge to discontinue the service, why would they contact Councilman Weingartner to complain. Councilman Weingartner questioned why they wouldn't contact him. He said if someone wanted to call him they certainly had the right to. His said he remembers going down Johnson Road and seeing 3 lots cleared and everything at the road for the Town to take away, and the same thing on Trim Street and

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South Sunset. He questioned why the taxpayers should pay when other people have someone come in to clean their lot. Roy questioned why the program wasn't modified at that time and Councilman Weingartner responded because the person in charge at that time had no problem with saying they wouldn't continue doing it. Roy said the last reason that was brought up by several people is the cost and John was quizzed about every expense that it attributed to this such as use of equipment, man hours and every other expense including the medical. He said someone is losing sight of the fact that the equipment and employees are there to give a service to Kirkwood taxpayers. He thinks it's disingenuous to talk about the cost of the service to the taxpayer when the majority of the Board had no trouble at all giving Herb Kline a golden package in addition to the insurance that the taxpayers pay for his pension and medical benefits. He said when the majority voted for it, according to 3 Board members, they had no idea that it would cost over \$18,000 annually. When John puts all the costs together he doubts it will come close to that amount. He noted that this was given to someone that doesn't pay taxes in Kirkwood. This program would give taxpayers a service they desperately need. Next year if the Board decides the cost of the service is too high, they should consider that the service hasn't been offered since 2011, the cost should be divided by 5 because they haven't been spending it for 5 years and people have accumulated brush. It wouldn't be unreasonable to add more for pick-up this year than they would have if they had been picking up regularly.

In defense of the Board, Supervisor Kniffen said he thinks last week's discussion on the leaf and brush pick-up was one of the best moments of this Board because it was a fair, balanced, honest and sincere discussion. He said although Roy didn't necessarily hear what he wanted to hear, it ended up in his favor, which is a big thing for Roy. In regard to Roy's statement that the money not spent on this service has been saved for the past 5 years, Supervisor Kniffen said everyone should remember the tax cap and rebate checks and how they were able to do that. He said they can't keep taxes lower and spending up to give people what they want, because they have to pick and choose. Supervisor Kniffen noted that he has said time and time again that with all this comes sacrifice for all Kirkwood residents. He said the expense of Mr. Kline's benefits is about \$14,000 and he is the only one in this room that had to go face to face with him, who meant so much to this Town, a man who said to tell him when he's failing. He said this is all of the taxpayers' money and he thinks it's a small reward for what that man did and now is in a nursing home. He questioned where Roy's emotion is for Mr. Kline. Supervisor Kniffen added they cannot stand to have their health insurance go up about 12% to 14% a year and not do something more, by having employees and retirees contribute more and finding better insurance. They have tried to do this and he thinks they've done a good job every year. If they didn't do something back in the 1990's with regard to benefits, at which time people at 55 years of age with 5 years of employment got health insurance paid forever, they would be bankrupt today. This Board has responded and has made it tougher with the requirement of retiring at 62 and only 3 years of health insurance with at least 20 years of employment. He said this is being proactive. Roy responded that he is only dealing with one issue, he's not into solving the problem of medical costs.

Councilman Grubham said when he first came on the Board there was a line item of \$25,000 to pick up the brush and leaves before it was eliminated. He thinks that happened well before 2011. He said he is in favor of going ahead with the service but there is always a cost to do everything. He doesn't know if \$25,000 is going to cover it all now. He said Councilman Weingartner was right in requesting that they find out what the cost is when they do it, which is what they should do for every project. He said they are taking \$28,000 out of the CHIPS money, which means some roads won't get done because they need money to buy the equipment. This was taken out of the budget because they were trying to get the over-all cost of the budget down because of the tax cap. He added that if sometime the budget goes up and taxes get higher Roy should remember this.

Roy questioned where Councilman Grubham thinks the leaves that haven't been picked up for the past 5 years have ended up. Councilman Grubham said he now mulches them, which is what you are supposed to do. He said environmentalists want everything mulched and if that were the case there wouldn't be leaves to haul away. He said he would like to know how many properties they go to and pick up leaves and brush from so if adjustments are needed they can be made.

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**COMMUNICATIONS:** None.

**COMMITTEE REPORTS:**

**Tackle Football.**

Councilman Grubham reported that the NYS Legislature is contemplating passing a law that will not allow tackle football to be played by kids under the age of 13. He said Kirkwood had one of the finest programs around for a lot of years and they lost it because everyone wanted to go to tackle football and now they may pass a law disallowing it.

**Solar Meeting.**

Marchie Diffendorf reported that a Solar Committee meeting will be held tomorrow at 3:00 PM at the Town Hall.

**Justice Court Audit.**

Supervisor Kniffen reported that the NYS courts audit bureau did an audit of our courts for all of 2015 to September of 2016. They have a report on that audit and will be interviewing him and the two Justices on Thursday.

**Shared Services-Governor.**

Supervisor Kniffen reported that Governor Cuomo is saying that municipalities should be doing more with shared services, and not only do that, but whatever they come up with it should be put on the ballot to be voted on. The new Broome County Executive has put together a committee in this regard. In the past it has been a consortium of mayors and supervisors, the people who manage the money and are trying to be good stewards, but this time they only went to one supervisor and the rest of the committee is retired politicians; people that don't deal directly with budgets and people. He said he was disappointed that the resources that have knowledge are not used to save time and get to the goal a lot sooner. Since then Kirkwood and the Town of Binghamton have been added to the committee. He added that it's getting tougher all the time to meet the tax cap and sharing services.

Councilwoman Yonchuk questioned if voting on shared services is something that is going to be an executive order mandated by the Governor's office. She said she sees this as bottling up the process. Councilman Grubham said he thinks it is part of the budget request that has to be voted on by the Legislature. Mr. Blaise said there are very few things that the State law permits the Board to delegate to the voters for direct votes. It is not uncommon that requests come in from residents for a vote but the law doesn't allow that because the Board wouldn't be able to function effectively if every decision they have to make would be put to the voters. Councilwoman Yonchuk said earlier on when they would discuss projects that could be shared services, there are times when it's foreseeable, especially in smaller towns, that people might not see the benefit because of the way it's always been done.

**Sales Tax.**

Supervisor Kniffen reported that they have been suffering over the past few years with the economy being on the downside. They put \$1,238,000 in the budget for sales tax revenues and it actually came in at \$1,285,000, which is good news for everyone.

**OLD BUSINESS:**

Councilwoman Yonchuk moved to adopt resolution accepting the Recertification of the Record of Activities for Cynthia French, Dog Control Officer, James R. Smith, Budget Director, and Christina Radicchi, Recreation Supervisor, in accordance with the attached recertification. Councilman Diffendorf seconded.

28-17  
Recertify Hrs  
Various  
Retirement

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

MOTION CARRIED.

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29-17 Councilman Diffendorf moved to adopt resolution establishing the attached as the Standard  
Estab. Work Days for Town of Kirkwood Employees, in accordance with the attached Standard  
Employees Work Day Resolution for Employees. Councilman Grubham seconded.

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

MOTION CARRIED.

30-17 Councilman Grubham moved to adopt resolution establishing the attached as the Standard  
Estab. Work Days for the Supervisor and the Town Clerk, in accordance with the attached  
Work Day Standard Work Day and Reporting Resolution for Elected and Appointed Officials.

Supervisor & Councilman Weingartner seconded.  
Town Clerk Retirement  
Roll Call Vote: Councilman Weingartner - yes  
Councilman Grubham - yes  
Councilwoman Yonchuk - yes  
Councilman Diffendorf - yes  
Supervisor Kniffen - yes

MOTION CARRIED.

31-17 Councilman Weingartner moved to adopt resolution pursuant to Not-For-Profit  
Approve Corporation Law Section 1402(c)(3) approving the Membership Roster for Fire Mile Point  
5-Mi Pt Fire Five Company, with the understanding that the members so approved will be assigned for  
Membership which they have been qualified, in accordance with the attached roster. Councilwoman  
Yonchuk seconded.

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

MOTION CARRIED.

32-17 Councilwoman Yonchuk moved to adopt resolution pursuant to Not-For-Profit  
Approve Corporation Law Section 1402(c)(3) approving the Membership Roster for Kirkwood Fire  
Kirkwood Fire Co Company, with the understanding that the members so approved will be assigned for  
Membership which they have been qualified, in accordance with the attached roster. Councilman  
Diffendorf seconded.

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

MOTION CARRIED.

33-17 Councilman Diffendorf moved to adopt resolution authorizing the purchase of four (4)  
Purchase Heaters for the Highway Garage from Evans Mechanical, at a cost of \$9,970, which  
Hwy Garage includes installation and prevailing wages. Councilman Grubham seconded.

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

MOTION CARRIED.

34-17 Councilman Grubham moved to adopt resolution Authorizing the Commissioner of Public  
Exp. Funds Works to Expend Funds From the WS – Capital Improvement Reserve of the Town of  
WS Capital Reserve Kirkwood, Subject to Permissive Referendum, in accordance with the attached resolution.  
Councilman Weingartner seconded.

**Discussion:** John Finch said the cost for lead abatement includes prevailing wage rates.

Roll Call Vote: Councilman Weingartner - yes  
Councilman Grubham - yes

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Councilwoman Yonchuk - yes  
Councilman Diffendorf - yes  
Supervisor Kniffen - yes

MOTION CARRIED.

Councilman Weingartner moved to adopt resolution amending the Town's Highway Inventory, to include Nina Drive, Vernon Drive, Track Drive, and Maple Drive, in accordance with the attached resolution. Councilwoman Yonchuk seconded.

35-17  
Amend  
Hwy Road  
Inventory for  
CHIPS

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

MOTION CARRIED.

Councilwoman Yonchuk moved to adopt resolution authorizing Brian Kinney to attend the Grade C Water Treatment Distribution Operator Certification Course on April 17-21, 2017 at a cost of \$550, with all reasonable expenses paid, in accordance with the Reimbursement Policy for Employee Training Expenses. Councilman Diffendorf seconded.

36-17  
B. Kinney  
Education  
Grade C  
Water

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 authorizing SCADA Software Update at a cost of \$5,290, Stratmill Booster Station Control System Replacement at a cost of \$7,580, and Corporate Drive Pump Station Monitor at a cost of \$2,375, with work to be done by SCADATEK, Inc., in accordance with the attached quotes. Councilman Grubham seconded.

37-17  
SCADA  
Software  
Update –  
Water

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

MOTION CARRIED.

**Discussion – Post Office Lease.**

Held.

**NEW BUSINESS:**

Councilman Grubham moved to adopt resolution approving the request from Renegades Sports Pub, Inc., for a waiver from the Town of Kirkwood from the 30 day waiting period regarding their liquor license application. Councilman Weingartner seconded.

38-17  
Liquor Lic  
App Waiver  
Renegades

**Discussion:** Councilman Weingartner questioned if the 30-day waiting period isn't normally to try to figure out who the new owners are, check out their previous establishments, etc., noting this is from Rochester, and it doesn't say who the new owner is. Mr. Blaise said by State law there's a 30-day notice period that someone who is applying for a liquor license has to give to the municipality in which the liquor license is going to be used for all the reasons Councilman Weingartner mentioned, and if the municipality has any concerns they can bring it up to the liquor control board. This is a request to waive that, presumably so that they can get their license and get up and running sooner. Jim Bingham, from Rochester, is their representative in the liquor license application. The law permits attorneys or designated representatives to shepherd an application through the liquor license process which is actually quite complex. There is a niche of people who are familiar with the liquor control requirements so they are hired to help people get through that process. They are basically just asking for the 30-day waiting period to be waived to they can open up faster. He noted the Board does not have to do this. Councilwoman Yonchuk questioned if they have ever done this before, questioning why they should give someone an exception to a legal requirement. Mr. Blaise noted it is a

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permitted exception. As far as anyone on the Board knows, they have never been asked to waive this before. Councilman Weingartner noted this is the building behind the bowling alley on Route 11. Councilman Grubham said his understanding from the Code Officer is this is four retired cops from NYC and a couple of them live in the Harpursville area. Mr. Blaise said if you google 30-day wait period liquor license New York State, a lot of towns across the state come up and you can find resolutions in minutes where other towns have done this. Councilman Weingartner said it's the liquor board's responsibility to vet these people and Mr. Blaise said the bureau office that is considering this wants to give the local Board the opportunity for input if they want it. He explained if the Board passes the resolution the Town Clerk will send Mr. Bingham a copy of the minutes showing that the resolution was passed waiving the 30-day waiting period and then he will submit that with their application package to the liquor board. This is just saying to the liquor board that they don't have to wait 30 days for comments from the Town Board. Councilman Weingartner said he's alright with it since it's a bar that's been existence for quite a few years and it would be different if it was a bar going up somewhere different, then it would be something he would like to investigate more. Councilman Grubham said he doesn't know why they are even involved in the process. It goes to the State liquor board and the only thing they could do is hold it up. Mr. Blaise said the theory is it the Board members are the ones on the ground that could provide input if there were concerns about the owners. It was noted that the Town is only notified when someone is applying for a new liquor license, not when they apply for renewals.

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

MOTION CARRIED.

**Garbage Collection.**

Supervisor Kniffen reported that John Finch has been very aggressive since he took over the position of Commissioner of Public Works and recently went out for bids for garbage collection. As a result John said the Town will be saving just over \$1,700 a year for garbage collection for the parks and the dumpsters. Councilman Weingartner questioned if they should go out to bid for rent-a-johns for some additional savings. Councilman Grubham said he is not against that but basically they all cost the same, noting that he uses them for his business projects. He also noted that they have such a business located in the Town and he doesn't think there would be much savings involved and it might be best to stay with the person that pays taxes in the Town.

**Discussion – Kasmarcik Property.**

Supervisor Kniffen explained that after all the Town has been through with this property the County is now taking it over for taxes and Mr. Kasmarcik is stripping the building. He said they have talked to Dave Hamlin and when the County takes it over they can give ownership over to the Town. He said in talking to the Land Bank, who does take properties like that and removes the buildings for economic development at their own cost, they suggested that instead of the County assigning it to Kirkwood they could assign it to the Land Bank. That way Kirkwood would not have the risk of it coming to Kirkwood and then if the Land Bank doesn't get approval to remove the building, Kirkwood would still be left with the building. Supervisor Kniffen and Mr. Blaise are going to meet with Margaret Scarinzi to discuss this further and hopefully it will be a good decision on the Board's part to prevent another eyesore in the Town of Kirkwood. Mr. Blaise said alternatively what would happen is once the County forecloses on it they would put the property up for auction but the downside is, someone could buy the property and not turn it around so the Town would end up with the same running battle that they've had with the current and previous owners. Because of the way the property is situated, where the building sits on the lot, the development possibilities for it as it currently exists are limited. The Land Bank will want to explore what economic development plans might be for it if the Town took it over. In addition to demolition, Mr. Blaise said possibly one of the neighboring property owners would want it if it was cleared to put up a storage facility or additional parking. If anyone has any other ideas it would be helpful for their meeting. Councilman Diffendorf questioned if he is correct in assuming if the Town buys it for \$1

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then the Land Bank might not tear it down. Supervisor Kniffen said one positive is that it is early in the next cycle and this is one of the first properties to be considered but there is no guarantee they will get the money to remove the building. Mr. Blaise said the Land Bank will try to determine what the greatest economic use of the property is while staying within zoning, etc. He said the County can give it directly to the Land Bank, and he doesn't think it matters to them whether it comes to Kirkwood or the Land Bank, even though normally it would go out to auction. He said they can pull it off the auction roll but his experience is that they will be very deferential with the Town. It was noted that this is only the big building where the fish store was. Councilman Grubham said the State has a huge easement making it almost worthless to most people. He said it is astounding to him that someone cannot pay the taxes for years and literally wreck the building by removing all the windows, doors, roof, etc. and leave only a shell of a dump that no one can do anything with.

**Discussion – Brush and Leaf Pick-up.**

Supervisor Kniffen explained that since the brush and leaf pick-up didn't monetarily affect the budget a resolution is not required to approve it but he drafted a resolution in support of the Highway Department's choice to provide this service for the Board's consideration.

Councilman Diffendorf moved to adopt resolution supporting the Highway Department's decision to provide brush and leaf pick-up in Kirkwood once a year initiating in 2017. The Town Board also acknowledges the Highway Department's statement to the Town Board that this project will not negatively impact the Highway Department's budget or result in an increase in the highway tax rate relating to this project this year or any future years. Councilman Grubham seconded.

39-17  
Support  
Brush/Leaf  
Pick-up –  
Hwy

**Discussion:** Councilwoman Yonchuk questioned if when John Finch presented this he said it would not impact the budget in future years. John responded that he said he would come back with the cost and if the Board would like to help out he would appreciate it. He said he would not be looking for an extra line item.

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

MOTION CARRIED.

**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 3, 2017, all in accordance with the abstract of claims on file in the Town Clerk's Office. Councilman Weingartner seconded.

40-17  
Audit/Pay

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

MOTION CARRIED.

**OTHER:**

Councilman Weingartner moved to adopt resolution to adjourn this meeting to conduct an Executive Session to address matters concerning collective negotiations pursuant to Article 14 of the Civil Service Law, as provided for by section 105(1)(e) of the Public Officers Law. Councilwoman Yonchuk seconded.

41-17  
Exec. Sess.

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

MOTION CARRIED.

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**ADJOURNMENT:**

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

MOTION CARRIED.

Meeting adjourned at 7:55 P.M.

Respectfully submitted,

Gayle M. Diffendorf  
Town Clerk