

TOWN OF KIRKWOOD WORK SESSION

October 30, 2018

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 A. Finch Jr., Commissioner of Public Works
James Smith, Budget Officer
Marchie Diffendorf, Planning Bd. Chairman

1. **Discussion – Public hearing scheduled for November 16, 2018 at 12 noon by The Agency for L-3. (GEK)**

Supervisor Kniffen reported that L-3, which has been in the old Link Building for many years, is moving to another site in Kirkwood and with that comes another PILOT. Although we are not negotiating the PILOT it doesn't mean we can't go to the public hearing and voice our questions and concerns. Possibly they might change something. We recently had the opportunity to negotiate the PILOT with Buckingham and get our terms. He noted that the Town's Assessor, Scott Snyder, is doing a great job, that he actually did all the numbers on the PILOT.

Scott Snyder explained that The Agency requested an assessment produced from income and expense information as part of the criteria to do this evaluation for a base, for what this PILOT means to the Town. The current assessment is \$1.74 million and that will not change. The revenues that are produced from that amount will continue to be received. In the Standard PILOT they requested, the first five years are frozen at \$1.74 million. The \$3.7 million is the assessment I produced from the information provided so for the next 5 years the \$1.74 million stays in force with 50 percent of the increase of \$1.960 creating a levy assessment of \$2.73 million. That will remain in effect for those five years. The remaining 5 years of the PILOT are at 25% of the increase which is \$1.74 million plus 75 percent of the \$1.96 million which is a levy assessment of \$3.215 million. 2035 is year 16 and it comes out of The Agency and back on the Roll Section 1.

Councilman Diffendorf questioned what the first five years are for the Buckingham PILOT. After a little research it was determined that it's 40 percent for the first five years of the 15-year agreement, for the new addition. Scott Snyder said the difference is that these two facilities are different sizes, that this building is almost twice the size. The schedule that was produced for Buckingham was not a standard PILOT, but a deviated one. Both of them are similar because the base amount is the previous assessment, so we are going forward with increases, not

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starting with a deficit. Councilman Diffendorf said we should try to stay uniform in our PILOT agreements. Scott said the function of uniformity would be nice but individual tenants are the owners based on financial needs or just requests made through The Agency that come to us. Councilman Diffendorf said he does have a problem with the zero abatement. Scott said in the standard format he doesn't have the option of changing that. It's a function of the law that The Agency has at its disposal. Councilman Diffendorf questioned what our options are. Supervisor Kniffen said we would go to the public hearing and ask. In the end they can do what they want. Councilman Diffendorf said he would like to attend on November 16th.

2. **Resolution ratifying a resolution authorizing the Supervisor to enter into a Memorandum of Understanding with Teamster Local 317 regarding requiring contributions for health insurance into retirement, in accordance with the attached MOU. (GEK)**

Supervisor Kniffen explained this involves the Board's decision that those who are eligible for health insurance into retirement start contributing towards the premium. At that time the Union was against it but they have since changed their minds so an amendment to their CBA is required. Resolution.

3. **Resolution ratifying a resolution authorizing the Supervisor to enter into a Memorandum of Understanding with the Broome County Land Bank regarding the demolition of 1080 US Route 11, in accordance with the attached MOU. (GEK)**

Supervisor Kniffen explained that the Land Bank is going to tear this down at their expense and a resolution will be needed to ratify it. Resolution.

4. **Resolution ratifying a resolution authorizing the Supervisor to enter into an agreement with Danziger & Markhoff, LLP to perform GASB #45/75 actuarial services for post-employment benefit program, in accordance with the attached agreement. (GEK)**

Mr. Smith explained GASB is the Government Accounting Standards Board and they came out with an overhaul to their post-employment benefit calculation which is an actuarial rendition of liability expressed for all future benefits that any municipality or school district is embarking on when they make payment that promises to go into retirement. They have made it more sophisticated requiring an actuarial to do it. His firm was doing it based on an old template but things have been changed and it's beyond his firm's internal capabilities. His firm has consulted with Danziger & Markhoff in the past and they were capable and easy to work with. The cost is \$3,000 and it is required to be done. Resolution.

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5. Discussion – Repairs to the Covered Bridge. (GEK)

Supervisor Kniffen explained that the covered bridge was damaged during the flooding and we are going ahead with getting it repaired. We have some money left over from repairs to the salt barn, there may be some insurance coverage and it may be covered by FEMA. A citizen wrote Supervisor Kniffen a letter with a concern that a permit may be required by DEC but we were advised as long as we don't get in the creek itself it would not be needed. Nothing will be needed from the Army Corps of Engineers either. One of the concerns noted was that the I-beams that are attached to the concrete aren't attached to the bridge itself. John Mastronardi initially said it should be but he will get back to Supervisor Kniffen in a day or so with a definite answer. Supervisor Kniffen will respond to the letter as soon as he has all the information.

6. Discussion – Keesler. (GEK)

Supervisor Kniffen reported that the Keesler family lives at 11 Dennis Street and some water got into their fuel supply as well as other damage due to the flooding. There is a Town pipe that goes through their property and they feel some of the damage is the Town's fault. This was submitted to their insurance company but they didn't pay all of it. The question is if we should submit it to our insurance company or just pay it because it is minimal.

John Finch explained that according to Mr. Keesler there are two sections of pipe that run through his property. The upper section was replaced when Dick Jones was in office and apparently he told them he was going to replace the bottom half, but that never happened and it subsequently did not happen after Ray Coolbaugh said he would replace it. John said he was made aware of the issue earlier in the season but we did not get it replaced yet and then the flood happened. He is not sure what the condition of the pipe is but from what Mr. Keesler said it was rotted out. That certainly could have led to the water going into the basement. When FEMA comes out in the middle of November he will see if they will help with the replacement of the piping and if they don't we will still have to replace it. John is not sure but he thinks there is an easement there. Mr. Blaise said it would be strange to think that line is there without an easement. John clarified this is at the intersection of Dennis and Hillside right where it goes over the bridge, you go straight and there is a sharp corner and his house is a brick house to the left. What happens is the water from N. Sunset, at the catch basin there, goes through his yard and then down to another catch basin at the entrance to his property and then on from there. It's in the area of another house where the foundation collapsed from all the water. Councilman Diffendorf said although he feels for these people, he doesn't see how we become responsible for any of this personal damage. Mr. Blaise said he doesn't know whether we are or aren't responsible. The question of the claim was kicked to Pat Regan and we asked him if we should submit it to our insurance. Pat responded that the amount they are claiming is small and you may not want to put in a claim, but just pay it. Mr. Blaise said he can see the Keesler's argument as to why it would be the Town's responsibility, that it's clearly our storm sewer that is running through there, representations have been made to them that it would get replaced, part of it had been replaced and it looks like the part that wasn't replaced is the spot

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where water overflowed right next to their house and went into their house and into their fuel. He could come up with arguments why it is not our responsibility, but there is no clear cut answer. At the end of the day it is \$3,000 or \$4,000. Councilman Diffendorf noted a concern that this would be opening Pandora's box. Once that happens then the neighbor next door has damage and it goes on. Mr. Blaise said we have worked on these claims before that we've denied and he cited instances where we were successful. You have to look at these on a case by case basis and for this one they do have one of our sanitary sewer lines running right down their property about 40 feet from their house. It was noted this isn't sanitary, it is storm water and Councilman Diffendorf said that's a big difference, that you can't control storm water. If it was sanitary we would be responsible because it is supposed to be a closed line, but we cannot control five or six inches of rain. Councilman Weingartner said the pipe is ours and we fixed half of it but not the other half and questioned if that is the same thing. Councilman Diffendorf questioned why there is an enclosed pipe there instead of a ditch and suggested that many times the property owner does not want a ditch so the Town puts a pipe in and it always causes a problem. Although the property owner has a beautiful lawn with no ditch, when it floods and backs up somehow it comes back to the Town. John said he doesn't know if that was the reason and it possibly still would have happened with a good pipe in there. Supervisor Kniffen noted that there is no deductible with our liability insurance. Councilman Diffendorf said he doesn't think we should get into these types of situations. Councilman Grubham said we shouldn't go on the property if we don't have an easement. We need to find that out first. Mr. Blaise said if we go on with this we want an easement and a release and it's the Board's call as to how to respond. For discussion at next week's meeting. HOLD.

7. Discussion – New York State Volunteer Firefighter Cancer Benefit Program. (GEK)

This was discussed during the Preliminary Budget Public Hearing with the additional note that the \$9,000 in the budget is for both fire companies, they each get reimbursed for what they actually pay.

8. Discussion – Town Historian Position. (GEK)

Supervisor Kniffen said that Katie Legg actually did the Town a favor when she took over this position and has indicated from time to time that she would like the Board to find someone else to fill the position. Mrs. Demarco is interested and will be applying for the position, but we have to advertise. Resolution.

9. Resolution scheduling a Public Hearing for November 27, 2018 at 6:00 PM on the Year 2019 Water & Sewer Budget.

Mr. Smith said the Water & Sewer Budget should be available in about ten days. Resolution.

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10. Resolution scheduling a Public Hearing for November 27, 2018 at 6:05 PM on the Year 2019 Fire Contracts.

Resolution.

11. Discussion:

A. Code Truck – New/Used/Lease

John Finch stated the code truck is an old DPW truck, a Chevy Silverado that is having a lot of issues; check engine light, barely passed inspection, door handle broke, etc. It needs to be upgraded because it is costing us a lot of money and John presented a number of options.

Lease.

GMC Canyon, which is a mid-size truck at \$35,000. John said he is not in favor of this, it would be \$1,060 a month for three years.

New Purchase.

2019 Chevy Silverado double cab for \$27,000.

Used Vehicles - Auction.

John said used trucks are very expensive, noting that a 2011, which is only a year newer than the code truck with 87,000, sold for \$11,400. A 2015 Chevy Silverado with 17,000 sold for \$26,000 which is only \$1,000 less than the cost of a 2019 truck.

NYS Vehicle Market Place.

John said he recently found out about this new bidding process. You go on the site and enter all the municipal information and what kind of vehicle we want and they do all the bidding by submitting the information to all the companies that have the NYS pricing and come back with their offers as to what they will sell the vehicle for. We would get anywhere from one to five or six dealers bidding. To get an idea of what their prices are, John submitted a request for a mid-size truck, like a Canyon, Ranger, Colorado, Tacoma, anything that's a mid-size that any of the bidders can bid on. He noted that Code does not need a full-sized truck. He added that usually it's a five-day turnaround on the bids but he requested a three-day turnaround so he could get the prices back by Monday. As to how to pay for it, Mr. Smith said he just was presented with this and would have to give it some thought. Councilman Grubham requested that John provide the repair bills for the old truck for the past year, although he basically thinks it's a good idea. It was noted this would come out of General Fund. John added that the last time a truck was purchased for the Code Department was 2002.

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B. Sander for Truck #25

John said we sold some pieces of equipment that were flooded, with the Town of Binghamton buying a couple of old sanders, paying more than what they were listed for on the auction site. We also received reimbursement for one of the sanders that was flooded. He is planning to purchase a new sander at a cost of \$550 to replace the ones that were flooded. This will come out of funds for flood reimbursement. None of this will be coming out of equipment. People were made aware that the equipment was flooded.

Dog Truck – Eliminate (JAF)

John explained that the dog truck is just sitting there at Cyndi French's house and she only put 175 miles on it last year. It's costing us more to maintain it than it's worth. It was already rotting before we gave it to her and it's getting really bad. He and Cyndi talked about it and their idea is to provide her with a truck if she needs it in the middle of the night by providing her with a key to the parts truck or the new code truck. We can share a truck with her that will always be here where she can get at it and she can leave her dog control equipment under the Code Building. We wouldn't be paying insurance or for maintenance on a vehicle that is only driven 175 miles a year. John said Cyndi is fine with this arrangement.

12. Discussion – Auctions International: Selling Truck #35, 2 sanders, flooded forklift, 4 inch suction pump, and (2) 10 foot Boss Plows for truck #35. (JAF)

John Finch reported that we are selling the old truck #35 on Auctions International and it's at \$6,100 right now with nine days left on the auction. The amount we get will go back into the equipment line towards the purchase of the new truck.

13. Discussion – Fairview Avenue Improvements. (JAF)

John Finch said the progress on this project is going very well. We discussed the options with Federal Highway at a meeting last week. Federal Highway is going to be paying 100 percent of the work to put the road back to pre-flood condition at an estimated cost of \$827,000. This was part of the money that Mr. Smith set aside for the work that we thought would be through FEMA and later found out it would be Federal Highway paying for it. There is an issue at the intersection of Fairview, Popes Ravine and Hiner Road, with a 4 ½ foot pipe that goes under the road. That was the main contributor as to why the road washed out. The pipe was plugged with debris and all the water went over on Fairview, washed it out and caused the whole catastrophe down there. John asked Federal Highway if we can upgrade the pipe to a 6 foot by 6 foot box culvert. In order to do that we would have to have Griffiths Engineering do a hydraulic study of the creek to see if it warrants going to a box culvert or if that pipe will not be able to handle the water coming down off that hill. The hydraulic study would cost \$2,160 and if it is proven it would warrant a box culvert, Federal Highway will pay 80 percent of that and we would be responsible for 20 percent. If we do the study and it is determined the pipe is fine the way it is then we would have to pay the full \$2,160 for the study. If we do that study and it

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does warrant a 6 foot by 6 foot culvert, the cost of which is \$240,000, Federal Highway would pay 80 percent of that and we would be responsible for 20 percent, about \$51,000. John Mastronardi's total would be \$16,600 for the hydraulic study plus all the culvert site design and reimbursements and we would have to pay 20 percent of that. Federal Highway said if it warranted they will guarantee they will pay 80 percent of that price. Supervisor Kniffen said John Fitzgerald of DOT was at the meeting and thought that putting in the box culvert would prevent a re-occurrence of the flooding. John Finch verified that if we don't do it and it does flood again and again Federal Highway will pay 100 percent to fix the road. In questioning whether or not we should do this Supervisor Kniffen added that the neighbors in the area don't want to be flooded again. Councilman Grubham said he is trying to figure why Federal Highway would keep paying to fix the road and they wouldn't help us out more on the culvert. John said they call it "betterment" which they will only cover according to their rules at 80 percent but they will cover 100 percent for "emergency" work. After additional discussion it was decided to have the hydraulic study done as the first step in the process. In response to Councilman Diffendorf, John said he does not know why the federal government doesn't use their engineers on this.

Mr. Smith said he did some exploratory discussions with Municipal Solutions regarding bonding for the box culvert, Bond Anticipation Notes specifically, and there's a criteria. When you get over \$1 million in total you're back doing one of those official statements which is very involved. An alternative is if you can carve these things into projects and borrow \$900,000 for Fairview and \$900,000 for FEMA, you could do two closings and two BANS and keep them separate and avoid the official statement protocol. In January 2015 we submitted \$90,000 for Foley Road, which was a major FEMA project and we just got a letter indicating they are going to pay that, so we've been waiting for a check for over 3 ½ years.

Discussion – Johnson Road. (JAF)

John Finch reported that the pipe keeps settling on Johnson Road where they are doing all the work on the edge of the road. The cost to replace the crossover pipe is \$57,600. Although FEMA won't be here until mid-November, John explained to them that the crossover pipe was damaged and it keeps settling and it needs to be fixed before winter. They told John to document everything and it shouldn't be an issue. John said we are going to proceed with it and there should not be any issues. There will be a road closure and the residents will be advised when it is scheduled.

15. Discussion – Pipe Eye Systems – Camera for sewer lines. (JAF)

John Finch provided quotes from Pipe Eye Sewer Services and Arold Construction Company for doing the sewer inspections that were budgeted for with Pipe Eye being the lower quote. They will start sometime in November. John said every other year we put money in the budget for the inspection and then the following year for repairs. In regard to how far along in this process we are, John said we haven't done Bell School or Colesville Road yet, we've mostly

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been focusing on the industry and the Five Mile Point area. John said we originally were doing five miles a year but now we're down to one to three miles a year since it's a slow process and we are finding some issues. Councilman Grubham questioned if we shouldn't try to go a little faster since when the sewage plant gets done there will be some pretty stiff costs. If we do have infiltration problems maybe we should speed up the process to help the future situation, and it might save us some money. John will determine how many miles have been done and how many miles there are left and report back to the Board.

It was determined that Pipe Eye will do 1.5 miles a day but it's not stated in the quote so John will see that it's added.

16. Discussion – Sexual Harassment Policy. (ONB)

Mr. Blaise reported that the State passed a law this past summer requiring all employers, which includes municipalities, to adopt the final draft of the Sexual Harassment Policy that the State put out at the beginning of October. He took that Policy and revised it to accommodate Kirkwood and that needs to be adopted. The Town Board has to designate who the appropriate person or committee is to receive complaints. Some of the towns Mr. Blaise works with designated the Supervisor or Highway Superintendent, one of the towns designated Mr. Blaise and some towns have a committee set up. There is a complaint form that can be modified once the designated person or persons are assigned. Initially all employees had to be trained by January 1st, but because the State put the Policy out so late they have extended that until next October. So by next fall we must have training of all employees. Mr. Blaise' office can handle the training and our insurance company might provide training. Any new hires must receive training within 30 days of being hired. We should have the designated person by next week so the Policy that will become effective January 1st can be adopted.

17. Audit of Claims.

Air Stripper Filters.

Councilman Diffendorf questioned John Finch about the new air stripper filters that were purchased, if they are making a difference in the water, and also if they're making any progress with the problem. John said they're the same filters they always use. They've added money in the budget to do additional work next year if needed to address the water problem.

Light Poles – Parks.

Councilman Diffendorf questioned John Finch about light poles that were purchased from Friedman Electric. John said they were purchased for Valley or Grange Hall parks. Councilman Diffendorf said the cost for two is \$318 but the shipping was \$113 and he thinks that is pretty expensive for two aluminum cast poles. John said they are looking into getting poles from a different company because he is not happy with them at all, but these poles match what we have. Councilman Grubham added that we talked about this because those poles break too easy and it happens numerous times a year so we need to come up with a better idea

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for poles. Councilman Weingartner said the shipping charge probably is due to the size and it had to be freight, that he's had that happen to him.

ACHIEVE.

In regard to the \$1,350 voucher from ACHIEVE, Councilwoman Yonchuk questioned how many Kirkwood residents attended the program this past summer. Supervisor Kniffen said this changes every year but as of September of this year two residents attended but there was no staff from Kirkwood since no one applied for the position.