

TOWN OF KIRKWOOD WORK SESSION

June 2, 2020

Present: Supervisor Gordon Kniffen
Councilman Robert Weingartner
Councilman Lewis Grubham
Councilwoman Katie Legg
Councilman William Diffendorf, Jr.

Also Present: Robert McKertich, Attorney
Kelley Diffendorf, Town Clerk
John A. Finch Jr., Commissioner of Public Works
Marchie Diffendorf, Planning Bd. Chairman
Duane Travis, ZBA Chairman (via Zoom)

PLEDGE OF ALLEGIANCE:

1. Discussion – NYS DOT – Route 11 and Colesville Road. (GEK)

In regard to the motel on Upper Court Street next to the DOT that was just taken down by Gorick, Supervisor Kniffen said we've been in contact with the new director of DOT in this area and probably sometime this summer they are going to put up a 3 foot high berm around there and plant trees, so hopefully those trees will grow and hide some of that. But in addition to that he has also removed some of the materials and equipment, but right now have a clear view of that even though some of it is missing. We wish none of it was there but at least the message is that he is working with us and wants to help Kirkwood. I just wanted to acknowledge this publicly as to what he is doing. We have another meeting with him next week and we'll see what more we can get done. Gorick owns the property and he would like to see the DOT do something with that corner to help him develop that too. Gorick is going to join us for that meeting with the DOT at the director's office next Wednesday so I'll get back to you on that.

2. Discussion – Update on distribution of court fines. (GEK)

Supervisor Kniffen recalled the history of the fines that go back to at least 2018 when we did a lot of research about combining the Kirkwood and Conklin Town Courts, but that obviously didn't go anyplace. In doing the research we uncovered some disturbing data so we looked at other towns and municipalities in New York State to see what percentage of the fines they are getting and we found out most of them are getting at least 50% and Kirkwood is getting about 25%, so we started the long process with Senator Akshar and Assemblyman Crouch. Now the issue is they want the Commissioner of Motor Vehicles in New York State to do a study on this, but that person can't do a study unless the legislature tells them to, so it's on the docket in both the Assembly and Senate but they haven't voted on it yet. I'm not sure where it is or when it will go to a vote but that's the latest on it.

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I did some more research today to tell you the impact this has. The total cost to run the court is \$220, 305. That's salary, insurance, etc. The income is \$185, 433, split up by diversion at \$71,700 and fines at \$113, 73, which leads to a down side of \$34,872. If you look at 2019, the total fines were \$499, 736. New York State got \$386,003 and Kirkwood got \$113, 733 which is only 27.77%. For us to run the court NYS gets a lot of revenue. This seems disgusting and not fair that this is happening, it's an uphill fight. It's distressing and I don't know what we can do besides going beyond our local representatives, Senator Akshar and Assemblyman Crouch. I just wanted to let you know where we are on that.

3. Discussion – Sluice Pipe Installation Policy. (JAF)

John Finch said he and Mr. McKertich were working on a sluice pipe installation policy before the pandemic hit. It was on the agenda to be discussed in March but it was postponed, so I asked for it to be put back on the agenda today to adopt the policy that we have; a copy is provided for you. It gives a brief outline of what our intents are for the homeowners. Typically they call up and ask if they can put a pipe in and I go measure it and tell them how much it will cost. They drop off the check and we then have a paper trail. The fee is the cost of the pipe. We do the backfilling, the material, and the blacktopping. If it doesn't have blacktop we use crusher run. We limited it to 20 pipes a year, depending on if someone calls and says their driveway collapsed because their pipe is bad. Councilman Weingartner said I like the way it is written is so that we can still use it if there is an emergency even if we met the 20 pipe limit. John said we are at 18 driveway pipes right now so we have 2 more to do for the rest of the year.

Councilman Grubham said when I was going down Zimmer Road today I saw 6 or 7 pipes being installed and I questioned John Finch as to why we're doing this and he said we've always been doing it, that it is actually 240 feet of pipe going across two properties. Councilman Grubham said maybe I've missed this all these years but I don't know why we've always been doing this.

Council Weingartner said I thought we spoke at recent meetings that we were done with this. Councilman Grubham said there are several things that bother me about this: one, we shouldn't be doing it at all because we're improving someone's property, if they want that done they should not only buy the pipe but pay for it to be put in, but we're doing it. Secondly, we're selling them the pipe and they should buy the pipe themselves. John Finch said they're actually buying it from F. W. Webb; they bring us a check and the pipe is dropped off to us. They pay the sales tax. Councilman Grubham said the third thing is we're under a tight budget right now and we've cut back on a tremendous amount of things in order to stay within our budget this year. None of this makes any sense to me. Also, who's responsible if it gets plugged up half way down through there? John said we're putting a catch basin above

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each driveway so water can get off the road for one. It would get plugged at the inlet if it does get plugged and it would be up to us to unplug it just like with any other driveway. Councilman Grubham said a driveway pipe is only 20 feet long, not 240 feet and you would have to get into 120 feet of pipe to get at it. The point is you should not be doing this at all, you should never have been doing it. If I'd of known about this before I would have said something about it sooner. John said this is included in the proposed policy under item 9; applications to install sluice pipes along yards or property lines other than beneath driveways will not be accepted. That's why I put it on the agenda. Councilman Weingartner said we've talked about this at length for the past two or three years, so why was this approved? On Johnson Road about ten or twelve years ago they were building with the pipes and they were all clogged up and they had to be unclogged. I know that we spoke about this that we didn't want to do this anymore and yet it's being done. Why didn't you just say no? John said because we haven't adopted this policy yet. It was noted that it is not stated anywhere that this be done, but John said we've been doing it for over 30 years. Councilman Grubham said if it's not written down we shouldn't be doing it. Anyone could ask for anything, but if it's not written down we can't do it. John said it could be a safety issue, so we would do it. Although Councilman Grubham said there's nothing in any written policy that we should be doing this, John said there's also nothing that says we shouldn't. It's at the discretion of the Highway Superintendent as to what is going to be done in the Town in regard to road maintenance. Councilman Grubham disagreed with that and said you need authorization to do it from the Town Board. John said we're doing this now because back when we put that road in, the cold mix paving three years ago, the guy said he would like to have my pipe put in the yard and I told him we can't right now because we're doing the road. Get in touch with me, not next year, but the following year, because we don't want to be on the road and tear it up. He called me this year and I said I did promise you I'd do it and I'm keeping my word and putting the pipe in. This is the last one we're putting in.

Supervisor Kniffen said we're going to vote on this tonight, so will it be activated tonight, and in here it says you can't do this? Mr. McKertich said this would be effective on the vote unless part of the motion would be to make it effective on a particular date in the future. Supervisor Kniffen said you can't go back and change it. Councilman Weingartner said so you're basically saying that the reason it's being done is because you told this guy it was going to be done and you don't want to go back on your word. John said exactly.

Councilman Diffendorf said I've been harping about this personally for a long, long time. If there are problems in other areas, we were instructed when Herb was our attorney about putting pipes in that you had to form a district to do this because there was maintenance, just like a lighting, sewer or water district. You had to have a storm sewer district to maintain these D I's. Also this has to all be engineered and you have to have D I's in the right location and the right size. If this water runs off onto somebody else and goes into their house or

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basement because it can't get into that pipe because it's plugged, then we have a bigger problem, and it falls back on us because we didn't do something right.

John said I'm the one that put this back on the agenda so we can stop doing this but I promised this guy a couple of years ago to do this and that's the only reason why we are doing it. There will be no more put in after this. Resolution.

4. Resolution ratifying a resolution hiring Austin Haskell as Laborer in the Highway Department and Water & Sewer Department effective May 18, 2020 for 90 days at a rate of pay of \$ 12.82 per hour. (JAF)

Supervisor Kniffen asked if Austin is part of the Highway Department, since we took out the summer help for the highway because of the budget. John Finch said Austin Haskell gets paid from the Water & Sewer Department. He may help with the Highway Department if needed. Supervisor Kniffen said let's take out highway. John said to cross it out. Resolution.

5. Discussion – Increase water permit fee from \$160.00 to \$250.00. (JAF)

John Finch said whenever we have new meters and prices go up we raise the permit fee accordingly to pay for the price of the water meters, so we're not losing money when we have to put a meter in every house. Back when I started the permit fee was \$100, it went to \$160 with the other meters, and the new meters are now \$250. So, I'm requesting that we change our permit fee to \$250 to cover the cost of the water meters.

Councilman Diffendorf asked, when are the new meters coming in? John said they are already in, we got 300 of them delivered over a month and a half ago. John said they've installed a few here and there but I told them they have to wear a mask and get permission from the people to go in the house. Councilman Diffendorf said I don't think you even need to approach anyone at their house until this thing is done and there's no concern of a mask, these meters can sit there. John agreed.

Councilman Grubham asked, so how does this work, you call someone up and say I need \$250 to come put a new meter in? John said, no that is for new services, if somebody builds a new house. This is not for the replacement of old meters to new meters. We only get a handful of requests a year for new meters. Supervisor Kniffen asked so we are doing this a third, a third, a third over 3 years, right? John replied yes.

6. Discussion – Request to go out to bid on the Highway Drainage Project. (JAF)

John Finch said the bid notice will be in the paper tomorrow. The request for bids for the highway drainage and paving for all around the barns and garage, removing the old drainage,

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putting new ones in and a catch basin. Pretty excited about that, to finally get that placed cleaned up over there and get the drainage working. Resolution.

Supervisor Kniffen asked where do we want to put the salt barn, are we closing on that property? Mr. McKertich replied any day now. I know I've been saying that for about two weeks, but I would expect literally any day.

7. Discussion – Resolution authorizing the Dog Control Officer to use the Dog Control Officer Monthly Report, in accordance with the attached report. (KML)

Councilwoman Legg said we have talked about this before, about authorizing the use of the Dog Control Officers monthly report, which we all approved and she also approved and then I got April and May on different reports today. I'd like to approve the one we talked about in our meeting which is in your packet #7, and maybe once we have it approved she will use it. Councilman Weingartner said it seems it delineates down better than what was on there before, not as general, more specific. Councilwoman Legg explained that my concern that one of her issues was when we asked about names and situations she said she couldn't give that information because of HIPPA laws. But she did it on the one she just turned in. I just want consistency, that's all. She is aware of this new report, we've discussed it and she actually used it one month and then went back to the other ones.

Supervisor Kniffen asked about people calling in, that she had a couple of phone numbers but people just can't reach her. Councilwoman Legg replied that we did talk about that also and I'm going to email her again regarding that. She did talk to Mary Kay about an issue she is having with her phone and asked about a Spectrum line and Mary Kay told her we use Verizon, so those two are working on something with that. But sometimes the voicemail is full, which we have talked about that too. She was out of state, which I didn't realize and that is one of the things we talked about too, if you're going to be out of the state we need to know so if someone calls, we know who is covering. Even if she had that set up, we need to know in case the girls get a call and we need to contact somebody. Kelley Diffendorf mentioned that Cyndi had a trouble ticket put in and they are coming Thursday to work on her phone to clear the Verizon issue. Supervisor Kniffen said I hope that works. Resolution.

8. Discussion – Professional Consultation Fees. (LCG)

Councilman Grubham said if you remember a while back before all this stuff was going on we talked about the professional consultant fee law and it turns out that what we have you can't use anymore, it's not acceptable in the courts. So Bob and Marchie and myself met and changed things and Bob has put together what we should adopt to make our law acceptable. Councilman Grubham asked Mr. McKertich did we change that one item that I asked you about? Mr. McKertich said I did change it on my version but you probably do not have that

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change. Councilman Grubham said the only real question I had after we got this was under section 4 it talks about the applicant shall reimburse the Town for any additional costs and then it talks about somebody deciding whether it's reasonable and necessary and we didn't have anything in there for that, it should be the Town Board and that's going to get added in. Other than that it's being presented as submitted. Mr. McKertich said I have made that change and what I can do is send it to you and Gordi, if you want to circulate it around for when this comes up again for a vote so you'll have the final version. It was only that one change. Supervisor Kniffen thanked Councilman Grubham, Marchie Diffendorf, and Mr. McKertich, saying he really appreciates it.

Marchie Diffendorf asked if this has to go to the Town Board for approval before the application can be completed. Councilman Grubham said no, the ZBA or your Board actually sets those numbers, if you think you need something, you set those numbers not the Town Board. As clarification, Marchie said so when an application is submitted we can use the engineer or attorney, if needed. Mr. McKertich said yes that is correct except the only caveat to that is that the expenditures are paid by this Board and so the Town Board determines if it's a reasonable amount of money that is being assessed. Marchie said I just want to make sure that is how it was and doesn't hold anything up, we would be reimbursed after everything was submitted. Councilman Grubham said part of that too could be as things go along maybe whatever was decided the money that was to be put in escrow isn't enough, you may have to ask for more. That would have to come back to the Town Board for approval too I would think. Mr. McKertich said yes, correct.

Councilman Diffendorf asked, so we are not voting on this one tonight? Mr. McKertich explained that this is a local law so we need to have a public hearing which will be scheduled by resolution at the Board Meeting for June 30th. Resolution.

Mr. McKertich said on that same note just to back up, John had mentioned whether the water permit fee increase requires a public hearing. Are they typically established by local law? John Finch said I believe it's a local law and Gayle Diffendorf agreed. Mr. McKertich said so to amend that local law I need to draft a law and we need to have a public hearing on that as well. I can draft a law to present at the next board meeting.

9. Resolution accepting the Recertification of the Record of Activities for William J. Diffendorf, Jr., Safety Officer, for the year 2020, in accordance with the attached recertification.

Resolution.

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10. Budget Transfers.

Supervisor Kniffen said the only comment I have is to fill some of the transfers to take and decrease another account to increase the accounts that need it. I see most of this is coming from the Worker's Comp. Bob and Bill is that something we saved because of less injuries? Councilman Weingartner said yes. Councilman Diffendorf added that that's not going too well this year. John Finch said they are small ones so far this year though and Councilman Grubham said that wouldn't show up until next year's return. Resolution.

11. Audit of Claims.

Resolution.