

TOWN OF KIRKWOOD WORK SESSION

September 1, 2015

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

Also Present: Herbert Kline, Town Attorney
Gayle Diffendorf, Town Clerk
Raymond Coolbaugh, Commissioner of Public Works
Oliver Blaise III, Deputy Town Attorney
Marchie Diffendorf, Planning Bd. Chairman

1. Discussion – Water/Sewer Benefit Units. (ONB/JRS)

Mr. Blaise explained that he and Mr. Smith have been working to simplify the water and sewer benefit unit assessment. It is a long process every year that involves a lot of work to make sure the units are assessed for all the commercial properties in the town, about 130 of them. The way it is set up now is that part of the unit calculation for commercial properties is based on the acreage and the footprint of the building on the acreage, part of it is based on the number of employees and there is a trigger for some of the larger properties to add more units for usage. In addition certain parcels have been assessed penalty units over the years when they don't respond to the Town's annual survey. The result was that over all these years that they have been doing this, certain parcels got categorized certain ways and with other parcels the units they were being assessed got inflated if they didn't respond. They wanted to come up with a flat and fair system. They came up with a system that kept the footprint of the acreage parcel size as a basis to assess units, instead of basing it on employees or trying to distinguish between different types of uses on commercial properties. For example the current unit assessment chart in the code is 3 pages long and over the years different numbers of units were assigned for various businesses, such as retail stores, motels, gas stations, garages, restaurants or diners, schools, laundromats, etc. These are all different types of calculations that have to be used for different types of properties. They wanted to get away from all that and base it just on usage. Mr. Smith pulled the accounts for all the commercial properties and they broke those properties into 7 different tiers. Historically if a business used between x amount and x amount of flow they will be assessed that many units and it will be that many units every year unless they move up or down in their flow. The way the tiers have been established it would be very difficult for users to move up or down so basically everyone would stay in their tier. A handout was provided of the tier structure and a copy of the simplified unit assessment guide. He noted there is 1 user in Tier #1 and page 2 of the unit assessment guide breaks down the usage charges for each tier. If the annual charge based on flow is \$500,000 or more the units assessed will be 635. The charges go down with each tier so at the Tier #7 level the annual charge based on flow is less than \$500 with 1 unit assessed.

TOWN OF KIRKWOOD WORK SESSION

September 1, 2015

It is very unlikely that the footprint calculations (acreage or size of the building) are going to change very often. If they do change it will be very easy to track either by getting the information from Assessor Dan Giblin, or Code Officer Scott Russell indicating a building permit was issued to expand the property or a property was combined or split. Those notices are relatively few, and some years there are none. With the usage they would get notification from John Finch that there was an aberration in someone's usage to jump them up a tier. Mr. Blaise said again there would be very few instances of this as well. They would be easy to flag and they would go in and look at that parcel to determine if their units should be changed for the next assessment. The idea is that once a business is put in one of the flow categories, they know historically what the acreage and square footage assessment is and unless the flow changes dramatically there is only going to be a handful of parcels each year to look at for adjustments. The involved process that they have been doing each year will no longer be needed.

Mr. Kline said it appears that Columns F and G on the calculation sheet indicate which businesses are going to be happy or unhappy, depending if their units are going down the following year. Mr. Blaise said that is correct and actually they added Columns H and J to give a good idea of who would be happy and unhappy. He added that a lot of their time was spent going to this system and not have a huge impact on any of the users. He noted that the calculation sheet provides just a sampling of the 130 businesses in Kirkwood to give the Board an idea of what the impact would be. The idea was that they make flow more prevalent in the calculation because those with the larger flow are the ones that are taxing the system the most so they wanted to assign more units to them.

Councilman Diffendorf questioned why dollar amounts were used instead of flow amounts. Mr. Smith said there are cubic feet meters and gallon meters so there is a conversion issue. Mr. Blaise said it was easiest to base it on dollars which is based on flow. Councilman Diffendorf questioned if the chart will change when the sewer rate changes. Mr. Blaise said they tried to make the categories broad enough, but it could change. Mr. Smith said the rate decrease is quite a bit and noted this could be converted to a side by side cubic feet and gallon to accomplish the same concept, to try to keep them in a targeted tier, apart from whether the bill went up or down because the usage hasn't changed.

Councilman Grubham questioned how the overall units compare to what they were. Mr. Smith said they are less because they are eliminating the employee units and penalty units. They try to make them up through flow and the footprint. The loss of units is about 60.

In response to Mr. Kline, Mr. Blaise said that since they will no longer be tracking employees the questionnaires will no longer be sent out to the commercial property owners.

In regard to who is going to be happy or unhappy, Mr. Blaise said he and Mr. Smith set a target differential of 10%. They were trying to set it up so that most of the users would be affected plus or minus 10% from where they are now. When they charted this out through

TOWN OF KIRKWOOD WORK SESSION

September 1, 2015

the tiers, it came out that 75% of the accounts were within either plus or minus 10% from where they stand now. So 25% will see either an increase or a decrease of more than 10%. They tried to manipulate the numbers to see if they could decrease the amount of people affected more than 10% and they could not because if they started helping out those people then other people are affected. The fact that this came out like a standard bell curve let them know that this was the fairest way to do it. There is no way to come up with that some people aren't going to be affected more than 10%. Those that are affected more than 10% are the largest users and are putting the most stress on the system. This is a way to cover the operation and maintenance costs.

Mr. Blaise said they didn't want to wait to present this too late in the year and also wanted to give the Board a month to review it for additional discussion at the work session at the end of September. Hopefully it could be adopted at the October meeting. Notices to those with increases could be sent for the October work session. This will allow time to get the numbers to the County before January taxes.

Supervisor Kniffen said that basically up until now every two years the process costs about \$7,000 so this will cut that amount way back.

2. Discussion – Geiger Lane Meeting. (GEK)

Supervisor Kniffen explained the Town owns some property as the result of FEMA flood buyouts and on one property on Geiger Lane they are looking at putting a boat launch in. This could be used by the fire company and others that have boats and want to access the river. DEC is involved and will bear the major cost of the boat launch and the Town would do some of the work as well. There are concerns from property owners in the area. The Town does not anticipate a lot of traffic so they do not plan on doing anything to the road until the amount of traffic is determined. He noted this is a private road and the Town has a right of way to use it. He said from time to time the parks have had vandalism and they had to lock gates and monitor them and get the police involved but they wouldn't shut the parks down because they are so beneficial to the entire public and they have to work with it. Hopefully there won't be problems in this area but they would work with that if it were to happen. After numerous discussions with the people involved he invited them to come to the Board to express their feelings.

Gary Nesbitt thanked the Board for allowing him to participate and thanked Bob for getting him involved. He said their concerns are not overwhelming. They have 3 concerns that they would like dealt with and 2 of them basically are what kind of signs or restrictions are going to be placed on the property. He presented a list which he feels is reasonable and customary that would be typically found on any state, county, or city boat launch:

1. No alcohol consumption on the property
2. No overnight mooring or beaching
3. No overnight camping
4. No littering – (no trash can – carry in, carry out)

TOWN OF KIRKWOOD WORK SESSION

September 1, 2015

5. Hours: 7AM to 9PM or sunset
6. Vehicles towing a boat trailer will park in the boat launch parking lot only
7. Powered vessels must stay 100 feet from private docks/swimming areas and obey the 5MPH rule
8. Kirkwood residents only

In regard to #8 Mr. Nesbitt said he put that in because he was told there is no boat launch available for Kirkwood residents. He doesn't think they should advertise and doesn't know how it could be controlled.

He requests that the following sign be placed at the end of the property: No public access or turn around beyond this point. Since the Town is still considering it a private road, people should have adequate access to turn around in the parking lot and not drive on down and turn around in his field. He would like to figure out a way for the road to be repaired. He lives at the end of the road and in 2009 he and Scott repaired the road up to his cottage until they ran out of money. If the rest of the road could be repaired he wouldn't complain. He said he speaks for himself, his wife and Scott. He has spoken to only 1 other resident on the road who hasn't been there in 4 or 5 years. He said they are not against having a boat launch.

Scott Landers of 93 Overlook Dr., and owns a couple of properties on Geiger Lane addressed the Board. He questioned how they can take the Kirkwood property and make a private road a public road but not do anything with it. It seems to him they are taking DEC money, Kirkwood money, and it is all our money – it is tax money. He would like to know approximately what the number is to build a boat ramp there. He said it has to be a lot of money. He questioned if it can possibly be worth spending the money. He referred to an email that he read from Scott Prindle through the Town of Kirkwood in which it said he would work on fixing the road hopefully with help from Kirkwood. He questioned what that means. He added that he and Gary redid the road from Gary's place down which was a lot of work and money. If the Town makes it a public road he would hope they would take care of it. He bought the property after the 2006 flood, put a camper on it and uses it for recreation, boating with his kids. At that time the other ramp was open and there was drinking and partying. A lot of times they couldn't go out in the water because of so much activity on the river. That is a big concern of his as well as the concerns that Gary mentioned. Signage is a big thing.

Supervisor Kniffen said the Town is not making it a public road. When they took over ownership of the buyout lot they had a right of way on the road which carried over to the Town.

Mr. Kline said they worked with Bob Geiger, looked at the title and the survey maps that were created for the buyouts and there is a right of way. The Town does not intend to fix up the road, they are not permitted to do that. He added that he is a boater and a fisherman and a lot of what has been said makes a lot of sense to him. In regard to limiting it to Kirkwood

TOWN OF KIRKWOOD WORK SESSION

September 1, 2015

residents there would be a problem because DEC is constructing the ramp and once state money is used, such as it was with Veterans River Park, it cannot be restricted to Kirkwood residents. In regard to the signage he likes the idea of informing the public of what they can and can't do and what the hours are. He doesn't feel there will be a lot of people doing night fishing after Labor Day when it starts getting dark earlier.

Mr. Landers said it sounds to him like the Town is making it a public road. They are taking the state money and inviting anybody and everybody. Supervisor Kniffen said the Town is just exercising it's right of way.

Mr. Kline said to make a road a public road in a town it has to be 50 feet wide and the people on both sides would have to give title to the portion of the 50 feet which is on their side of the road. The Highway Superintendent has to request this from the Town Board. The Town Board then has to agree to do it because once it is taken it has to be maintained. Mr. Landers said the Town might not be calling it a public road but they are making it a public road by inviting the public to come down it.

Councilwoman Yonchuk said it is her feeling that there is a boat launch and they open it and give access to anyone who wants to use it but whether or not that's a public road in the legal sense of the word, isn't there liability involved if something happens on the access. This could be damage to a vehicle, damage to adjacent property or whatever.

Mr. Landers said that part of the problem with the road is that it is not wide enough for cars to pass from the tracks down.

Mr. Kline said as long as Bob holds title to the right of way he has the problem. Councilwoman Yonchuk said she has a problem with that.

Bob Geiger said he has a couple of different agendas. He has been hit with eminent domain 3 times already and they have lost most of their property to the wonderful State of New York and federal government. This will be the 4th time. He is trying to get some of the land back. Part of it they took illegally. He has to pay 3 times as much for 5 acres as they paid him for 28 acres. He said if the Town is going to do this the Town has to pay the insurance on the road. He said he is not going to be liable for that. He said he does not feel the statement made previously was totally true. It says people that own property have the right to drive across this to a right of way. That opens it up to a public road in his estimation. The road is 50 feet wide and it was dedicated some 50 years ago so the Town could take it over but they reneged on that. He said it is in all the deeds that it is a 50 foot right of way all the way down. There is no way you could pass 2 boats and or cars. Something would have to be done to widen the road to be usable. He is hoping that the Supervisor will write a cover letter to help him get his land back. He reviewed how his property had been taken. He said that he agrees with the other gentlemen as to what they want. It would create more traffic and dirt because the road is river mud and very dusty. He

TOWN OF KIRKWOOD WORK SESSION

September 1, 2015

feels since it will be open to the public there will be a lot more people than everyone thinks. He said he found out about this from the owner of Snake Creek Marine and he felt that was a little indirect. He did appreciate Supervisor Kniffen letting him know about it later on. He feels the people involved should have known before everyone else heard about it.

Supervisor Kniffen said he can't control what people say and he apologized that it got back to him before he spoke to him about it. He also added that Mr. Geiger's concerns mostly deal with DOT not DEC regarding the land that has been taken from him for which he has not been appropriately reimbursed. He did tell Mr. Geiger that if he puts something together the Town would supply a cover letter to support him.

Mr. Geiger said he previously built a 10-acre pond and had tons of fishermen there. At first he was getting all kinds of garbage. He told them he would put up a posted sign if this kept happening. From then on he had no issues. The State took it over, gave it to DEC and now there is no pond, they did not maintain it. In their contract it states they will take care of it but it is now 10 acres of cattails. It's a big mess that he can't control.

Supervisor Kniffen said when this started he saw it as a little project, there wouldn't be a lot of traffic but a lot of good points have been brought out. He's thinking there would most likely only be boats on the weekend. It was noted that when the other ramp was open on a nice weekend there were 6 to 10 boats and a number of jet skis on the river. It wasn't the using it that was the issue, it was the drinking, partying and garbage, just everything that came with it.

Marchie Diffendorf said that he is the culprit that brought this up. Every year the Kirkwood Sportsman's Association has a fishing derby and there are usually about 7 to 10 boats. They used the private launch and when that closed they had to scramble to get their boats in the river. There really is no place to put a boat in the river in Kirkwood. So he brought it up at a Town Board meeting about possibly utilizing the FEMA properties for a boat launch. Supervisor Kniffen took the bull by the horns and started working on it. As far as the Snake Creek Marine issue with the owner telling Mr. Geiger about it, Marchie was over there to buy some parts and they talked about it but it was after it was brought up at the Town Board meeting. He said he is speaking for the 70-member sportsman's club. There are some avid fishermen in the club. He would like to see the ramp open at least by sunrise since the best fishing is in the morning. As far as closing he thinks 9:00 is plenty late enough. He does not think there would be any problems with the sportsman's club. He said if problems arise the sportsman's club would be behind the Town 100% in trying to control the issues.

Supervisor Kniffen asked Councilwoman Yonchuk and Councilman Diffendorf to look into this and report back to the Board with their recommendations.

Mrs. Nesbitt asked if all the Board members have driven down the road. Councilman Diffendorf said it is obvious the road needs work.

TOWN OF KIRKWOOD WORK SESSION

September 1, 2015

Councilman Diffendorf added that the fire department does need a boat launch if there were a rescue in the Stillwater area. Mrs. Nesbitt said Mrs. Rychlewski has no issue with letting the fire department use hers. Councilman Diffendorf said that doesn't mean everyone would know that when they respond. They know that launch is closed off. Not everyone that gets in a fire truck is going to know that is available. He feels a boat launch is needed in case of an emergency. He said there is a boat launch in the Veterans River Park in the village but that can't be used up stream unless there is very high water. So that basically is only available from the park heading toward Binghamton. Mr. Landers said it would be a lot cheaper to inform all the firemen about the boat launch than it would be to build one specifically for the fire company. Councilman Diffendorf said it is not specifically for the fire company, only another reason why a boat launch is needed. He added that the fire department could use it for practice as well, which is important. He compared this to the same situation as the AED machine. It sits idly all the time but it's not known when it might be needed. He feels the boat launch is the same thing. We live on the river and need access to it. The lots have to be maintained to a point so they might as well be useful. He added that he agrees with almost all the conditions requested for signage.

3. Discussion – Request from Kristy McWherter to change the name of Grange Hall Park to Kevin J. Tarsia Memorial Park. (GEK)

Supervisor Kniffen explained this request involved Grange Hall Park where, unfortunately, several years ago Deputy Tarsia of the Broome County Sheriff's Dept. was shot and killed. Recently a letter was received from his niece requesting the park be renamed in his name in memory of him. This can be done by resolution. The Board members requested time to review this. Held for discussion for the 9/29/15 work session.

4. Discussion – Resolution Proclaiming the Town of Kirkwood as a Purple Heart Town. (GEK)

Supervisor Kniffen explained this was brought to his attention by Marchie Diffendorf. Broome County has been designated as a Purple Heart County and Marchie was talking with him about the Town of Kirkwood being associated with that. So he looked into Kirkwood becoming a Purple Heart Town. He checked with the County Executive and County Legislature and they had no problem with it. It was noted that there are at least 2 Purple Heart recipients that are Kirkwood residents. Supervisor Kniffen explained that to be a Purple Heart candidate a person has to be killed or wounded in action. Councilwoman Yonchuk said she suspects there may be more recipients that we are not aware of living in Kirkwood, noting that we have veterans from WWII on. Even if they have passed away they are part of Kirkwood's history. Resolution.

5. Discussion – The following items to go to the Broome County Auction, which is held Saturday, September 26, 2015 at 10 AM: (RJC)

DCO 2002 Dodge Caravan

**TOWN OF KIRKWOOD
WORK SESSION**

September 1, 2015

New Holland flail mower – model 918H
DPW 1992 Chevy S-10

Resolution.

6. Reappointment of Alfred Gorick, Jr. as Member, Board of Assessment Review for a term to expire September 30, 2020. (GEK)

Resolution.

7. Discussion – Request from Ray Coolbaugh to hire Jake Tutko to work in the parks from September 2, 2015 to September 30, 2015 at \$10.64 per hour.

Ray Coolbaugh explained this would complete the 90 days for the employee going back to school. It is in the budget. Resolution.

8. Transfer of Funds.

Councilman Diffendorf questioned where the money came from for the decreases in the youth line that says received for sponsorships and donations. Councilman Weingartner said it is money that comes in from sponsors, tournaments and non-resident players. That money is put into the youth contractual. Supervisor Kniffen added that donations were received from a gas company and also donations in memory of a gentleman from Kirkwood that passed away. Councilman Grubham questioned if they are exceeding the budget by \$6,300. Councilman Weingartner said his understanding is that the money that was brought in to be used for the tournament and uniforms, was donations. This money was solicited ahead of time to pay for those things. Councilman Grubham said if the Town didn't have this money coming in what would happen. Councilman Weingartner said those things would not have been bought without knowing that money was there.

In regard to the \$4,000 increase for mailing, Councilman Grubham questioned if that means the budget line is already over that amount with 4 months left in the year. Supervisor Kniffen will check with the bookkeeper about this. Resolution to adopt – hold the \$4,000 increase.

9. Audit of Claims.

Resolution.