

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

December 5, 2023

A regular meeting of the Kirkwood Town Board was held on December 5, 2023 at 6 PM at the Joseph A. Griffin Town Hall with Supervisor Lewis Grubham presiding.

Present: Supervisor Lewis Grubham
Councilmember William Diffendorf, Jr.
Councilmember Katie Legg
Councilmember Sandy Wasson
Councilmember Robert Weingartner

Also Present: Robert McKertich, Attorney
Kelley Diffendorf, Town Clerk
John A. Finch Jr., Commissioner of Public Works
Karen Ferguson, Historian

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES: November 6, 2023 Town Board Meeting and
(2) November 28, 2023 Public Hearings

PUBLIC PARTICIPATION:

Robert Gaube of Robert Street thanked John Finch and his department on doing a fine job on collecting leaves this year. He also thanked the Kirkwood Hometown Christmas organizers for the great job they did, especially with the parade and fireworks.

Mr. Gaube also spoke to the Board about conversations he had with Adam Meinstein regarding the Five Mile Point Racetrack site and the way he understood it, it is the Town's responsibility, not Mr. Meinstein's to make sure many of the proposed stipulations are in place should this plan go through. Some of the stipulations Mr. Gaube referenced are as follows: the use of low volume and low impact air conditioning units, the use of night sky friendly and downward warehouse lighting, no access to the site from Francis Street or Irving Street, no use of Francis Street during construction, and the option to deed land to the Town as a barrier on Francis Street. He additionally wants to know what will be the size and depth of the retention ponds that border Francis Street and what will be retained in them and where will it drain off, and what steps will be in place to contain the contaminated dust that will be created by the excavation and construction work. In summary, Mr. Gaube wants it to be clear that he is not endorsing this project, he is just being pragmatic. He feels Mr. Meinstein may not follow through on all the stipulations if he is not required to do so. Supervisor Grubham explained all of these items would be discussed after the property was rezoned, if it gets rezoned.

COMMUNICATIONS: Resignation letter from Kevin Balachick.

COMMITTEE REPORTS:

Dog Control Report.

Councilmember Legg reported numbers from the November Dog Control Report. A copy is filed in the Town Clerk's office.

Engineer for the Water System.

As previously mentioned, Kirkwood's water system needs an evaluation since the water is not always meeting our standards. Supervisor Grubham is meeting with an engineer on Monday who specializes in water systems. He'll try to get a proposal to bring back to the Board, this needs to get done and find out if it can be fixed.

Tom French Accusations – 374 Foley Road.

Supervisor Grubham reminded everyone that at our last regular meeting Mr. French was here and made accusations regarding the zoning of his property. After an evaluation from start to finish, he asked Mr. McKertich to explain it to the Board. Mr. McKertich showed the Board a copy of a GIS map of 374 Foley Road, which is the property of Tom French, and what Mr. French has been discussing each time he spoke at a Board meeting. Mr.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

December 5, 2023

McKertich continued with the map, showing the property is split by Route 86, the top part is the agricultural/rural residential zoning district, the bottom section is the residential zoning district (a copy of the map is on file in the Town Clerk's office). He noted two large tractor trailer trucks on the property that are used for storage. Like every resident in the Town of Kirkwood, he can use his property for the things that are allowed under the zoning code in whatever zoning district he is located. Using these two large tractor trailers for storage is not an allowed use in the rural residential zoning district. This issue began in 2020. The Code department has sent Mr. French six letters notifying him of this violation asking him to correct it. He applied for a variance in 2020 from the zoning requirements, but the Zoning Board denied that variance. He never appealed it, it's a final determination. After almost four years a case was filed in local court for noncompliance with the zoning code. He had an opportunity to litigate that, he had an attorney, he lost the case, that court decision is final. He has removed the trailers.

Councilmember Diffendorf asked about Mr. French questioning his property's zoning being changed. Mr. McKertich explained, there is no record of any kind of zoning change. That only could have been done by the Town Board. Which did not happen. Mr. French apparently received inaccurate information from someone at Broome County GIS, since he claims they told him his property was rezoned. Mr. McKertich also noted whatever zoning district he claims it to be, the trailers as storage are not allowed either way.

Supervisor Grubham explained that Chad Moran, Code Enforcement Officer, is very patient with everyone on their code issues. He explains what needs to be done and goes back time and time again to work with the residents to get things done, he goes out of his way to try and not go to court. Some residents just fight him all the way.

Councilmember Diffendorf asked if a farmer had a tractor trailer on his property like Mr. French did, what would happen. Mr. McKertich explained it is possible if a farmer was using it to operate their farm, that could potentially be allowed in the agricultural/rural residential district, but without knowing specific facts it can't be determined.

Continuing with the subject of trailers, Councilmember Diffendorf questioned someone building a garage using trailers for two sides of the garage and then building a garage around those trailers. Supervisor Grubham explained he knows the property Councilmember Diffendorf is referring to, it was done many, many years ago and should not have been allowed. That was done under a different Code Enforcement Officer, and he did not do his job.

Hometown Christmas.

Councilmember Diffendorf reported the Hometown Christmas was quite an affair on Saturday. All day long every place you went, people were happy, the weather cooperated, it was well attended, they did a good job (referring to Councilmember Legg and Councilmember Wasson). Councilmember Legg said it was a lot of work, but when you see all the people come to it, it's worth every second that we put in to it. They both thanked everyone and received a round of applause. Two more years will be 10 years and that will be a big one, according to Councilmember Legg.

OLD BUSINESS:

Councilmember Diffendorf moved to adopt resolution, after a Public Hearing, adopting the 2024 Budget for the Sewer and Water Districts. Councilmember Wasson seconded.

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

147:23
Adopt 2024
Water & Sewer
Budget

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

December 5, 2023

Councilmember Wasson moved to adopt resolution, after a Public Hearing, authorizing the Supervisor to execute the Fire Protection Contracts for 2024. Councilmember Legg seconded.

148:23
Adopt 2024
Fire Contracts

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

Councilmember Legg moved to adopt resolution appointing Julie Wyatt as Budget Officer, effective December 14, 2023 at a salary of \$43,000 per year prorated for the remainder of 2023. Councilmember Weingartner seconded.

149:23
Appoint
J.Wyatt
Budget Officer

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

Councilmember Weingartner moved to adopt resolution scheduling a Public Hearing for December 26, 2023 at 6 PM regarding A Local Law Amending the Sewer Rents. Councilmember Diffendorf seconded.

150:23
Schedule PH
LL #1-24
Amending
Sewer Rents

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

Councilmember Diffendorf moved to adopt resolution of Initial SEQRA Classification and Intent to Declare Lead Agency Status regarding the Request for Change in Zoning submitted by Five Mile Point Warehouse Investors, LLC, in accordance with the attached resolution. Councilmember Wasson seconded.

151:23
Declare Lead
Agency in
Request for
Zoning Change
Racetrack Site

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

Councilmember Wasson moved to adopt resolution scheduling a Public Hearing for December 26, 2023 at 6:03 PM regarding a Local Law Relating to the Control, Confining and Leashing of Dogs. Councilmember Legg seconded.

152:23
Schedule PH
LL#2-24
Dog Control

Discussion. Councilmember Wasson asked if finding a lost dog and turning it in to the proper authorities needed to be added to the law. Mr. McKertich explained that since that is not an enforceable act it does not need to be added to the law.

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

December 5, 2023

153:23
Appoint
P.Maciak
Member
Planning Board

Councilmember Legg moved to adopt resolution appointing Peter M. Maciak as Member Planning Board, for a term from December 6, 2023 to December 31, 2024, to fill the unexpired term of Marchie Diffendorf. Councilmember Weingartner seconded.

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

154:23
Purchase New
Dell Server

Councilmember Weingartner moved to adopt resolution authorizing the purchase of a new Dell PowerEdge T3350 Server from BlueStorm Technologies, at a cost of \$8,247.00, which includes support and installation. Councilmember Diffendorf seconded.

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

155:23
Schedule PH
LL#3-24
Amending
Telecomm
Fees

Councilmember Diffendorf moved to adopt resolution scheduling a Public Hearing for December 26, 2023 at 6:05 PM regarding a Local Law Amending Article IX of the Zoning Local Law Regarding Telecommunication Fees. Councilmember Wasson seconded.

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

156:23
Agreement
Expenditure of
Highway

Councilmember Wasson moved to adopt resolution authorizing the Highway Superintendent to enter into an agreement with the Town Board regarding Expenditure of Highway Moneys, in accordance with the attached agreement. Councilmember Legg seconded.

Discussion. Councilmember Diffendorf asked John Finch about oil and stoning roads on the south end of town, and a ten-year plan of borrowing money to complete that. Supervisor Grubham explained that is how long the money is borrowed for, that runs out four years from now. John Finch reported the typical oil and stone process last between five and six years, and after that the top finish just needs to be topped off. CHIPS use to allow for every ten years to oil and stone, but they dropped it down to a five-year term because they realize the oil and stone process doesn't last as long as asphalt. Only Corporate Drive, Francis Street, and Blakeslee Road is covered under the highway expenditures agreement. The other roads listed are to be done only if money becomes available.

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

157:23
Transfer of
Funds

Councilmember Legg moved to adopt resolution authorizing the Transfer of Funds, in accordance with the attached Budget Adjustment Sheet. Councilmember Weingartner seconded.

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

December 5, 2023

AUDIT AND PAYMENT OF CLAIMS:

Councilmember Weingartner 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 #23001460 through #23001595 in the total amount of \$564,481.45, which includes prepaid claims as authorized by resolution adopted January 3, 2023. Councilmember Diffendorf seconded.

158:23
Audit/Pay

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

ADJOURNMENT:

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

MOTION CARRIED.

Meeting adjourned at 6:32 PM

Respectfully submitted,

Kelley M. Diffendorf
Town Clerk