

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

April 3, 2024

A regular meeting of the Kirkwood Town Board was held on April 3, 2024 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
John Mastronardi, Town Engineer
Gordie Woolbaugh, Planning Board Chairman
Duane Travis, Zoning Board Chairman
Karen Ferguson, Historian

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES: March 5, 2024 Town Board Meeting, March 14, 2024 Public Hearing, and March 26, 2024 Special Town Board Meeting

PUBLIC PARTICIPATION:

Cheryl Coolbaugh of Blakeslee Road reminded the Board members they were put into office by residents to represent the entire Town, not just a few property owners. Any decisions made will affect the whole Town for generations to come.

COMMUNICATIONS: None.

COMMITTEE REPORTS:

Community Cleanup Day.

Councilmember Wasson announced there will be a community cleanup day on Saturday, April 20, 2024. Garbage bags can be picked up on Friday, April 19th from 9 AM – 3 PM at the Highway Garage or at the Town Hall on Saturday, April 20th from 9:30 AM – 10 AM.

Dog Control Report.

Councilmember Legg reported numbers from the March 2024 Dog Control Report. A copy is filed in the Town Clerk’s office. Also noted, the great job Rick Murray is doing as the new Dog Control Officer.

Annual Financial Report.

Supervisor Grubham reported the annual financial report has been submitted to the State.

OLD BUSINESS:

Councilmember Diffendorf moved to adopt resolution authorizing Chad Moran to attend the Southern Tier Builders & Remodelers Association Training at the Ithaca Hilton Garden Inn, Ithaca, NY, on June 11-12, 2024, with a registration fee of \$125 and all reasonable expenses paid. Councilmember Wasson seconded.

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

MOTION CARRIED.

52:24
Education
C.Moran
Code

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53:24
Rescind Policy
Amendment for
DPW – Not
Needed

Councilmember Wasson moved to adopt resolution rescinding Resolution #40:24, Amending the Rules and Regulations Governing Attendance and Benefits for Town of Kirkwood Employees regarding Reimbursement Policy for Work Clothing for Department of Public Works Employees. Councilmember Legg seconded.

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

MOTION CARRIED.

54:24
Year End
Budget Entries

Councilmember Legg moved to adopt resolution approving the 2023 Year End Budget Journal Entries, in accordance with the attached Journal Entries. Councilmember Weingartner seconded.

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

MOTION CARRIED.

55:24
J.Wyatt
Retirement

Councilmember Weingartner moved to adopt resolution approving the Standard Work Day and Reporting Resolution for Elected and Appointed Officials for Julie Wyatt as Budget Officer, in accordance with the attached resolution. Councilmember Diffendorf seconded.

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

MOTION CARRIED.

56:24
Education
J.Finch
DPW

Councilmember Diffendorf moved to adopt resolution authorizing John Finch to attend the 2024 Highway School, June 3-5, 2024 at Ithaca College, Ithaca, NY, at a cost not to exceed \$125. Councilmember Wasson seconded.

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

MOTION CARRIED.

Discussion. Before moving on to the next resolution Mr. McKertich explained the Board needed to review the SEQR forms to determine whether there is an adverse environmental impact as a result of the project and rezoning of the property. The applicant filled out Part 1 of the EAF (Full Environmental Assessment Form). After Part 1 was reviewed a few changes were made to an old tax map number and street name that were referenced, along with two unanswered questions (in sections C2 and D2), these errors were corrected, and each change was initialed by Adam Meinstein. Councilmember Wasson confirmed with the applicant regarding section D2 that the earth will move around the project site, not be built up in elevation. After the discussions were complete all Board members agreed to move forward to Part 2.

Part 2 – Identification of Potential Project Impacts. The Board reviewed Part 2 of the EAF and had discussions as follows:

1. Impact on Land. The Board answered Yes on the initial question and on review of the sub-questions determined no, or small impact would occur.
2. Impact on Geological Features. The Board answered No to the initial question.

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3. Impacts on Surface Water. The Board answered Yes on the initial question and on review of the sub-questions determined no, or small impact would occur.
4. Impact on Groundwater. Councilmember Weingartner believes the stormwater will manage the groundwater better with the new buildings than it is managed now. Councilmember Diffendorf questioned the circle (in feet) around the aquifer for contamination. Supervisor Grubham noted this project is about as far away as you can get from that well. Councilmember Diffendorf mentioned a past issue with contamination from a trucking company. Supervisor Grubham explained that was an existing issue and the engineering of the stormwater management system on this new project would take care of contaminants getting into the ground water. John Finch explained the potential project would be using the Town's water supply from the tanks, they are not using the water from the aquifer. Mr. McKertich confirmed that it is not a new or additional use of groundwater, it is an existing use from municipal water. The Board answered No to the initial question.
5. Impact on Flooding. Councilmember Diffendorf expressed concern of the project creating flooding in the future, whether it be overflowing of small streams or not enough retention. Mr. McKertich explained the question is if the land the project is being built on is subject to flooding. There's a stormwater management system (SWPPP – Stormwater Pollution and Prevention Plan) that manages the flow of stormwater off the site. The requirement is the amount of discharged water from the site should not be increased post construction. John Mastronardi agreed. Councilmember Diffendorf questioned if the Board should check this box Yes to be sure the applicant complies with these requirements. He was unsure why the Board was going through these questions otherwise. John Mastronardi agreed with Councilmember Diffendorf on meeting the requirements but said that would be found in section 3 regarding surface water, which was checked Yes. This section 5 is on land subject to flooding, already in the floodplain. The Board answered No to the initial question.
6. Impacts on Air. The Board answered No to the initial question.
7. Impact on Plants and Animals. The Board answered Yes on the initial question and on review of the sub-questions determined no, or small impact would occur.
8. Impact on Agricultural Resources. The Board answered No to the initial question.
9. Impact on Aesthetic Resources. The Board answered No to the initial question.
10. Impact on Historic and Archeological Resources. The Board answered No to the initial question.
11. Impact on Open Space and Recreation. Councilmember Diffendorf commented the facility was recreational and has been labeled the historical Five Mile Point Speedway, maybe one of the longest running race tracks in New York State. Councilmember Diffendorf made it clear he was not opposing anything he just felt it was worth mentioning. Councilmember Weingartner defined recreation as walking, running, riding your bike, and swimming, and noted the race track was entertainment. The Board answered No to the initial question.
12. Impact on Critical Environmental Areas. The Board answered No to the initial question.
13. Impact on Transportation. The Board answered Yes on the initial question and on review of the sub-questions determined no, or small impact would occur.
14. Impact on Energy. Section c – electricity use. Councilmember Weingartner calculated an 11% increase in electricity usage per year for this project, which is considered a small impact. John Mastronardi agreed and suggested that would be addressed with NYSEG. Councilmember Diffendorf noted this potential project will be using much more electricity than what was previously there. Mr. McKertich explained the SEQR analysis is to determine whether there is a moderate to large adverse environmental impact as a result of

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the project. It is a question of whether or not the use of this electricity is going to moderately or largely have an adverse environmental impact. Councilmember Diffendorf confirmed we are only talking about this site. Mr. McKertich agreed and added, also the environment. Section d – heating and cooling/100,000 sq ft. After reading the question, John Mastronardi commented 455,000 square feet is a moderate to large impact. Mr. McKertich referred to the addendum, item #14 (which is attached and on file). Councilmember Weingartner felt it would be a small impact since building temperatures were never kept extra warm or extra cool. Adam Meinstein commented the buildings would be well insulated and highly energy efficient. Responding to Supervisor Grubham's question on how the Town was able to move past this portion on other buildings larger than the 100,000 square feet, Marchie Diffendorf noted the FedEx building replaced another building that was already on site. John Mastronardi gave examples from the DEC website that explained what would meet the requirements of a moderate to large impact. Supervisor Grubham felt this was not a proper question for this site. Mr. McKertich said to the Board, looking at the site in general, the infrastructure for the site, the surrounding uses, the proposed use of the property, from an energy perspective do you feel there is going to be a moderate to large environmental impact as a result of the energy usage. Councilmember Weingartner answered no. Councilmember Diffendorf questioned why the 100,000 square feet number would be asked if it won't be used. Suggesting a building four times that is a large impact. Adam Meinstein was told there is plenty of power on site. Councilmember Diffendorf asked Mr. McKertich if the Board's answers can be challenged. Mr. McKertich responded that if someone did challenge anything, they would need to demonstrate the Board's decisions was arbitrary and capricious and the Board didn't rely on the input of its engineer and its own experience in making these determinations. They would also need to show that it does in fact result in a moderate to large environmental impact. The questions are intended to help guide the discussion and thought process but there is no law that says if the building is more than 100,000 square feet it is a moderate to large impact, that is not the rule. They are heating with natural gas, they have both gas and electric going to the building. The Board answered Yes on the initial question and on review of the sub-questions determined no, or small impact would occur.

15. Impact on Noise, Odor, and Light. The Board answered Yes on the initial question and on review of the sub-questions determined no, or small impact would occur.

16. Impact on Human Health. The Board answered No to the initial question.

17. Consistency with Community Plans. The Board answered No to the initial question.

18. Consistency with Community Character. Councilmember Legg stated two concrete structures are definitely changing the character of that community. A member from the public commented that she looks out her window now and already sees a concrete building so it won't be changing her view at all. Councilmember Legg acknowledged that is one resident, when every resident needs to be thought about during this process. Councilmember Weingartner suggested to answer Yes to the initial question and then go through the sub-questions. The Board answered Yes on the initial question and on review of the sub-questions determined no, or small impact would occur.

Addendum. Mr. McKertich explained the addendum is intended to provide more material and information to the Part 2 analysis. Mr. McKertich will make a couple changes to the addendum (item #4 and #18), since the Board answered them differently than anticipated. A copy is on file in the Town Clerk's office.

Part 3 of the EAF was finalized with the Board agreeing to check box A. No significant adverse impacts on the environment.

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Councilmember Wasson moved to adopt resolution, after a Public Hearing, adopting the Full Environmental Assessment Form regarding Local Law No. 4-2024 entitled “A Local Law Rezoning 110 William Street (Tax Map #162.15-2-11), 925 NYS Route 11 (Tax Map #162.15-2-12), and (Tax Map #162.15-1-56) to the Industrial Development Zoning District”, in accordance with the attached Full EAF, including Parts 1, 2, 3 and the addendum. Councilmember Legg seconded.

57:24
Adopt EAF
LL #4
Rezone
Racetrack Site

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

MOTION CARRIED.

Discussion. Mr. McKertich explained the following resolution is to approve the local law and rezoning application for the racetrack site. There’s also been discussions of a restrictive covenant on the property as well, the proposed map is on file. It would be a restricted area along Francis Street to prevent access but also use of the property (130 feet).

Councilmember Weingartner moved to adopt resolution, after a Public Hearing, adopting Local Law No. 4-2024 entitled “A Local Law Rezoning 110 William Street (Tax Map #162.15-2-11), 925 NYS Route 11 (Tax Map #162.15-2-12), and (Tax Map #162.15-1-56) to the Industrial Development Zoning District” and approving the Rezoning Application by Five Mile Point Warehouse Investors, LLC, in accordance with the attached resolution. Councilmember Diffendorf seconded.

58:24
Adopt LL #4
Rezone
Racetrack Site
Five Mile Point
Warehouse Inv.

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - no
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

AUDIT AND PAYMENT OF CLAIMS:

Councilmember Diffendorf 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 #24000283 through #24000382 in the total amount of \$200,949.78, which includes prepaid claims as authorized by resolution adopted January 2, 2024. Councilmember Wasson seconded.

59:24
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 7:26 PM

Respectfully submitted,

Kelley M. Diffendorf
Town Clerk