

TOWN OF KIRKWOOD WORK SESSION

September 5, 2017

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 Finch Jr., Commissioner of Public Work
Marchie Diffendorf, Planning Bd. Chairman
Duane Travis, ZBA Chairman

1. Lela Cherfan – Woodhill Court. (GEK)

Lela Cherfan said they bought the property in 1985 and have been taking care of it ever since. She said she started having problems with water since John Boyd built the house for his daughter at the top of the hill. The parking lot has flooded and she had to hire people to clean up at her own expense. Although she received no help in the past, John Finch offered to help but the Town of Kirkwood rejected this since there is no money. In the meantime she has water ponding, noting that the more rain we have the bigger the pond is so she would appreciate it if the Town could do something about it since it isn't her fault.

Supervisor Kniffen said the statement that the Town will not do anything because there is no money is inaccurate. He said they did spend some money a few years ago when piping was replaced, about \$12,000 to \$14,000 to fix the problem that was there then. He said with this problem two Board members, at times of heavy downpours, went up there and didn't see much water, so he questioned what is it the Board should do. Ms. Cherfan said there is water there now. Councilman Grubham said he was just up there and there is a very small area that is ponding and it doesn't make sense for the Town to spend roughly \$25,000 to take care of that little bit of water. He said most of the wet spot is on the street, not in the parking lot. He added that he's been up there to look at the situation 5 times, at one time when there was 2 to 3 inches of rain in an hour, and although there was a tremendous amount of water that came off the hill, 45 minutes later there was only a small amount of water ponding. There is an area that John Finch said he could pave but it won't solve the ponding issue. John said he thinks last year they tried to mill it to get the water to go down the side of the road towards the catch basin but that didn't happen. Councilman Grubham said when it was raining really hard most of the water was going to the catch basin. He said John will have to look at the situation to see if filling in the area would push the water into the parking lot, which we don't want to do. Ms. Cherfan said something needs to be done because before she did not have the water issue. Councilman Weingartner said he can remember in the early 1990s when he had relatives and friends living there that there was always water laying in the parking lots. He added there were basketball courts set up and they couldn't be used because there was so much water after a rainstorm. Councilman Grubham said if there is a compromise they could make, it would be to

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have John go up and see if he can fill that without forcing water into Ms. Cherfan's parking lot, and there is no guarantee that can be done. Ms. Cherfan said she would appreciate that.

2. Discussion – Call in time for employees other than the Teamsters Union employees. (GEK)

Supervisor Kniffen explained that currently in the Union contract if the highway department gets called in during off hours they get a minimum of 2 ½ hours pay and the proposal is to amend it to include all employees. Councilman Grubham questioned how often that happens or if it has ever happened. Councilman Weingartner said he thought they were not going to do this. He said it is a different job description, that the people who plow the roads have to get called in. Supervisor Kniffen said there are people doing different jobs in the highway department, that it applies to everyone. He questioned why the Board would not do this. Councilman Weingartner said this was discussed at the last meeting and Supervisor Kniffen responded that he did not hear anyone say we shouldn't do it until now. He said he thinks this is ridiculous, there are employees that work in the town hall, code department, highway and water and sewer, and we're saying let's treat Union people different. Councilman Weingartner said the 2 ½ hours is for the people with that in their job description to get called out. After additional discussion with Councilman Weingartner, Supervisor Kniffen asked Councilman Diffendorf for his thoughts. Councilman Diffendorf said he doesn't know if he is for this, stating that the Union bargained to get this and this would be something we would be giving to the other employees. He said we don't even call people in that he knows of so he feels we would be setting ourselves up calling people in and paying them 2 ½ hours. John Finch asked for clarification, stating that currently when the water and sewer department gets called in they get 2 hours of overtime, so he questioned if they still get it. Supervisor Kniffen said they are not going to do anything, since 3 Board members are against it. Since John Finch said the water and sewer people have been called in the past, Councilman Weingartner said it seems to him that the highway and water and sewer employees are different than clerical staff. Councilman Diffendorf said this gets complicated since the water and sewer people get 2 hours every weekend, that's been the agreement forever, noting that it usually doesn't take them that long to do the job. Councilman Grubham said that stays as is.

3. Resolution scheduling a Grievance Day Hearing for Unit Assessments on September 26, 2017 at 6:00 PM. (ONB)

Mr. Blaise reported that he and Jim Smith finished reviewing the water and sewer units for 2018 assessments and the letters have been sent out. He fielded 2 calls and was able to explain to the people why they were getting the increases. He said they would like to schedule the formal grievance day for September 26th for anyone that wants to come in and grieve to the Board. He noted that will give them plenty of time to make adjustments and get the roll into the County. He added that the revisions to the system that he and Jim made in regard to how units are assessed that the Board approved last year have vastly simplified the process. Resolution.

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**4. Discussion – Drainage at Highway Garage – Engineering Fee - \$5400.
(LCG)**

Councilman Grubham said he got a price from the town's engineer of \$5,400 for design work for drainage at the highway department. When it gets wet over there, particularly in the winter, a lot of water builds up in the back area, right by the sand and salt barn, and it really makes a mess. One concern is that there is salt and sand mixing in over the aquifer and another concern is that it also makes it hard for the trucks to get in and out of there. If the eventual plan is to redo the highway garage this is something that will have to be done anyway. His thought is that they will have to design some type of pump system to pump the water out and back into the creek or wherever. According to Jim Smith we will have a \$10,000 surplus in engineering contractual so it could be taken out of there.

5. Discussion – Purchase of a new 2017 Volvo truck. (JAF)

John Finch said he gave the Board a list of the remaining reserves in the budget for equipment at the last meeting at which time he said he would be coming back with a better price for the truck. The new price is \$165,508 for the single axle dump truck with the plow and wing and that's through National Joint Powers Alliance (NJPA) pricing. In regard to the backup truck #38, it needs some major reconstruction of the box for the sander in order for it to work. The price for a new box is \$34,000 and the price to fix the box is \$12,000. He said to keep in mind if we fix it, it is still 14 years old so it will still have more issues. The 2017 Volvo is now \$20,000 less than the actual bid price of \$184,487 in October of 2015. Through NJPA that is the actual bid price, the Town does not have to go out to bid since it is through NYS OGS purchasing agreements. He said all the bidding has been done for us so we wouldn't have to go through the whole process of drawing the specs for this truck. He said with the purchase of the truck we would still have \$50,000 left in the equipment reserve line for this year. John said there would be no payments, that we would be buying this truck outright by paying for it out of equipment reserve and the equipment line. Councilman Diffendorf questioned why we are not reaching out to Stadium, Tracey Road Equipment, etc. to get a bid back. John said because this truck is sitting in the lot and they have discounted it to the point where they want it off the lot and we can go with that price and not have any problems because it is bid out through NJPA pricing. Councilman Diffendorf said he still wants to put it out to bid, stating it's a big truck and he thinks that's the way to do it. He said he doesn't feel we owe Burr Truck anything just because they bought it for us. He said we've paid a lot of money to Burr Truck over the years and he doesn't think the trucks have been that good, the Volvos. He said if they got the low bid and that was the truck that would be one thing but he thinks we should reach out and get the lowest price. John said the specs at the time of the previous bid were for a Volvo but anyone can build a truck equivalent to that spec. He said our whole fleet since the 1990s up until last year was Volvo trucks. He doesn't feel there have been any more issues with these trucks than any others. Councilwoman Yonchuk said she doesn't think it hurts to go out to bid. Councilman Weingartner said he thinks it's a good opportunity to get this truck at this price and if we do bid it out he doesn't think we won't get a price better than that. He said he doesn't look at this as us helping out Burr he thinks we're helping out ourselves by getting a decent truck, getting rid of the other truck and having a better backup truck.

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Mr. Blaise said the Board can absolutely go out to bid and put specs out there but with NJPA it's basically like buying off a county or state bid list. NYS actually uses NJPA for a lot of purchases. NJPA has already done the specs and gone out and solicited prices. He said that doesn't prohibit the Board from doing this on their own but if they want to buy this truck they don't have to go out to bid because NJPA and the state have already gone out and solicited bids. Supervisor Kniffen said it's now public knowledge what the NJPA price is and questioned what that would do to the bid prices if they go out to bid. Councilman Diffendorf said we should get a good price then. He added that this is not a 2017 truck because Burr bought it in 2016. John Finch said it is a 2017 truck that was built in 2016 and will be titled and registered as a 2017. John said we don't have to go out to bid to get NJPA pricing from Stadium or any other company. This would save Mr. Blaise having to write up specs that have already been done by the state. Councilman Diffendorf said he would like to see them because at least he would feel we were getting a fair deal and also treating the businesses out there fairly and not just going to one company. Councilman Grubham said he agrees with that and the problem with going out to bid is that it is somewhat costly. Mr. Blaise said if you want to go out to bid you would have to go through the formal process, you can't just go to a company and ask for a quote since it's over the competitive price. He said the options are the Board has to go out to bid and seek sealed bids or go off an approved bid list, where NJPA or the state or county has already solicited bids and got the best price for the truck. Councilman Grubham said if we did that we would save several hundred dollars rather than go through the bid process. Mr. Blaise said if the Board goes back to NJPA, the price on the Volvo truck is the best price because it is the best bid price for it. Other trucks can be on the NJPA list but they aren't going to be this truck. Councilman Grubham said even if we do the bid process we'll have some kind of a specification on what we want that will match this or be similar to it. If this is what we want then we look for companies on the list that sell this particular product. Mr. Blaise said in 2015 when we went out to bid this was the truck that we basically specked out, but they weren't the low bidder at that time. This matches the last time a truck was put out to bid, this was our spec so this should be the best price. Councilman Diffendorf said when Burr ordered this truck they assumed they were going to sell it to Kirkwood but instead we went out to bid and Stadium came in as the low bidder, so Burr was not able to sell us the truck because of the better price from Stadium. He said he is not so sure we wouldn't get another better price from Stadium. Councilman Grubham said that could be but if we go through the state list it would save us the cost of going out to bid and still get the price. Mr. Blaise noted that it wouldn't be apples to apples though. Councilman Grubham said that's the way it is when we go out to bid as well. After additional discussion the Board decided to go through the formal bid process for this truck purchase. Resolution.

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6. Resolution authorizing the Supervisor to enter into a Memorandum of Understanding with Teamsters Local 317 regarding the new title of Equipment Mechanic and rate of pay for that title, in accordance with the attached MOU. (JAF)

John Finch explained that at the last meeting we discussed the new position of Equipment Mechanic and this is the resolution authorizing us to create the position which Broome County has approved. In response to Councilman Grubham, John said the job description states that he, as supervisor, can assign the Equipment Mechanic any duties as needed or required, which would include snow plowing. Bob Firmstone, of Teamsters Local 317, added that the Equipment Mechanic can plow but not before people that it is their job to plow snow. Resolution.

7. Discussion – Transferring Robert Green, Jr. from MEO to Equipment Mechanic effective September 6, 2017 at a rate of pay of \$17.45 per hour. (JAF)

Resolution.

8. Discussion – Purchase of a 16 X 16 garage door for the pole barn. (JAF)
John Finch reported the garage door on the salt barn has rotted away and needs to be replaced. He provided 2 quotes with the lowest being from Baker's Garage Doors, Inc. for \$3,316, which does include prevailing wage rate. Councilman Grubham said he has a concern when one bid is almost double the other one. John said he went through both quotes and he doesn't think anything was missed in the low quote. Resolution.

9. Discussion – Partial property tax exemption for volunteer firefighters. (ONB)

Mr. Blaise explained that under Section 466-G of the Real Property Tax Law a municipality in a county with a population of between 200,600 to 205,000 according to the most recent census, which includes Broome County, may allow volunteer fire fighters and volunteer ambulance service members to be exempt from taxation to the extent of 10% of the assessed value of the property, however no exemption shall exceed \$3,000 multiplied by the State Equalization Rate for the municipality. In Kirkwood the State Equalization Rate for 2017 is 78% so the maximum exemption for this year would be \$2,340. In order to implement such an exemption the Town would need to hold a public hearing and adopt a local law effectuating such an exemption. Mr. Blaise said to qualify a volunteer must be at least 18 and have served 1 year. He said we would want to include that they must certify that they are active volunteer fire fighters. Mr. Blaise will draft something for the next meeting for the Board's consideration.

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10. Discussion – Declare 40' X 80' tent as surplus and authorize Supervisor to sign an agreement transferring the tent to Burns Tent Rental. (ONB/JAF)

John Finch explained that we are going to give Burns Tent Rental the tent with the understanding that they will put up a tent for us for free every year for the fair. There is no end date. Mr. Blaise said there is something in the agreement that states that a successor company will take on this responsibility. Basically this is in effect until the company goes out of business or the Town no longer wants it. John added that there are some structural issues with the tent and needs about \$7,000 worth of work. This company has tents similar to this one and they will swap poles and supports around and guarantee we will have a tent every year. We won't get the same tent each year, just a tent that is the same size. Resolution.

11. Discussion – Proposed property lease of 57 Geiger Lane to Gary Nesbitt. (RFW)

Councilman Weingartner reported 57 Geiger Lane was flooded in 2006 and deeded from the Murphys to Broome County. In 2009 when we were doing applications for flood buyouts he received an application from the Nesbitts for 55 and 57 Geiger Lane. Throughout the whole process Broome County transferred to the Town of Kirkwood only 57 Geiger Lane. When that was transferred, the transfer did not include any of the deed restrictions that all the other buyout properties had so as far as the timing to do this lease, it's not going to be as long as 2 years to get approval from SEMO or FEMA as it was to get acceptance for the previous 3 properties that we had leased through the buyout properties. 57 Geiger Lane is property that is adjacent to the Nesbitt's property. It is the same lease as we would do for the buyout properties, you can't build on it. He has the lease agreement and noted we've done this previously. There is a piece of property the Town was given that is adjacent to Joan Rey's property, which she was using for gardening. She decided not to renew the lease this past year. This is one less property the Town will have to mow. He said the resolution is subject to permissive referendum and is a 2-year lease. This is for family gatherings, picnicking, etc. It has the same restrictions as for the FEMA properties but we don't have to go through FEMA or SEMO for their approval. Resolution.

12. Discussion – Request from Jessica Kinney, Deputy Town Clerk, to take an online training class to become a Notary Public, at a cost of \$39. (GMD)
Resolution.

13. Transfer of Funds.
Resolution.

14. Audit of Claims.
Resolution.