

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

October 3, 2017

A regular meeting of the Kirkwood Town Board was held on October 3, 2017 at 6:00PM at the Joseph A. Griffin Town Hall with Supervisor Gordon Kniffen presiding.

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

Also Present: Oliver Blaise III, Attorney
Gayle Diffendorf, Town Clerk
John A. Finch, Jr., Commissioner of Public Works
Duane Travis, ZBA Chairman

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

September 5, 2017 Public Hearing, September 5, 2017 Town Board Meeting
September 26, 2017 2018 Water & Sewer Benefit Unit Assessments Grievance Day

PUBLIC PARTICIPATION:

Supervisor Kniffen introduced Nicholas Geiger who was attending as a community service requirement for his Participation in Government class at Susquehanna Valley.

215 Industrial Park Dr.

In response to Roy Tondeur of Kirkwood Ave., it was noted that 215 Industrial Park Drive, which has recently been deleted from the registry of contaminated sites, is privately owned. This has been going on for many years and Supervisor Kniffen will check as to the property's status on the tax roll, with the initial indication that it never was off the roll.

Pay Increase for Court Clerks.

Court Clerks Erin Tuttle and Paula Hashem addressed the Town Board in regard to their rate of pay. Paula, who has over 10 years of experience in the court system, explained that a Senior Court Clerk for the State, with no experience, starts out at \$37,600 with annual increments of \$1,500 to \$1,700 and long term benefits. The clerks said they realize this isn't a State court, but it is one of the busiest courts in Broome County and they work very hard with an overwhelming work load. The responsibilities of this job are similar to a Chief Clerk for the State. They try to keep costs down and save hundreds of dollars each year just in postage, they are scanning, they no longer have one of the other part time clerks and they did not spend much of their equipment line last year. Erin said when she started this job she had no experience and had no idea of the responsibility. Paula said that Erin works hard and has not gotten a raise since her probationary rate (even though she was promised one), they do the same job and she would have no qualms if Erin's rate of pay was the same as hers. Erin feels a 2% raise is inadequate for her responsibilities. The clerks reiterated a number of times how busy their court is and provided data as to the salaries of clerks in other local municipalities, noting they are the lowest paid court clerks in Broome County. Many programs, such as the Diversion Program (which Paula explained) involve hours of work due to the amount of paperwork involved. The Court generates almost enough money to pay for themselves. Erin said their part time Court Clerk makes more per hour than she does, and even people that work at McDonalds do, and she doesn't think that's fair. They asked that the Board consider all this when they are looking at the budget for next year. Erin feels that what Judge Coe requested is what she should be making, and that's still under what a Court Clerk makes starting out.

Supervisor Kniffen said there was never a promise that Erin would get a raise after her probationary period, it was only a discussion. He said the Board appreciates what the Court Clerks do, what all the employees do, and we would like to think we take care of them, not only in salary but in benefits, working environment, etc. He said there is no issue with the courts. He does not doubt it is a busy court but they have gone from 48 in the State to 53 and that means their volume is down, actually down 32% from 2012

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through 2016. The cases went down 33%. In regard to the part time clerk making more an hour than Erin, Supervisor Kniffen said she is part time but has been here a lot longer than Erin. He said the Town does not give probationary raises, it is not our policy. He said we could have done away with a clerk based on the volume going down. Supervisor Kniffen said we've always heard through the years that we aren't aware of all the red tape involved from NYS, and he doesn't doubt that, because the State can cost us more money by thinking of new things to do. He knows that in parallel with the numbers going down the clerks do have some other things they are doing that probably they didn't do in the past. Supervisor Kniffen said to Erin that it is in the minutes and is part of the record, that before we hired you your judge agreed with the starting salary and the increases to be the normal increases. Erin said he did not agree to that and told her after a year of training she would be up to par. Supervisor Kniffen read the following from the Town Board meeting minutes of February 2, 2016: The new clerk will start at \$3,000 less than the current clerk that has experience and there will be no plan to raise her salary other than pay increases in the years the Board decides to increase the pay of all employees. Supervisor Kniffen said Judge Coe is in agreement. Erin said Judge Coe told her himself that he was not in agreement with that.

Erin said they previously submitted information to the Board as to what the starting salaries were for various municipal courts in Broome County for 2015. Those salaries were reviewed, specifically Chenango which is a very busy court. Councilman Grubham noted that we have 2 full time clerks and one part time and they only have 2 full time, and they are a busier court. It was also noted that Johnson City and Vestal also only have 2 clerks. Paula added that it is nice they can produce money to fund their court but the court is not supposed to be a money maker and they do a very good job and it would be nice to be compensated a little more, considering the intensity of their job.

Erin questioned if any of the Board members would be willing to come in for a day and see what a day on the job for a court clerk is like. She thinks she is underpaid and is requesting what her judge thinks she should be making, that she would be happy with that. Supervisor Kniffen said the feedback on Erin is excellent, that there is no doubt about her quality of work and her judge is very happy.

Councilwoman Yonchuk questioned Paula as to how much she thinks she should be making. Paula said she still thinks she and Erin should be making the same amount, noting that she would love to make \$36,000, that she took a \$19,000 pay cut to come here and has to work a second job. She added that she would be grateful for any increase. Councilwoman Yonchuk said you can go into many venues and see people doing the same job and get different pay because of their experience, noting this is the way it is in schools and even in the Town's public works department. She said that although she knows that a person is doing a great job it wouldn't be fair to give one person a greater increase than the others. Paula said it's been done in the past, with Councilman Grubham adding that they had this discussion when Erin was hired and in the end Judge Coe said he agreed, noting again that it's in the minutes. Councilman Weingartner said what Judge Coe told her may be different than what he agreed to with the Board, which is in the minutes. As an additional response to this issue, Supervisor Kniffen read another excerpt from the February 2, 2016 minutes: Supervisor Kniffen explained there was a discussion at the last meeting about a court clerk vacancy for Judge Coe. Judge Coe had selected someone to fill the position and the discussion was about the salary. Since the new clerk does not have any court clerk experience, it was suggested that the salary start at \$3,000 less than the current clerk who does have experience and in the course of 18 months increase the salary to be equal. (Supervisor Kniffen said he thinks he is the one that suggested that.) Supervisor Kniffen said since that time there has been a big change. Judge Coe was not able to find someone through the Broome County court system and the Board was not happy that he didn't advertise in the newspaper.

In regard to advertising, Supervisor Kniffen said that's our policy and it's a good policy, and Judge Coe didn't do it. He repeated the excerpt from the 2/2/16 minutes as noted earlier in the meeting, adding once again that Judge Coe agreed to no increase.

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Supervisor Kniffen said if we decide we want to make a change, the Preliminary Budget will be presented at a public hearing on October 31st, so we should determine that now, noting that it is not a lot of money and would have no effect on the tax rate. He said there is money in contingency.

Councilman Weingartner said in the past he has kept quiet because of his involvement with the Court, his mother was a Court Clerk and his dad was a Judge. He said he does feel that court clerks deserve more money. He's always felt that whether the court makes money for the Town or doesn't it's a moot point since we have to have a court in the Town. He said it would be nice to see some 2016 or 2017 salaries. As far as them making equal amounts of money, he said he's always had an issue with that on any job because the person that doesn't have the experience, even though they are doing the same job, their experience level will not help them in some situations. He cited an example of himself as a 20-year coach where experience would come into play in the event of an injury, experience would be a benefit. He feels the clerks have kind of gotten the shaft the last few years because maybe the thought was they are not making the Town as much money so we don't have to pay them as much or we can take away some of their hours, such as the one part time clerk. Although he feels the court clerks should be making more money he disagrees that their pay should be equal.

Supervisor Kniffen said seniority means something and that the clerks are not necessarily being paid what they're worth but they have been getting increases because of the inflation rate. Councilman Weingartner reiterated what he said in the original discussion, if Erin works here for a certain amount of years then she will be making what Paula is making at the amount of years Paula has.

Councilwoman Yonchuk said she wouldn't argue that they shouldn't be getting more, but she doesn't think they should be making the same. She doesn't want to get into the position of giving merit pay raises. She thinks there is some justification to more pay, but not equal pay, although she needs to be sold on the pay increase.

Councilman Weingartner suggested that they honor what the judges are proposing of \$31,500 for Paula (budget proposal \$31,040), and \$29,500 for Erin (budget proposal of \$27,800), amounting to a total of \$1,595 more than the budget proposals. This would include the 2.6% which is proposed for everyone and there still is \$2,000 between their salaries. Concerns were voiced about this proposal as discussion continued.

Supervisor Kniffen said if we do this we would be making an adjustment in the situation, we'd be saying it's been underpaid, adding we did that with Sue Glovich in the highway department. Councilman Grubham said in Sue's case and BJ's case, they were doing more than what their job initially entailed and in this case they are not necessarily doing more, but the same job they were hired for. Supervisor Kniffen said with Sue, the previous secretary was a State retiree and had a salary limit, so that's why we made the adjustment.

Councilman Diffendorf stated when two guys run the same equipment they get paid the same, there is no seniority. He noted they get paid less during an apprentice program for 4 or 5 years. He thinks people work well together when they get equal pay and both clerks are in agreement with that. He said it would make for harmony in the court and we should increase Erin's salary to equal Paula's since now she is trained for the job. Councilman Grubham said there is still a seniority process here and noted a concern as to how this would affect other positions in the Town, such as in the highway department, if they agree to this. Councilwoman Yonchuk agreed. She said that it was stated that certain things were done in the past but just because we did something in the past doesn't justify that we do it now. She added that we cannot foresee and address any issues that may come up in the future.

In regard to Erin's comment that she is making less than the part time clerk, Councilman Weingartner said the part time clerk, Kathy Martone, trained Erin and has been there longer than anyone else. Just because she's part time doesn't mean she's not as important as the full time clerks. The judges' proposal for the part time clerk is \$17,000, which is a \$340 increase. With that addition the total increase would be \$1,935.

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Since the budget public hearing will be held October 31st after additional discussion, the Board agreed to the judges' proposal for the court clerks as suggested by Councilman Weingartner. Supervisor Kniffen added that this is a way to show respect for what the court clerks do every day but we will not want to have this discussion again. The budget will be adjusted.

2017 Ballot.

Mr. Blaise, as a Commissioner of the Broome County Board of Elections, explained that when voting on November 7th people should remember to turn the ballot over because there will be 3 State propositions on the back. One has to do with funding for projects in the Adirondack Park, one gives judges the ability to take away benefits of elected officials who are convicted of crimes relating to their elected office, and the third one has to do with whether there will be a Constitutional Convention or not, which is on the ballot every 20 years. Mr. Blaise said it's up to the interest groups that put the propositions on the ballot to get the information out to the public and he is not aware of a neutral source. It is up to the public to educate themselves.

COMMUNICATIONS: None.

COMMITTEE REPORTS:

B. Kinney – Grade D. Certification.

John Finch reported that Brian Kinney took his week-long Grade D Distribution course and passed the test with a score of 100 and will be eligible for the certification at the beginning of the year. He needs to have one year of experience at the facility in order to qualify for the D training. At that time he will also be eligible for his Grade 2B license. Requests for increases for his certificates will be made at the beginning of the year.

Supervisor Kniffen attended a meeting hosted by Dickinson and the Town of Binghamton about how some contractors in Broome County are not legitimate and cheat people. They are considering asking the County to put a panel together to study this for possible legislation that would apply to the whole County. It would seem in the least they would have to register with the Code Department in each municipality. Mr. Blaise said his office gets as many calls about bad contractor situations as anything else. Councilman Grubham said contractors have to register in Vestal and pay a fee, which varies from about \$300 or less. It is not a license, but it enables them to make sure the contractor has insurance, etc.

OLD BUSINESS:

141-17
Adopt 2018
W&S
Assessment
Rolls

Councilwoman Yonchuk moved to adopt resolution, after a Public Hearing, adopting Assessment Rolls for 2018 for Water & Sewer Districts, in accordance with the attached resolution. Councilman Diffendorf seconded.

Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- yes
	Supervisor Kniffen	- yes

MOTION CARRIED.

142-17
Sched. 2018
Budget
Hearing

Councilman Diffendorf moved to adopt resolution Approving the 2018 Preliminary Budget and Directing a Public Hearing for October 31, 2017 at 6:00 PM. Councilman Grubham seconded.

Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- yes
	Supervisor Kniffen	- yes

MOTION CARRIED.

Councilman Grubham moved to adopt resolution authorizing William J. Diffendorf, Jr., to attend a PERMA Safety Coordinator Certificate Training on Thursday, October 19, 2017

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from 10 AM to 2 PM at the PERMA office in Latham, NY, with all reasonable expenses paid. Councilman Weingartner seconded.

Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- abstain
	Supervisor Kniffen	- yes

143-17
W Diffendorf
Attend
PERMA
Training

MOTION CARRIED.

Councilman Weingartner moved to adopt resolution amending the Rules and Regulations Governing Attendance and Benefits for Town of Kirkwood Employees regarding call in time (page 9), in accordance with the attached Rules and Regulations. Councilwoman Yonchuk seconded.

Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- yes
	Supervisor Kniffen	- yes

144-17
Amend
Employee
Benefits

MOTION CARRIED.

Councilwoman Yonchuk moved to adopt resolution amending the Town of Kirkwood Benefit Plan regarding health, dental, and optical benefits for certain future part-time employees hired after October 3, 2017, in accordance with the attached Benefit Plan. Councilman Diffendorf seconded.

Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- yes
	Supervisor Kniffen	- yes

145-17
Amend
Benefit Plan

MOTION CARRIED.

Councilwoman Yonchuk moved to adopt resolution that all sealed bids received and opened on September 26, 2017 to furnish a 2017 and 2018 dump truck are hereby rejected in that the bids received were either unable to meet bidding specifications without material and substantial variances with said specifications, or that the bids received were in excess of the Town's budget for said item; and awarding the bid for said item to Burr Truck & Trailer Sales in the amount of \$170,784.70 pursuant to said vendor's NJPA price list. Councilman Grubham seconded.

146-17
Award
Truck Bid

Discussion: Councilman Diffendorf questioned why the other trucks did not meet the standards. John Finch said he reviewed the bids and there are some discrepancies as far as the boxes and conveyors. His mechanics said it would be a significant issue if they have to take the conveyors out, they are not easily removable and it's a big problem if it needs to be fixed, especially if it's during a snowstorm. The conveyor is part of sanding. There are other issues that involve the conveyors and would involve valuable time when trying to get them apart. Councilman Diffendorf said he has a problem with this, noting they could buy a 2018 for \$339 more and now they would be getting a 2017 that has been sitting on the lot for over a year. He thinks they should go with the low bidder, it's only \$339 more and he doesn't know that it doesn't meet the standards.

John said one other thing that should be taken into consideration is that he stated over a month ago that our spare truck, #38, needs approximately \$12,000 worth of work in order for us to use it for the winter because the whole underbody of the box is unstable; the whole thing needs to be rebuilt. If we go with Councilman Diffendorf's suggestion to get the 2018 truck, that will take up to 6 months to get here and we would have to do the repairs on the backup truck. Councilman Diffendorf said he doesn't understand how we got to the point if we don't buy the truck from Burr we won't have a backup because it's in such bad shape. John said that's the cost to get the truck repaired. He said either we spend the money on that now and wait for a new truck or get the truck from Burr now, which is \$339 cheaper and in the yard ready to do. John added that he can sell the back up truck now for \$14,000 and our back up truck would then be truck #36 which is a 2000 Volvo.

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Councilman Grubham requested an explanation again as to where the money is coming from to pay for the new truck. John said he provided a handout a couple of months ago that the equipment reserve has \$150,045 and there is \$61,000 in the 2017 equipment budget, for a total of \$215,000. None of this money is encumbered on other equipment. In regard to future truck purchases, Councilman Grubham noted a concern that our entire amount of reserves and equipment is being spent on this truck and questioned if the money will be available for future purchases for 2018 through 2024. He doesn't see how our reserves will build up fast enough to take care of that. John said they put \$65,000 in reserves each year. They will be replacing the 2007 Volvo in 2020 because they won't have the money next year or the year after. It will be replaced with whatever money we have left this year, which is roughly \$35,000 to \$40,000, between the equipment budget and reserve. That money will be rolled over so next year we would have about \$100,000 in reserve and add \$65,000 each year. Councilman Grubham said he has been asking for these numbers and this is the first time he has seen them. A plan should always be provided with the numbers on it so we can see how the equipment reserve is going to build up again, etc., so when planning for the future we can see where the money is that's going to pay for it. He said there could be an issue if a piece of equipment is needed.

Councilman Grubham questioned if we have to buy this truck today or if we could hold it to think about it. John said if the Board decides not to go with the Burr truck he would have to get the other truck fixed before winter. Councilman Weingartner said we should put it up for a vote and see what happens, noting that he would like to get this done. Councilwoman Yonchuk said she agrees. Councilman Diffendorf questioned what the hurry is, because he doesn't understand why we wouldn't get the newer truck. Councilman Weingartner said the truck hasn't been used, and on a big truck like that the year really doesn't matter. Councilman Diffendorf noted a concern that a truck sitting out for over a year in the moisture already has started to lose its life. Councilman Weingartner said he does not think so. In regard to the warranty, John said it begins on the date of purchase. Councilman Diffendorf said he doesn't think there is a person here who would buy a car that was a year older for what they could buy a brand new car for.

Supervisor Kniffen said we need to take a look at our whole bidding process. He said we sent out specs that were obviously Volvo specs so when someone comes in and can't meet the specs then they are non-compliant, so he questioned if we are limiting competition, if we are standardizing, noting there are pluses and minuses with standardizing. If we standardize then we would be restricting competition. He said from what he knows about the history of this truck, originally when the prior Superintendent went out to bid, the spec was to Volvo specs, but he accepted a non-compliant bid and that's why that truck is sitting there. They had every right to believe they had a chance at a sale and when we didn't follow our bid procedures they were stuck with the truck and he thinks we should go with them. Although Councilman Diffendorf said he doesn't think we owe them a thing, Supervisor Kniffen said he does because they brought that truck in and we didn't do what we said we were going to do and we need to fix it. When the bid went out originally the low bidder didn't meet the specs but we didn't follow what we should have done and it should have been non-compliant. He said if we are going to send out bids and let people bid whatever they want then we have to say so, but we can't put specs in there and then say we don't care if you follow them. It was agreed that the specs were for a Volvo and Councilman Diffendorf noted a concern that this was illegal unless there was a standardization policy. Supervisor Kniffen said it is not illegal if there are other Volvo distributors out there that can bid on it.

Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- no
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- no
	Supervisor Kniffen	- yes

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution, ratifying a resolution, authorizing the Supervisor to sign a General Financial Services contract with Municipal Solutions, Inc., regarding the road project bonding, in accordance with the attached contract. Councilman Grubham seconded.

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Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- yes
	Supervisor Kniffen	- yes

MOTION CARRIED.

Discussion – Property Tax Exemption Law for volunteer firefighters.

Mr. Blaise explained that the Assessor verified the numbers provided last week by Supervisor Kniffen are very close as to what it would potentially cost the Town if the volunteer firefighters sign up for it and what the potential tax break would be for them. The impact to the Town's budget would be minimal and the impact on the volunteer firefighters' tax bill will not be very big either. The question is if the Board wants to make this available by reducing the Town tax a bit for those volunteer firefighters and also whether to define eligibility as everyone enrolled as a member or just those members that are active. Supervisor Kniffen said the Five Mile Point Fire Company used the word enrolled but he has yet to hear from the Kirkwood Fire Company. For discussion at the October 31, 2017 work session.

NEW BUSINESS:

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

148-17
Transfer
Funds

Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- yes
	Supervisor Kniffen	- yes

MOTION CARRIED.

AUDIT AND PAYMENT OF CLAIMS:

Councilman 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, and ratifying the payment of the prepaid claims as authorized by resolution adopted January 3, 2017, all in accordance with the abstract of claims on file in the Town Clerk's Office. Councilwoman Yonchuk seconded.

149-17
Audit/Pay

Roll Call Vote:	Councilman Weingartner	- yes
	Councilman Grubham	- yes
	Councilwoman Yonchuk	- yes
	Councilman Diffendorf	- yes
	Supervisor Kniffen	- yes

MOTION CARRIED.

ADJOURNMENT:

Councilman Weingartner moved to adopt resolution to adjourn the meeting.

Councilwoman Yonchuk and Councilman Diffendorf seconded. All voted in favor.

MOTION APPROVED.

Meeting adjourned at 7:51P.M.

Respectfully submitted,

Gayle M. Diffendorf
Town Clerk