

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

April 3, 2018

A regular meeting of the Kirkwood Town Board was held on April 3, 2018 at 6:00 PM 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: Angelo Castalano, Attorney
Gayle Diffendorf, Town Clerk
John A. Finch Jr., Commissioner of Public Works
Marchie Diffendorf, Planning Bd. Chairman
Chad Moran, Building & Code Officer
John Mastronardi, Town Engineer

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES: March 6, 2018 Town Board Meeting

PUBLIC PARTICIPATION:

ALL INCLUSIVE PLAYGROUND.

Supervisor Kniffen explained that Katie Legg, who is heading a committee to expand the existing playground at Valley Park and make it all inclusive, is here to address the Board with additional information regarding the committee's goal to make the playground accessible to those children that are physically challenged.

Katie provided handouts with more information about location with pros and cons for both Valley and Veterans River Park. The pros for Valley Park are:

- Easy on/off Rt. 11, Hwy 17 & 81
- More accessible to the community, closer to parking lot and the cost to put in additional parking would be less than at Veterans River
- Room to add on
- Reduced vandalism
- Close to State Police, fire and ambulance
- Close to grocery store
- Close to apartments within walking distance (367 apartments)
- Park is open all year (unless flooded).

She added that because it is more accessible, people would see it more and it would be at the top of their mind and there is great visibility for supervised visits as well as the fact that many families have played at the park this year on the warm days we've had. The cons for Valley Park are:

- Flooding
- Traffic congestion
- No bathrooms

In regard to Veterans River Park, the pros are:

- Parking
- Existing Handicap Bathroom
- Room to add on

The cons are:

- Flooding
- Walking distance from the parking lot (farther than Valley Park)
- Limited visibility
- Higher vandalism rate (because it is not as visible to the community)
- Farther distance to police and ambulance (fire department is close)
- Closed November – April
- Adding parking lot in would be more costly

Katie said they favor Valley Park and hope that the Town Board will too so they can move forward on this.

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John Finch explained that there are numerous companies that supply different varieties of ground covers and he referenced a specific catalog that offered poured in place recycled rubber, recycled rubber tiles, synthetic turf, and splash trend, which is for water parks and is impenetrable. He explained that these ground covers would be just in the areas where there is fall protection and in the areas where we wouldn't need these we would use mulch or blacktop, such as wheelchair access ramps. He said we obviously would look for one that is impenetrable so it can be pressure washed if or when it floods.

Councilman Grubham said he doesn't see where it should go anywhere else than Valley Park if for no other reason than it's the easiest access. John said the only down side to this location is the flooding. In regard to the flooding issue, Supervisor Kniffen added that all the playground equipment will be anchored down, with John noting there won't be any wood so it can all be pressure washed and won't absorb any water. Councilman Grubham said the equipment that is already there will stay and that's anchored in concrete as well. Katie said with the poured in place ground cover, if it does flood and gravel gets in it, it can be sprayed off and it will still hold its cushion. Councilman Grubham noted a concern that mulch might be kind of unstable. Katie replied that there is an engineered fiber mulch they could use and they have talked to people about this.

Councilman Weingartner said he feels the committee is doing a great job and has no problem with it being located at Valley Park. Councilman Grubham said he thinks it's the best location for the number of people that can use it and although it does flood, he said Veterans River Park will flood too. Councilwoman Yonchuk said for her heart's sake she would like to see it at Veterans River Park but she does think Valley Park is the practical choice. Councilman Diffendorf said he has no problem with it being at Valley Park, knowing that we aren't going to be able to put permanent bathrooms in, that it will always be portable handicapped ones. Supervisor Kniffen said he is for it.

Supervisor Kniffen said the committee has discussed the fact that there are questions about legal and insurance matters and his thought is we could have our lawyer and insurance rep attend a committee meeting. Councilman Weingartner said that Pat Regan, the Town's insurance rep has looked into this and said it would just be adding more equipment to what we already have and there would only be a minimum increase. He did note that if some of the equipment would add more of a chance for injury there might be an additional charge and due to the expansion of the playground he estimated a premium increase of about \$1600, which Supervisor Kniffen said he feels the Town can certainly afford to do. In regard to volunteer workers on the project, Supervisor Kniffen said in his conversation with Pat Regan, Pat said he didn't think they would be covered under the Town's insurance. Councilman Weingartner suggested people could sign a waiver, but Supervisor Kniffen noted a concern that waivers don't always hold up. Mr. Castalano said that is true to some extent, there can be issues with workers comp coverage if someone gets injured while volunteering.

Katie said they have asked Mr. Blaise to attend one of their meetings to answer some questions so they can move forward with their committees and they will be talking with the Community Foundation as well. She noted that they will report to the Board as things progress. In response to Councilwoman Yonchuk, Katie said they are looking at whether or not they will establish their committee as a non-profit or go with another option.

The Board gave approval for the committee to proceed with their plans at Valley Park.

SUPER 8 MOTEL – UPPER COURT ST.

Referring to the fact that at the last meeting Supervisor Kniffen reported that the County has taken over the property and is willing to sell it to the Town for \$1 and if that happens and the Town wants the building demolished it would be the Town's responsibility, Pat Griffin questioned if the Town does not take it, if the County would do anything. Supervisor Kniffen said they probably would not. He said we got an estimate of \$200,000 to remove the building. He said we sent a letter to Senator Akshar, who got us \$400,000 towards our road project, asking him for another favor, and maybe he can't come up with all of it but hopefully some of it. He said if he does come up with some of it, we also have

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hired a grant writing firm to get us money to do some major capital projects so we are asking them to see if there is money available. Supervisor Kniffen said we also contacted the Land Bank who helped with removing the Kasmarcik property on Upper Court Street at no cost to the Town. Although they don't have \$200,000, he said they may possibly get back in the game if the balance was \$20,000, but until we get that far we won't know. He did note that the Town does not have to take it over prior to getting that information.

COMMUNICATIONS: None

COMMITTEE REPORTS:

Trivia Night.

Councilwoman Yonchuk provided more information regarding the Trivia Night the Windsor Middle School PATS (new version of PTA) is sponsoring as a fund raiser on Saturday, April 14th at 7 PM at the Elks Lodge on Route 11. The cost is \$20 for each participant which includes, trivia, prizes, and a pasta buffet. This is team trivia and they will accept reservations at the door. A registration form and additional information is available at the Town Hall.

Kirkwood Lions Club – Wellness Program – AMBA Clinic.

Councilwoman Yonchuk reported the Kirkwood Lions Club will be sponsoring their annual Wellness Program on May 19th at the Conklin Presbyterian Church from 6AM to 10AM. She said for \$40 they do a complete blood panel, about 30 tests for such things as coronary and kidney disease, anemia, liver disease and others. There are optional tests for an additional fee. More information is posted at the Town Hall.

Traffic Light issue on Route 11 at Willow Run.

Councilman Grubham said the traffic light doesn't work right, cars going in to Willow Run set it off and people traveling on Route 11 sit there while nothing is happening. He would like to see if we can talk to the State to get this adjusted. John Finch said there are sensors in the pavement and when people cut the corner going in and drive over them it sets it off. Councilman Grubham said he doesn't think it would be too difficult to move the sensors down the road a little. Supervisor Kniffen said that sometimes the light changes when there isn't even a vehicle over there. Councilman Diffendorf noted that the timing is off as well because when a car comes up to the light from Willow Run it changes immediately. John said he will look into it.

Flooding Issues.

Supervisor Kniffen stated we've had catastrophic flooding in 2006 and 2011 and it's now 2018 and nothing has really happened as far as remediation of the Susquehanna River. After the 2006 flood then Senator Clinton sponsored a \$30 million study of the Susquehanna River, which Supervisor Kniffen said meant to him that they were going to spend \$30 million to find out why this flooding is happening and what we can do to prevent it or minimize it. He said now its 2018 and we are not there yet after letters, communications, phone calls and talks with Senator Schumer and the Army Corps of Engineers. We were told that first of all the Army Corps has to put it in their budget, then the Congress has to pass it and the President has to approve it and nobody let it get that far. Supervisor Kniffen said when there's a catastrophe everyone is right there saying they are going to help with this and that but weeks and months pass and emotions start to simmer down and we get farther away from it and they're on to something else. He said in Kirkwood we didn't allow that to happen, we did end up with \$3 million and they are just completing that study. He recently attended a meeting about this and nothing is going to happen. He said he thought possibly the Federal government and State were going to help us and do something and they would but it would cost millions and millions of dollars and the contribution is 65% federal, 17 ½% state and 17 ½% local municipality and we don't have that kind of money. He said then there is the problem of the fact that Conklin gets flooded worse than Kirkwood so the suggestion would be to put a dike up there that would cost millions of dollars but it would send the water our way or down towards Binghamton. So they would have to pay to put a dike up for Kirkwood and they can't afford their own dike let alone someone else's. He said he doesn't think this is going any place.

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In regard to the flood wall in Conklin with an estimate of \$25 million to \$28 million, John Mastronardi said he asked them if they considered how they would mitigate the flooding in Kirkwood and they said the Conklin project doesn't address Kirkwood's issue. He said those figures are not even realistic because besides Kirkwood they also have to consider downstream and upstream so there are too many elements that their estimate didn't bring to the forefront. John said it was basically a \$3 million study of the upper Susquehanna River Basin to let you know that it was unfeasible to do any type of a large scale structural project along the river basin.

Water – West Windsor.

Supervisor Kniffen explained in West Windsor in the area of the McDonalds there are acres and acres of land to be commercially developed. They would need both water and sewer for this to happen and Windsor did put in their own sewer system but they don't have access to water. He said we have our own wells in Kirkwood that produce a lot of water so Windsor asked us if we could provide water to them if they proceed with this, and we can. He said the project is moving along, the County Executive is involved and they are trying to get a commitment from some of the local businesses. An initial study has been done by Keystone Engineering and they have asked for input from the engineers for Windsor and Kirkwood, but not to spend a lot of money or time on it. He said the County Executive said to get the feasibility study done, that he has a local developer that is interested. Councilman Diffendorf questioned which route we are talking about. Supervisor Kniffen said there are two routes we looked at, one going up towards Fairview and coming across the creek where there is a pipe already under the road or else going down the lower level and going over Foley Road. He said Foley Road was the one chosen because there are about 70 homes there in Kirkwood that would get public water.

OLD BUSINESS:

69-18
Purchase/
Install
Check Valve

Councilwoman Yonchuk moved to adopt resolution authorizing the purchase and installation of a Flomatic model 402 check valve by W2O Operator Training Group, LLC, at a cost not to exceed \$3,050.00. Councilman Diffendorf seconded.

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

MOTION CARRIED.

70-18
J. Finch
Training –
Highway

Councilman Diffendorf moved to adopt resolution authorizing John A. Finch, Jr. to attend the 2018 Highway School, to be held at Ithaca College from June 4-6, 2018 at a cost of \$110, with all reasonable expenses paid. Councilman Grubham seconded.

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

MOTION CARRIED.

71-18
B. Kinney
Training –
Water

Councilman Grubham moved to adopt resolution authorizing Brian Kinney to attend the 2018 New York Rural Water Association's 39th Annual Technical Workshop, to be held May 21-23, 2018 at the Turning Stone Resort, at a cost of \$260, with all reasonable expenses paid. Councilman Weingartner seconded.

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

MOTION CARRIED.

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Councilman Weingartner moved to adopt resolution authorizing advertising for Sealed Bids for the purchase and installation of Stair/Ladder Work at Main Sewer Station, with bids returnable to the Town Clerk's Office on April 24, 2018 at 3:00 PM, to be publically opened and read at the April 24, 2018 6:00 PM Work Session. Councilwoman Yonchuk seconded.

72-18
Authorize
Bid Notice
Stair/Ladder
Sewer Station

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

MOTION CARRIED.

Councilwoman Yonchuk moved to adopt resolution authorizing advertising for Sealed Bids for the Air Handler at Main Sewer Station, with bids returnable to the Town Clerk's Office on April 24, 2018 at 3:00 PM, to be publically opened and read at the April 24, 2018 6:00 PM Work Session. Councilman Diffendorf seconded.

73-18
Authorize Bid
Notice
Air Handler
Sewer Station

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

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution authorizing advertising for Sealed Bids for the purchase of a 2018 550 Series Super Duty DRW XL, 4 wheel drive with regular cab and chassis (no box), 145" wheel base measurement and 60" from cab to rear axle, or the equivalent thereof, with bids returnable to the Town Clerk's Office on April 24, 2018 at 3:00 PM, to be publically opened and read at the April 24, 2018 6:00 PM Work Session. Councilman Grubham seconded.

74-18
Authorize Bid
Notice
2018
550 Truck

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 hiring Joseph Barton as MEO Heavy, effective April 16, 2018, at a rate of pay of \$17.95 per hour. Councilman Weingartner seconded.

75-18
Hire
J. Barton –
MEO Heavy

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

MOTION CARRIED.

Councilman Weingartner moved to adopt resolution authorizing hiring Charlie Gee as Laborer to work in the Highway Department effective April 16, 2018 for 90 days at a rate of pay of \$12.82 per hour. Councilwoman Yonchuk seconded.

76-18
Hire C. Gee –
Highway
Laborer
90 Days

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

MOTION CARRIED.

Councilwoman Yonchuk moved to adopt resolution appointing Dan Wasson as Temporary Ad Hoc Member of the Planning Board, pursuant to Local Law No. 11-1986; to be compensated at \$30.00 per meeting attended, upon submission of a voucher to the Town Clerk. Councilman Diffendorf seconded.

77-18
Appoint
D. Wasson
Temp Ad Hoc
– Planning
Bd.

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

MOTION CARRIED.

78-18
Issue Trailer
Park license –
Kirkwood
Mobile Home
Court

Councilman Diffendorf moved to adopt resolution, on recommendation and approval of the Code Enforcement Officer, pursuant to Section 304.3 of the Mobile Home – Trailer Ordinance, authorizing the Town Clerk to issue license for the following mobile home – trailer park, such license is for the year 2018:

Kirkwood Mobile Home Court, LLC, 41 Loughlin Road, Binghamton, NY 13904

Owner: James and Charles Williamson

Councilman Grubham seconded.

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

MOTION CARRIED.

79-18
Appoint C&G
Tax
Assessment
Case **HELD**

Councilman Grubham moved to adopt resolution authorizing the appointment of Coughlin & Gerhart, LLP, as Attorneys for the Town of Kirkwood, to represent the Town in tax certiorari proceedings, including petitions, motions and appeals therefrom, filed by HoltonB, LLC, against the Town as work outside the scope of work contemplated by the legal services retainer agreement at an hourly rate of \$200.00, with payment request to be submitted by voucher, in accordance with the attached resolution. Councilman Weingartner seconded.

Discussion: Councilman Diffendorf noted a concern that we don't know very much about this case, that we don't even know the amount we are talking about. After talking with Scott Snyder about this, Supervisor Kniffen explained this is the property near Akkrturn and the new owners filed this back in 2013 and 2014 but it looks like whatever they wanted was granted and adjusted. He said Mr. Blaise did not spend a lot of time on it and it's been taken care of. Councilman Diffendorf questioned what we are paying for. Supervisor Kniffen said Mr. Blaise had to look into it and we're not paying a lot of money, it's to cover any time he had to spend on it. Councilman Diffendorf said his vote in no because he does not know what's going on here. Although Mr. Castalano said he's not entirely familiar with this, his understanding is that this challenge was filed by the property owner at least 5 years ago and it laid dormant and then the judge in the County came across it and said since it's been on the docket for 5 years something needs to happen with it, so Mr. Blaise filed the right paperwork to end it. He does not know if this has been approved by the judge yet. He said the other party failed to follow through on this. Councilman Diffendorf said this resolution should be submitted with what it cost us if it is already done. Mr. Castalano said he does not know if it is completely done. Councilman Diffendorf said he would like this to be held. He added that the people that filed the grievance on the assessment were supposed to clean it up, that we were not responsible to do it. He doesn't think it should cost us money to close this up when they didn't do their part to begin with. This will be held for additional information as to why we need to pay for this and the total cost involved. **HELD.**

80-18
Combine
WS/Mtg
July

Councilman Weingartner moved to adopt resolution combining the June 26, 2018 Work Session and the July 3, 2018 Town Board Meeting into one night to be held June 26, 2018. Councilwoman Yonchuk seconded.

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

MOTION CARRIED.

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Councilwoman Yonchuk moved to adopt resolution combining the July 31, 2018 Work Session and the August 7, 2018 Town Board Meeting into one night to be held August 7, 2018. Councilman Diffendorf seconded.

81-18
Combine
WS/Mtg
August

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

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution combining the August 28, 2018 Work Session and the September 4, 2018 Town Board Meeting into one night to be held September 4, 2018. Councilman Grubham seconded.

82-18
Combine
WS/Mtg
September

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 cancelling the November 6, 2018 Town Board Meeting due to Election Day and rescheduling for Monday, November 5, 2018. Councilman Weingartner seconded.

83-18
Change Nov.
Mtg Date

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

MOTION CARRIED.

Councilman Weingartner moved to adopt resolution cancelling the December 25, 2018 Work Session due to Christmas and rescheduling for December 26, 2018. Councilwoman Yonchuk seconded.

84-18
Reschedule
Work Sess
Dec.

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

MOTION CARRIED.

Councilwoman Yonchuk moved to adopt resolution scheduling a Special Town Board Meeting for December 26, 2018, after the Work Session, for the purpose of auditing year end bills and any other business that may come before the Board. Councilman Diffendorf seconded.

85-18
Sched Spec
Mtg Dec.

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 the PERMA Schooling at the Sagamore Hotel in Bolton Landing, NY to be held May 24-25, 2018, with all reasonable expenses paid. Councilman Weingartner seconded.

86-18
W. Diffendorf
Attend
PERMA
Training

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

MOTION CARRIED.

Roll Call Vote: Councilman Weingartner - yes

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Councilman Grubham	- yes
Councilwoman Yonchuk	- yes
Councilman Diffendorf	- abstain
Supervisor Kniffen	- yes

MOTION CARRIED.

Councilman Weingartner moved to adopt resolution authorizing the Supervisor to sign a Letter of Support regarding changing New York State Corrections Law Section 500-C, in accordance with the attached letter. Councilwoman Yonchuk seconded.

Discussion: Supervisor Kniffen explained this involves arraignments that will now be held at the Sheriff's Office and the judges will rotate covering them.

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

MOTION CARRIED.

Discussion – Ritter Property.

Supervisor Kniffen explained that in addition to the motel on Upper Court Street there is an eyesore on Route 11, the Ritter property, where there is a 2-story green house, a white house about ready to collapse and two trailers that are covered up in the summer because of the trees. He said the white house got over 50% damaged during the flood in 2006, and when that's the case they are eligible for the FEMA buyout program but the owner didn't choose to do that. He said we finally got the people living there out of harm's way. We now feel it's a safety hazard and have declared it that way.

John Mastronardi stated that at the beginning of March, Mr. Blaise, the Attorney for the Town, asked him and Chad Moran to look at the structure referred to as the white house. It was on the basis of does it fit, do we consider it an unsafe building as part of our local law. He and Chad visited the white house on March 7, 2018 but did not try to gain access to the interior. He said his observation is strictly from walking around the exterior of the property. He said many times when we look at these structures, we try to determine if there are features on the property that fit the unsafe local law. He said this particular property hit every single one of the items. He said the overall integrity of the structure has been neglected and sitting there for the last 12 years it has been exposed to the elements, there is a lot of serious structural framing that is failing, there is a lot of decaying and rotting wood, and more than half the windows and doors are open on the structure. John said he saw sewer pipes that were disconnected and evidence of rodents running in and out of the structure and there was also mold and mildew visible in different areas. He said overall the conditions of the structure is deplorable and it should be demolished, it is not something that you can rehab or rebuild. He said because of the substantial damage it received during one of the floods, it would not be cost effective to try to bring that up to what FEMA calls the new standards.

Supervisor Kniffen stated that a couple of years ago he went to the property with Mr. Ritter and he thinks Mr. Gorick, to look at the white building. He said we got the people out of there but we wanted to be sure Mr. Ritter wasn't storing things there either. Mr. Ritter verbally said if he tried to raise this up, because that's what he would have to do to make it livable, it would collapse. Supervisor Kniffen said Mr. Ritter was agreeing himself that it needs to be taken down. Mr. Catalano said Mr. Ritter will have the opportunity to make his case, as to why he can make it safe in the time period that is prescribed if he chooses to do so. He said Mr. Ritter can certainly be asked that question at that time.

Chad Moran said he basically agrees with what John Mastronardi said. He said John has five criteria and he feels we substantially met each one of them. He said in addition to the other rodents there was a deer carcass next to the foundation, that it's definitely rodent infested and dilapidated and structurally unsound. John Mastronardi said he would go as far as to say that structure is so structurally unsound he thinks if there was asbestos in it, he does not think it could be abated properly. He said the Department of Labor has a certain standard for the abatement of property that has asbestos. He said this would fall under a

87-18
Ltr of Support
NYS
Corrections
Law

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controlled demolition and there are different standards for structures that have the potential of asbestos. He said the reason is it wouldn't be safe for a worker to go in there and properly remove the asbestos. He added that he doesn't think anyone should try to gain access. Councilman Diffendorf said that would increase the cost of the demolition because all the material would have to be treated as having asbestos. John Mastronardi said maybe the tipping fee would be, but if you had to report that to the Department of Labor your application fee and testing for asbestos could exceed the cost of the tipping fees. Councilman Grubham explained the process if that were to be the case.

Mr. Castalano said he would recommend we make the report from John and Chad part of the record, which is the report that basically outlines what their findings were and why they determined the property was unsafe. After due deliberation by the Board and the Board determines that it is unsafe, they will order the property owner to remedy the property. After the Board makes the determination, the property owner has an opportunity to present to the Board and basically attempt to challenge the determination and say what he can do to make the property safe. He said then the Board can again deliberate about what the property owner says and decide whether or not they believe it is safe or not. It was noted that the property owner would be on the clock once he makes that determination and still would have to do it within the 30 to 60 day window. In response to Supervisor Kniffen, Mr. Castalano said that even if Mr. Ritter takes this to County court there is a very slim chance he could defeat the Town in a legal action regarding the property. Supervisor Kniffen questioned if Mr. Ritter doesn't do this if the Town can put it on his tax bill. Mr. Castalano said that is correct, that it's more of a process because basically we have to give him the opportunity to do it, but if he fails to do it the Town can essentially take over the property to do the demolition work and add that cost to him through his taxes, even on other properties that he owns in the County as well to recover those funds.

Supervisor Kniffen said we are finally making progress after all these years and he thinks there is more to come. He said we still have the trailers there and it's public knowledge that there are several code violations on the green house that he has to fix.

Councilman Diffendorf moved to adopt resolution by the Town Board of the Town of Kirkwood declaring a residential structure located at 1080/1090 NYS Route 11 in said Town to be an unsafe building and ordering its demolition and removal, in accordance with the attached resolution. Councilman Grubham seconded.

88-18
Declare
1080/1090 Rt.
11 Unsafe
Structure

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

MOTION CARRIED.

NEW BUSINESS:

Discussion – Request for Change in Zoning of 175 Cedarhurst Road and 189 Cedarhurst Road from Residential to Commercial.

Lori Karas explained that she and her husband, Michael, own one of the properties and Mark Karas owns the other one. They bought the property about 30 years ago with the plan to build a house and that didn't happen, they've just been paying taxes on it. She said a few years later she was approached by a trucking company interested in the property and it kind of opened their eyes that it might be worth a lot more as a commercial property than residential. Although they didn't feel it was the right time then to do anything with the property, they now feel it is and it would be the perfect commercial spot. She said no one is interested in the property right now, they are just ready to get rid of it and make the most money they can. The location of the property on Cedarhurst Road is on the left side as you come up from Exit 1 off Route 81, going up to Brink Road. Mark said his property is basically landlocked and connects to Lori and Mike's property. They have submitted the proper paperwork to the Code Enforcement Office. In response to Councilwoman Yonchuk, Lori said the surrounding area is zoned agricultural and residential, there is no housing. Councilwoman Yonchuk noted a concern that this would be considered spot zoning. Councilman Grubham said if someone was to object it could be considered that.

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Since he is not familiar with the location of the property, Mr. Catalano said he would have to research it and review the analysis for spot zoning, but it could potentially be a spot zoning issue. The question arose if this would automatically go before either the Planning Board or the Zoning Board of Appeals. Marchie Diffendorf said if the Town Board wants to consider it, they will refer it to the Planning Board for a recommendation as to whether to change the zoning or not, and then the Town Board has the final say. The attorney for the Planning Board would determine whether or not it would be spot zoning. Councilman Grubham said the biggest problem with trying to change it to commercial is that there is no water and sewer available and it's highly unlikely there ever will be either. The Karas family was under the impression there is a hydrant near the area so water would be available but John Finch said that must be DEC's because there is only Town water available on Route 11, it does not go up the hill at all. Supervisor Kniffen said there will absolutely never be sewer up there, noting we tried to run the sewer to the State line but there just is not enough need. He said there might be the possibility they could get water up there but it would be at a cost. Lori questioned if it wouldn't be beneficial to Kirkwood to have it zoned commercial since it's at the first exit off Route 81 in NYS, for a hotel, fast food, etc. Councilman Grubham said it certainly would be if we had the sewer, but if there was sewer down Route 11, there would already be development at the exit. Councilman Weingartner said it would have to be a private sewer system. Supervisor Kniffen said in the past we haven't sent things to the Planning Board unless we felt we wanted it because we didn't want to waste their time, so he questioned if this is something the Board would like to see happen. Councilman Grubham said he doesn't see how it could happen, and once a change is made it can't be sold for residential property. Lori said she feels there is a better chance to see it as commercial than residential. Councilman Grubham said he disagrees with that. Councilwoman Yonchuk said she would like to know about the spot zoning issue before we go into the whole process, and noted she agrees without water and sewer, she doesn't see commercial development. She thinks there would be less of a chance to sell the property if it is zoned commercial. Councilman Diffendorf said he thinks we should send it to the Planning Board because he doesn't think this Board is set one way or the other. This will be referred to the Planning Board for their recommendation.

AUDIT AND PAYMENT OF CLAIMS:

Councilwoman Yonchuk 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 2, 2018, all in accordance with the abstract of claims on file in the Town Clerk's Office. Councilman Diffendorf seconded.

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

MOTION CARRIED.

OTHER:

Meeting Procedures.

For those in attendance that don't normally attend our meetings, Supervisor Kniffen explained that certain items, especially those about spending money, may not be discussed at a regular meeting because we discussed them at the work session held the week prior to the regular meeting. He said if there are new items that have not been discussed, we ask for discussion.

Councilwoman Diffendorf moved to adopt resolution to adjourn this meeting to conduct an Executive Session to discuss a matter relating to the medical, financial, credit or employment history of a particular person or corporation, or matters relating to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation. Councilman Grubham seconded.

Roll Call Vote:	Councilman Weingartner	- yes
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89-18
Audit/Pay

90-18
Exec Sess
Personnel

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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 seconded. All voted in favor.

MOTION CARRIED.

Meeting adjourned at 7:50 P.M.

Respectfully submitted,

Gayle M. Diffendorf
Town Clerk