

# **TOWN OF KIRKWOOD WORK SESSION**

**August 7, 2018**

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 A. Finch Jr., Commissioner of Public Works  
Marchie Diffendorf, Planning Bd. Chairman  
James Smith, Budget Officer  
Chad Moran Building & Code Inspector

## **1. Discussion – Office of State Comptroller Audit. (GEK)**

Supervisor Kniffen read the following statement to explain the recent NYS Audit of Kirkwood's finances:

Late last year and the beginning of 2018 Kirkwood was notified by the Comptrollers' Office that they would be conducting a financial audit of Kirkwood's business. There was no "red flag" that caused them to come to Kirkwood, but in our belief they probably randomly audit municipalities throughout NYS. This would be especially significant in Kirkwood's situation as municipalities in NYS are assessed by NYS as to their financial ratings. Kirkwood is rated non-stress, which is the top rating, indicating we are in good shape financially. At our initial meeting Kirkwood stressed the opinion that audits are a good thing from time to time whether it be internally or externally. We are always open to comments; suggestions that could result in better serving our people whom we represent. We recently were audited via our Court operations. There were suggestions in that audit and we complied. We always say that it is not a perfect world and there is room for improvement. The subject audit has been completed. We met with NYS for the preliminary discussion of the audit findings. At that time we took no issue with their findings and expressed our appreciation for their recommendations. Let us first state that there was no finding of mishandling of funds. However, they recommended two important and significant items:

- 1) The Supervisor's Office should be more closely auditing our Financial Department on a regular basis.
- 2) Our Board should be auditing the Supervisor's Office on a regular basis.

We are considering at this time that these audits could be internal. We could comply internally without the expense of an external audit. After the initial meeting and our response, we are given 90 days to respond with our corrective action. With the Board's approval we will comply with this time line. I have met with our Finance Officer to discuss, consider, and recommend avenues for compliance with NYS findings. Once we have what we consider to be

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the appropriate response, we will discuss this with the town Board at a regular Board meeting for their input and approval. There were no additional comments.

## **2. Discussion – Things to do list. (GEK)**

### **Electronic Sign.**

Since Councilwoman Yonchuk suggested that we have a policy regarding who can advertise on the sign, Supervisor Kniffen asked her to take a look at this and make some recommendations for the Board's consideration.

### **Kamp Property.**

Supervisor Kniffen explained there are two properties on Mary Street owned by the Kamps and we would like to purchase part of the property to relocate the salt barn there since it would connect with the Town's property. He said we have been unable to reach any of the Kamp family, noting that the mother passed away and there are two daughters. He said he has finally been able to connect with a contact from SEFCU who authorized mowing the property, which complies with the Town's policy. The contact will look into things and get back with Supervisor Kniffen.

### **Disputed Water Bills.**

Supervisor Kniffen explained that we've recently had a couple of issues (Upper Court Street and Riverside) where residents' water supply was leaking for some reason and their bills were very high. In the case of the Riverside issue, apparently the owners were in Florida and their pipes froze and broke. He said it's not the Town's fault, but normally in situations like that we try to determine if there is something we can do and discussed developing a policy to give them some relief.

Section 8D, 3 in the Town's Water Rates Ordinance deals with this, which Supervisor Kniffen read: Where it appears waste has resulted because of circumstances beyond the control of the consumer, the Town Board may allow an allowance on the consumer's bill; however, such allowance shall not exceed fifty percent (50%) of that amount of the bill which exceeds the average bill for the billing period involved. No allowance shall be made where the consumer has been negligent in the installation and care of his pipes and fixtures, nor where water has been used for any purpose not disclosed in the consumer's complaint to the Town Board. Supervisor Kniffen gave an example; if the average bill is \$50 and a bill was received for \$100, that's \$50 over the normal bill so taking half of that, they would pay \$75. Councilwoman Yonchuk noted a concern that the Board would have to interpret if the consumer is negligent, if someone leaves their house for the winter and their pipes freeze and their cellar floods, etc., while the weather is beyond their control we live in a climate where they should have made provisions for this. As a clarification of what Councilwoman Yonchuk was saying, Councilman Weingartner said if he were to go out of town for ten weeks, he would have someone check the house every once in a while and it would be negligent not to do this. Councilwoman Yonchuk said she feels that someone in a case like that doesn't fall under the

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first part of the policy, it falls under the second part. Councilman Diffendorf said in another instance we are talking about a toilet that was running and nobody caught it since no one used it and questioned if that's negligence. He added that sometimes it doesn't work when people are checking your house, that all kinds of things can happen. He said he doesn't feel its negligence unless someone just shut their heat off in the winter, or something like that. In regard to the toilet issue, Councilman Grubham said it had been running for at least a month with John Finch adding there were a number of apartments and it was in the basement that was not occupied. Councilman Diffendorf referenced another incident that happened years ago with a break involving a new State building on Colesville Road and nothing happened with that. Supervisor Kniffen said we have to take every situation and try to consider if there was negligence involved. Councilwoman Yonchuk said there are some things that are clear cut but it is hard to be fair unless we have a black and white policy.

Supervisor Kniffen said we have a policy so the next time this happens we will have to talk about it. Councilman Diffendorf questioned what we should do about the cases that have already happened, if we shouldn't grant them some relief. Councilman Weingartner said since we have a policy already in there we should look at granting them relief. Mr. Blaise said the Board may allow an allowance that shall "not exceed fifty percent" of the amount of the bill which exceeds the average bill for the billing period involved and no allowance is to be made where there is negligence. Councilwoman Yonchuk said it still would not mean that we can't put in effect or add to the policy to do it in three payments. Supervisor Kniffen asked Councilman Weingartner and Diffendorf to review this and report back to the Board.

## **Draft: Inclusive, Universally Designed Initiative.**

Supervisor Kniffen explained that some time ago a NYS politician recommended a policy considering an All-Inclusive resolution and was asking for other municipalities to join in. He said Councilwoman Yonchuk reviewed it and came up with our version, but we have never acted on it.

Councilwoman Yonchuk explained that we started discussing this at the same time as we were talking about the All-Inclusive Playground. She said there are a lot of different definitions of what people think the Think Differently Initiative means so she looked at what she thought the intent seemed to be and then went to a special needs teacher in Windsor Central School for assistance. She said the teacher's main thing was terminology, that the current thing is inclusive and universally designed, so Councilwoman Yonchuk changed that where it would be relevant. Also, the current thinking is to put the people and their needs first. She said that there are people with special needs that aren't just children, and she wanted to include some wording that acknowledges that we're in a society where increasingly grandparents are more and more involved in a significant portion of the care of their grandchildren. She said she put in the current wording in the field of special needs and took out the autism spectrum. Councilwoman Yonchuk noted that Supervisor Kniffen and Mr. Blaise had expressed some concern with the original proposal that includes calling on business owners to adopt the resolution, and she

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agreed that we can't order our businesses to adopt any particular policy so she addressed that by changing it to encourage the support of our residents and business owners. She said if we want to pass a resolution to show that we are in support of being inclusive of all the needs of our population, she thinks this will now be better worded.

In regard to the playground, Councilwoman Yonchuk said because of the comments she has received from so many people, she thinks we will be surprised and gratified at how much it will be used. She said that schools could use it for field trips and even some of the nursing homes that have field trips could use a facility like this.

Councilman Weingartner and Supervisor Kniffen said they like the reworded version. Councilman Diffendorf questioned where this will go if we pass this resolution, if it will be sent someplace. Supervisor Kniffen said it's a statement from the Town. Councilman Grubham said he is in favor of it also, that it is kind of a feel good thing. Resolution for meeting to follow.

### **3. Discussion – 72 Grossett Proposal. (GEK)**

Supervisor Kniffen reminded everyone that Buckingham Manufacturing located on Bevier Street in Binghamton recently came to the Board because they are looking to relocate to 72 Grossett Drive and are asking for and presented what they feel is a fair Payment In Lieu of Taxes Agreement (PILOT). The PILOT they suggest:

They would pay:	25%	1-5 years
	50%	6-10 years
	75%	11-15 years
	100%	16 years and on

Supervisor Kniffen's suggestion for the Board's consideration:

They would pay:	40%	1-5 years
	55%	6-10 years
	70%	11-15 years
	100%	16 years and on

Supervisor Kniffen said that Buckingham did promise 33 jobs and he thinks if we do decide to give them the PILOT and they don't reach that in three years then the PILOT is gone and they would pay 100%. Councilman Grubham said from our point of view the actual taxes that they pay there now are about \$1,600 so we would lose 60% of that for the first five years. He noted that the school and county are the ones that take the hit on this. He said it actually could be more because they are paying \$600,000 for the building and are going to put \$300,000 in it so he assumes the assessment will probably increase after they are done and at some point in the future they are going to put an addition on the back. He added that we are at a time in New York State where the jobs can easily move out, and Buckingham referenced they could easily send them to North Carolina, so it comes down to if we should try to work with them and keep those jobs here with the chance there will some more jobs or say no and let them take the jobs somewhere else. Councilman Diffendorf said he thinks these are some better paying jobs, and

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referenced that the jobs lost when Putnam left were good paying jobs and it was a big loss to this area. He said he is willing to go along with Supervisor Kniffen's PILOT proposal to keep the jobs here. Councilman Weingartner said he agrees, noting that he asked if the new construction that they are looking to build would accommodate the amount of people they plan to hire and they said it would. Councilwoman Yonchuk questioned if we think they will be willing to negotiate the PILOT. Supervisor Kniffen said it is not a dramatic change. He referenced that in the past Modern Marketing was going to bring in 600 jobs in five years to the Link building and they wanted a 20-year PILOT. We told them that if they didn't bring the jobs in they wouldn't get the break, and that is kind of the idea with the Buckingham PILOT proposal, that if they don't bring the jobs in they won't get the break. Councilwoman Yonchuk said she is in agreement with proceeding. Supervisor Kniffen will contact Buckingham.

## **4. Discussion – Health insurance into retirement – FT Union/FT Non-Union. (GEK)**

Supervisor Kniffen explained that the Board recently adopted a change to our health insurance because retirees that are retired and eligible for health insurance into retirement were not contributing as they were when they were active employees. This was amended and that it wouldn't affect anyone that works for the Town right now, but as of a certain date anyone hired after that date would fall under the new regulation. However, the Union has not accepted this. Supervisor Kniffen said we have a CBA with them and it has to be in the CBA. They are still talking about it but as of now they are not accepting it.

## **5. Discussion – Grant Sharing Explanation. (GEK)**

Supervisor Kniffen said he wants to bring everyone up to date as to where we are with the grants. He explained how we receive payment if a grant is approved. He said we have to pay up front our share of a project and if the grant is approved, the grant share is not received in one check, that we have to start the work and as we progress we submit for progress payments. Supervisor Kniffen said he thinks this makes sense because they want to make sure the job is completed and when it is we will have received 100% of the grant. He provided information on the following grants:

### **Salt Barn.**

The application was submitted by the deadline of July 27<sup>th</sup> and the grant is to be awarded in December.

### **Highland Heights Water Tank and City Line Booster Station.**

See discussion under item 13.

### **Drainage – Highway Garage.**

The application was submitted by the deadline of July 27<sup>th</sup> and the grant is also to be awarded in December.

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### **Playground.**

The application was submitted by the deadline of July 27<sup>th</sup>. Supervisor Kniffen said this is an interesting one because this will be a \$300,000 project or more and if we get the grant, which is normally 50%, because we are below the poverty level we would get 75% and that would be big because the people raising funds would only have to raise 25%. Councilman Diffendorf questioned that we would be able to get a grant and an outside group would be raising the money. Supervisor Kniffen said insurance and legal questions came up so Pat Regan and Mr. Blaise attended some of the meeting. Mr. Blaise said that in order to see this thing through, he said the Town has to get more hands on. Councilman Diffendorf said if we get the grant and the outside group is going to raise the rest, it's his understanding they would have to have their monies to start the project and then the grant would kick in. Supervisor Kniffen said if we get the grant in December and they haven't raised any funds he would think the project could start and there would be progress payments and when they got their money they would be involved too. Mr. Blaise said the question is if we're getting progress payments does that involve the Town putting up the money first to get reimbursed and if so where is the money coming from, even if it gets paid back. Supervisor Kniffen said the committee is already developing how to go about raising funds and they've come up with a blanket statement that anyone could use. He said the biggest hurdle will be where they will get the big money and that's going to be from large companies like Lockheed, Stack, etc., and how they get to those organizations. Although he doesn't think that will be that hard, Councilman Grubham said if we get the grant we will be notified in December but work on the project can't be started until spring so there is a 6-month window to try to get the rest of the money before the project is even started, and he would think that would be doable. In referencing the City of Binghamton, Mr. Blaise said they funded the majority of their projects through grants and then donations primarily through the community fund, so the City did it the same way that we're doing it, but the city didn't put in any of its own money and in the end it didn't cost the City anything. Mr. Blaise said the question for us is even though the Town won't be putting money into this, how do we get the project stages accomplished where their reimbursement is concerned. Additional discussion in this regard. Councilman Grubham questioned if the committee raised more than 25% if the money could be used to make the project grander. Supervisor Kniffen said yes, that the grant can be modified. He will check with Leeann about the process.

### **6. Upper Court Street – Lechner's Auto, etc. (CM)**

#### **Various Properties.**

Supervisor Kniffen said Chad Moran has identified 27 vacant properties in Kirkwood. Chad supplied a list of the properties that he sent letters to the owners of to determine what the people want to do or if they have any plans for it. He let them know that they are just about to be condemned, that they are unsafe structures and meet the criteria according to the Town's Code, and wants to try to work with people to take them down or fix them. Chad said that four or five of the buildings on the list have been taken down, three or four of them are actually getting repaired and the rest of them haven't responded. He will be drafting another letter to them.

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## **Lechner's Auto.**

Chad Moran has put in a call to Trooper Colpitts to follow up on the un-registered vehicles on this property. He said right now he is going after the ones with no license plates. They are allowed one unlicensed visible vehicle per bay and Lechner has about 7 on the property outside the screened area and about 10 more inside the screened area. He has gotten rid of 17 cars and has brought in about 7 or 8 more. Chad said that Ken Kitchen is purchasing the property and plans on doing something else with it or relocating his business down there, but the Planning Board would have to discuss that. He plans on getting all the cars out, get rid of the screened in area, which was illegally put up because it was supposed to be invisible, and clean up the property. One of his ideas is a landscaping business. Councilman Grubham reminded Chad to make sure he confirms with Mr. Kitchen that whatever he does he will have to come to the Planning Board to get it approved. Marchie Diffendorf added if he moves his car sales business it would be a zoning change.

## **7. Discussion – Reduce speed limit on Grange Hall Road and Kutalek Road from 55 MPH to 35 MPH and on Zimmer Road from 45 MPH to 35 MPH. (JAF)**

John Finch explained that residents on Zimmer Road are complaining about people flying down Zimmer, which over the summer with the road project going on he said he has witnessed. He said there is quite a bit of speeding on all those roads. He noted that most of the other roads around there are already 35 MPH and if there are not speed limits posted, technically the limit is 55 MPH. Councilman Diffendorf questioned if there shouldn't be a public hearing on this to make people aware of it. John said we send the County the resolution to request the change and they forward it to the State who does a study and their decision comes back through the County to the Town. It was noted the process is the same whether it's a County road or Town road. Although we have never held public hearings in this regard in the past, Mr. Blaise said it would be a way to provide residents with notice if the Board wanted to hold one. Resolutions.

## **8. Resolution ratifying a resolution to purchase a 2002 Chevy 3500 utility truck for \$12,400 from Gorick Construction, with \$8,400 charged to DA-5130-2-020 (Highway Equipment) and \$4,000 charged to WD-8340-2-020 (Water Equipment), in accordance with the attached Bill of Sale. (JAF)**

Resolution.

## **9. Discussion – Rebuilding the pump at the Main Sewer Station. (JAF)**

John Finch said that the bearings were going bad in one of the pumps at the main sewer station so we sent it out for repair at a cost of \$3,525.03. He added that this is the first one we have had to change since we put the Muffin Monster in about 2 ½ years ago and before that we were

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doing one at least every five months. With the Muffin Monster there is less wear and tear on our pumps. As an update on the stairs for the sewer station, John said they are still being designed. Resolution.

**10. Discussion – Order of Stipulation – Clubwise Finance, LLP. (ONB)**  
See item 11.

**11. Discussion – Order of Stipulation – Kirkwood Warehouse Investor. (ONB)**

Mr. Blaise explained that he and Scott Snyder were able to work out settlements for two of our long-standing assessment challenges. He said because of the timing the settlements had to be entered before July 31<sup>st</sup>, otherwise the property owners would have to file new lawsuits. The agreements need to be ratified. Resolutions.

**12. Discussion – City Line Booster Station Grant. (GEK)**  
See item 13.

**13. Discussion – Highland Heights Water Tank Grant. (GEK)**  
Supervisor Kniffen explained that the City Line Booster Station and Highland Heights Water Tank projects are similar in what has to be done in regard to applying for grants. He said in addition to the \$16,000 that we originally authorized for the engineering report for the water tank there is also \$18,500 for site design and other fees for a total of \$56,000. He said we also have to approve the engineering report for the City Line project. He explained that all the other costs are only if we get the grant, that the \$16,000 is the only cost we have to pay up front and noted that the \$56,000 is included in the grant. Councilman Grubham said it is astounding that the original \$240,000 project turned into a \$450,000 project, but we will get the money back.

**14. Audit of Claims.**  
No discussion. Resolution.

**15. Cable Service.**  
Supervisor Kniffen read the following statement regarding cable service in Kirkwood:

Kirkwood is pleased that we now have cable service to some of our side roads in the southern part of our Town. The lack of coverage was brought to our attention by Don Domurad, who is a resident on Brink Road in Kirkwood. He came to me and asked if there was anything that Kirkwood could do to bring cable service to these roads. At that time Time-Warner was still the cable provider in most of Kirkwood. We did contact them and had an ongoing discussion with Dave Whalen who was Time Warner's executive locally. The criteria at that time was 20



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homes per mile for which we did not comply. However, we kept in touch. During this time the Governor announced his Broadband program investing millions of dollars to bring more of this service to areas not receiving it at the time. This program required that municipalities had to comply with the program and the steps required along the way. We made sure that this was happening. During this time Charter was negotiating a deal to acquire T.W. Once this was done Kirkwood shifted our efforts towards Charter who is now known as Spectrum. The acquisition by Charter required them to add 145,000 homes in NYS. Once Kirkwood was aware of this, we championed with Spectrum for our above referenced roads to be part of the 145,000 additional homes. We not only were the “squeaky wheel”, we attempted to include these roads when we were negotiating the renewal of our Cable Agreement with Spectrum. Well, that did not work but we kept the communication lines open and even invited the Spectrum representative for our area to visit us from time to time. The next thing that we knew Spectrum was surveying the roads in question. The next thing that hit us, Spectrum, without showing their hand, asked that I, the Supervisor, sign a non-disclosure letter relative to adding cable service to our Town. In hindsight this was when we knew that we had won the battle. We are pleased that our residents in this area of our Town now have access to cable service. We appreciate their patience.

It was noted that all the roads at the south end of Kirkwood now have cable service.