

# TOWN OF KIRKWOOD WORK SESSION

September 25, 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  
James Smith, Budget Officer  
John Mastronardi, Engineer  
Duane Travis, ZBA Chairman  
Scott Baker, Broome County Legislator

## 1. **Broome County Budget Address.**

Frank Evangelisti, Director of Planning for Broome County presented the following overview of the 2019 Executive Budget Address which was released by Executive Garnar last week. Copies of the Address were distributed.

Mr. Evangelisti stated: The entire budget, as proposed by Executive Garnar, is on the Broome County website at [www.gobroomecounty.com/omb](http://www.gobroomecounty.com/omb) and will ultimately be acted on by the Broome County Legislature. It is the first County Executive budget to propose a one half percent tax cut in 14 years. In efforts to rebuild finances at the county level, Standard & Poor's has reaffirmed our A+ bond rating. The county fund balance at the end of 2016 was \$250,000 and at the end of 2017 it was \$4 million, which is a more appropriate figure for a budget that is \$180 million. We are proposing keeping the sales tax formula the same in 2019 so there will be no impact on your budget. One of the things that is new in 2018, and the County Executive is proposing again for 2019, is the Small Communities Fund. This is a \$150,000 fund that is funded out of the Hotel-Motel Fund. We used that this year to fund projects like the Fenton Free Library, Eastern Broome Emergency Management Services, bringing natural gas into the hamlet of Maine, and knocking down an old smoke stack in Deposit to make way for a new park project. For this year the fund is pretty much depleted but Mr. Evangelisti brought applications and is the contact person for any projects for 2019. There have been a number of natural disasters since the County Executive took office; snowstorms, flash flooding and train derailments, etc. There will be funding for an Emergency Management Coordinator to develop an action plan and train first responders as well as adding two Emergency Dispatchers. The County is faced with a new State mandate, the Raise the Age program, which will eventually mean that 16 and 17-year-olds cannot be held in county jails. Broome County was one of the first counties to get the plan to deal with this submitted, which is very important to get this right because we need to get our costs reimbursed by the State. We are proposing funding for a new Senior Assistant District Attorney and a new Assistant District Attorney in the DA's Office. The DA announced for the first half of this year drug overdose deaths in Broome County are down by two-thirds from last year. The County Executive is announcing a pool of \$25,000 in

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grant money for organizations that are addressing this issue. There are 4,000 open jobs in Broome County and some employers are having a hard time finding people to fill the jobs so there are a number of new programs that are proposed in the Workforce Development program. Funding will be increased to the Chamber of Commerce Welcome Wagon program to try to attract job seekers to Broome County and for a new Clean Sweep program with DSS for people who are on assistance, to give them assistance to get a job.

Mr. Evangelisti emphasized two things that aren't necessarily highlighted in the budget. We wrote a Comprehensive Plan for Kirkwood and we're excited to learn that you're taking those ideas and turning them into actions and we will continue to work with you on that. In regard to the Hotel-Motel Fund, part of that gets set aside for redevelopment and we used some of that money to do an asbestos pre-demolition survey for the former Traveler's Inn on Upper Court Street (that the County now owns) and that is something anyone would need to do if they were looking to demolish the property. We are trying to set the stage for redevelopment.

In response to Councilman Grubham about future plans for the property, Mr. Evangelisti said that historically they have done the work to set the stage for development by being able to tell a developer that they don't need to spend the money for an asbestos survey, we've done that to help you. He said that sometimes they go for grants to do the rest of the work and other times we've just laid out all the environmental work, but in this case he does not think there is any other environmental work involved.

Supervisor Kniffen noted that the property was offered to Kirkwood by the County for \$1.00. He said we are certainly interested in getting rid of that building that's been an eye sore in Kirkwood for a long time. We do have a developer that's interested, we've met with DOT because they own the adjacent property and we've got the Land Bank involved. Mr. Evangelisti said any of those entities would need this asbestos survey done so that's why we do it.

In response to Councilman Diffendorf regarding the Phillips Foundry building in Binghamton, Mr. Evangelisti said it was taken for back taxes because we thought there might be some development of the site and after going through all the environmental process the building fell down and became the worst building I have ever been in from a public safety perspective, so we went forward with the demo. He said that's not the case with the former Traveler's Inn.

In response to Supervisor Kniffen, Mr. Evangelisti said he does not have a real update regarding the airport, only that we're working with them on a marketing plan and an economic development plan.

In response to Mr. Smith's sales tax question, Mr. Evangelisti said he anticipates that it will be going up for 2019, but he doesn't know that for sure.

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**2. Discussion – 2019 Tentative Budget. (GEK)**

Supervisor Kniffen explained that the Preliminary Budget will be presented to the Board at the October 2<sup>nd</sup> meeting and a public hearing will be scheduled for October 30<sup>th</sup>. The Board will have until then to meet with Mr. Smith and Supervisor Kniffen to discuss the budget with any comments or concerns. The public hearing will be scheduled based on the figures in the Preliminary Budget, and they can't go up, only down.

**3. Resolution – Approving the 2019 Preliminary Budget and Directing a Public Hearing for October 30, 2018 at 6:00 PM. (GEK)**

Resolution.

**4. Discussion – Covered Bridge. (GEK)**

Supervisor Kniffen reported that we have \$2 ½ million worth of damage to our infrastructure from the flood, including the town garage, parks and the covered bridge which has become very popular around the town. Many pictures of proms, weddings, etc. are taken there and after the damage to it there were people taking pictures and asking if we're going to fix it. The cost to put the bridge back on its footing was \$6,500 and to finish the job it would cost another \$7,000. It has not been determined if insurance will cover the damage, but that would certainly save the town a lot of money. He said he is all for getting the bridge back to its original condition.

Councilman Diffendorf said he thinks right now we have to look at all the roads. He doesn't think we can put the bridge before the roads and we should wait to see what money we get. Supervisor Kniffen said that he agrees, the roads should be fixed, and he thinks they are, but he thinks we can do this in parallel. Johnson Road has to be fixed before winter and is definitely a priority. Supervisor Kniffen said we had \$2 ½ million worth of damage and considering FEMA and NYS involvement, he has asked Jim Smith to put together a report as to the bottom line on how much it will actually cost the town for all the repairs.

Councilman Grubham added that we are almost finished with the salt barn and it's not going to cost nearly what we had insurance money for so there will be money left over and if we want to we can use the balance to cover the cost of the covered bridge. He said we spent \$10,000 this past summer putting a new roof on the bridge, and the \$7,000 would cover re-siding, straightening it and tying it down. It has never been tied down before. The cost of rip-rap would be extra and that all has to be figured out according to John Finch.

John Finch added that offers of volunteer help to work on the bridge have been received from residents, one being the original builder, Don Domurad. We would have him work on the inside. Another gentleman has offered to stain it.

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Councilman Weingartner said if the funds are available he thinks with the bridge and the trees flowering it's a beautiful thing and part of the identity of Kirkwood and we should fix it if it's not going to hinder the repair of the roads, that it's a good thing for the town.

5. **Discussion – Resolution authorizing Griffiths Engineering to do an Engineering Study on the City Line Booster Station Project at a cost not to exceed \$16,000. (GEK)**

Supervisor Kniffen explained that we hired a grant writer this past year and a lot of grants have been applied for and one of them is for a pump station project at the Kirkwood/City line that needs a complete overhaul. This project was being worked on before we had a grant writer. One of the things in this grant, which is similar to the Highland Heights water tank replacement grant, is that it calls for an engineering study which is very complicated and in-depth and is around \$16,000. He is bringing that up for discussion because we did not authorize it. The total cost for the project is \$116,484. The grant will be 60% of that at \$69,890 so that leaves the town's share at \$46,595 plus the \$16,000 for a total of \$62,595. By going with the grant the savings to the town would be \$53,890. A resolution will be needed for next week. John Mastronardi said he is not confident in that number. He said the engineering cost for the Highland Heights tank was \$16,000 but although he doesn't have the exact figure with him he thinks it's significantly less for this project at about \$4,000. This covers the size of the pumps, repair of the broken pipe, new panel, etc. John confirmed Councilman Grubham's statement that about \$17,000 was spent for asbestos, lead abatement, electrical, removal of pumps, etc. It was also confirmed that the \$116,000 includes the \$17,000 that has already been spent. The grant has been submitted and is due in December. Mr. Blaise said if the grant is awarded then the engineering study has to be done. John Mastronardi said the engineering study was submitted as an allowable reimbursable cost and noted that the study has already been done. To be ratified by resolution.

Added later in the meeting: In response to Councilman Grubham, John Mastronardi said we do know the size of the pumps needed and the cost and that went into the grant application. The cost is around \$75,000 for the 2 pumps, controls, repairs, everything to get them operational.

6. **Discussion – Resolution authorizing a refund of \$155.39 to Scott Trelease and a refund of \$671.86 to Robert Pflanz for disputed water billings. (GEK)**

As a review, Supervisor Kniffen explained that we had two different incidents where residents came to the Board because they had above average water bills. In one case the cause was not determined but for the other one the people went to Florida for an extended stay and pipes broke and the water was running for a long time. They came in looking for relief and the Town didn't feel responsible, but we do have a town policy where we can look at the situation and may allow an allowance on the consumer's bill which cannot exceed 50% of the amount of the bill which exceeds the average bill. Resolution to refund.

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7. Discussion – **Resolution amending Resolution #154-2018 regarding the proposed Buckingham PILOT to correct years 11-15 from 75% of the levy to 70% of the levy, in accordance with the attached resolution.** (GEK)

Supervisor Kniffen explained that Buckingham Manufacturing, which is currently located in Binghamton, want to move part of their company to Kirkwood on Grossett Drive and asked the Board to consider a PILOT (Payment In Lieu Of Taxes) which we did. When we passed the resolution there was an error in the percentage for the years 11-15. The percentage should have been 70% and in the resolution it was listed as 75%. Resolution.

8. Discussion – **Intermunicipal Agreement with Broome County for Court Security.** (GEK)

Supervisor Kniffen explained that our court room is in this building and we try to keep them secure with their own private entrance. A magistrate's audit resulted in the suggestion that there should be a law enforcement presence when court is being held. We agreed and checked with the Port Dickinson Police Department and Broome County Sheriff and they did not have the resources to do it but Broome County Security does. We negotiated with them and came up with an Intermunicipal Agreement between Kirkwood and Broome County. Starting early in October when court is being held there will be a law enforcement presence. Our initial estimate was \$14,000 a year but at that time we had no idea what the rate was so we used \$30, but it turned out to be \$38.17 per hour. The cost now is \$21,375 and is based on 560 court hours a year. Mr. Blaise said this is year to year and there is a 90 day escape clause if either side wants to get out of it. It was noted there is no cost of living increase in the agreement and the 560 hours are an estimate and not locked in. Supervisor Kniffen added there is no pay for travel time. Resolution.

9. Discussion – **Flash Flooding Estimates.** (JAF)

Supervisor Kniffen reported that due to the extensive flood damage John Finch put together specific information regarding the damage in a road by road format, including an estimate of the damage and what it's going to cost to fix it in a report from Griffiths Engineering. John provided a handout in this regard which is on file in the Town Clerk's Office. Supervisor Kniffen added that if FEMA comes in, and they normally do, they pay around 75% and NYS in the past has paid 12 ½% and there have been times when they've actually picked up 25%. If they only pick up 12 ½% then Kirkwood has to pick up the other 12 ½%. As an example Supervisor Kniffen referred to Johnson Road saying the estimate is \$485,000 to repair that and the Federal share will be \$264,000 and NYS around \$61,000 and we would have to pay around \$61,000. He said the bottom line for our share of all the roads that need fixing would be about \$292,000. Mr. Smith said the challenge is to manage that and we are better off than some municipalities. Supervisor Kniffen said we already have some things in this year's budget that are bringing us revenue like the sales tax we estimated and that's coming up a lot higher.

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Councilman Diffendorf questioned if we know for sure FEMA is going to pick up some of this. Supervisor Kniffen said what we know now is that the Governor has submitted this to the President. There is a threshold of \$28 million for NYS and the actual amount is \$34 million. We are now waiting to hear from the President. We asked for help from Congresswoman Tenney and she and another Congressman sent a letter to the President asking for help for Kirkwood and other parts of NYS. He said we feel confident they will come. In regard to NYS, he said we've asked Senator Akshar and Assemblyman Crouch to push NYS. He added that we've also spoken with someone in the Governor's office to push NYS to contribute for us. Councilman Grubham said there are some things we have to get done, like Johnson Road, before we even know if we're getting the money and it has to start right away. There was a short discussion on a specific part of the road where the work has already been completed by ZMK Construction with Councilman Weingartner noting they did a good job.

## **Fairview Road**

John Finch reported on Fairview Road, which is not listed on the handout provided: We would potentially have to pay \$106,000 towards the reconstruction of Fairview if we don't get any money from FEMA but last Thursday I got a call from Lance Lee from DOT notifying me that we have 4 federal highways in the town; Barlow Road, Corporate Drive, Fairview Avenue and Popes Ravine. Mr. Lee was given a notice that they are to help us if they can to get them repaired. I got prices for some work on Corporate Drive and Popes Ravine. Popes Ravine runs from Hiner Road to Krager Road and Fairview runs from Hiner Road down to the City. Although people are saying Popes Ravine, it's actually Fairview that has the most damage. Mr. Lee said if we decide to rebuild Fairview they would cover it 100% for any work as long as they approve it. Supervisor Kniffen said we considered not opening that back up because it could happen again and it's a lot of money, so since it's a federal highway this time they will pay but if it happens again he questioned if they would pay again. John said he has to talk with them about that. If it is going to be rebuilt we need to move forward as soon as possible. Councilman Grubham said the question is not what they will do now, but what they will do in the future. We need to confirm that. John asked them if we decide not to open it but get the water going where it needs to go and take out all the pipes, etc. would they cover that. Mr. Lee was supposed to get back with me on that and I'm waiting to hear. I think keeping the road closed and just opening up the waterway is the only way to go. There are other issues, the road is always icy in the winter and people dump garbage and park there, not to mention trying to keep the road from washing out every time it rains hard, not just the big storms.

Someone in attendance from that area said the people that live up there are really concerned that the flooding that happens on Court Street starts there and whether they figure out how to rebuild the road or make the waterway clear, unless they do some type of water mitigation project to slow the water down it will continue to flood Court Street and all the businesses down there have been flooded 3 or 4 times in just a few years. We are surprised that someone like the Army Corps of Engineers doesn't come in and say some type of flood wall is needed. John said they are trying to get the Federal Highway Association to look at the road and we're trying to assess what we're going to do and there will be engineering involved so they're going

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to look at everything as far as future flooding. It was noted that this includes both the Town of Kirkwood and the City of Binghamton. John said he asked them what happens if we say no and the federal government says it's a federal highway and we're going to open it back up. He's trying to find the answer to that. There are a lot of what ifs involved with this road. Councilman Grubham said we have to have the meeting and then we can decide what we're going to do. John said he has no idea how it's determined that these are considered federal roads. John Mastronardi said they look at potential evacuation routes and all the roads that John Finch identified are key points for evacuation routes. He added that the federal government has assisted us in the past with flood damage on Barlow Road and Fairview. Councilman Grubham doesn't remember getting any help. Councilwoman Yonchuk added that in the past FEMA has funded repairs so possibly a federal response was not needed.

Supervisor Kniffen said he's a member of the BMTS Policy Committee and they put up some visual displays at a recent meeting showing roads in different towns including Kirkwood and he thought he saw something on there about federal roads. This may be a recent study, although in the past he said he's heard that Barlow Road is a federal highway.

In regard to FEMA involvement, Mr. Smith said when dollars have the threshold of small projects versus the large, it's significant at \$125,500, and once you go beyond that and they set the scope of the work, you're fronting the money and waiting a long time to get reimbursed, they are more of a stickler about the actual cost. When you stay under the threshold of a small project their tendency is to estimate with some latitude and to try to be conservative, even if it's \$100,000, and then the money flows much faster. There is less red tape because they try to set the small ones aside and worry about the big ones and that's their threshold. If that is distinguished from FEMA and it's a lot of money and they're private, that's obviously going to be the way to go, otherwise we are essentially loaning them the program even if in the end we get reimbursed, we've got to finance it.

Discussion about Chamberlain Creek, as to who is responsible. John Mastronardi said generally creeks are private property and it's the property owner's responsibility to maintain or repair up until it gets into the town right of way and then it might be town or Federal Highway. Supervisor Kniffen said that goes back to the discussion talking about litigation, about what's happening on Court Street, that is part of this study, but now you're saying if it's private property it won't be part of the discussion. John Finch said the water that flows down the right side is not a creek, it's a swale, it's just drainage.

## **Johnson Road.**

John Reported: We got a design from Griffiths Engineering to re-stabilize the shoulder. It does not include the replacement of the pipe, just to put the shoulder back so we can open it up to a two lane road and I asked ZMK for a price to do the work. They gave us 2 prices, the first using GEO Textile fabric and after talking to John Mastronardi we decided that we essentially don't need that. John Mastronardi said that's a mitigation effort and without knowing if FEMA is going to pay for this mitigation, we're trying to keep the design to a point where it's going to

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protect us in the future and still get reimbursed. They'll pay for replacement and time for damages to basically put it back the way it was, our mitigation is putting the stacked stone on it. We're hoping to proceed with this as an emergency project, before FEMA even comes to town, we all know that this has to happen before winter. Councilman Weingartner said the part that is open now is sinking so why wouldn't a new pipe be put in at the same time the whole thing is being fixed. Discussion as to the cause and options to repair. John Finch said the price to fix that without the GEO Textile fabric is \$119,000. It's a small project if FEMA does kick in but it's also an emergency project. John Mastronardi said the initial estimate for this project was \$135,000 and that is what was submitted to Albany. The \$119,000 is a quote from an emergency contractor. John Finch said he would like to proceed with the Board's approval. Mr. Blaise said normally this would fall under the Town's Procurement Policy and the project would have to go out to bid but that's not the case in an emergency. John Mastronardi needs documentation in that regard for the FEMA reps to be sure we are following our procurement procedures including language as to why we bypassed that. The Board decided to authorize John Finch to proceed with the project and it will be ratified by resolution at the October 2<sup>nd</sup> meeting since this is an emergency situation. John Finch will contact ZMK.

## **Popes Ravine.**

John Finch reported: This falls under the Federal Highway Association money. There is a washout on Popes Ravine between Hiner and Krager that has come close to the road. He showed Lance Lee the quote for \$15,750 from ZMK and was told to go ahead and start the project and they would cover it at 100%. At the intersection of Popes Ravine, Fairview and Hiner there is a pipe that goes under the road that is plugged, we'll have to look at that as well.

## **Corporate Drive.**

John Finch reported: This falls under the Federal Highway Association money as well. There is a total of about 250 feet of shoulder work. He received a price of \$10,670 from ZMK to fix that and was told it would be covered at 100%. Once he gets the verification he will contact ZMK.

## **Additional Roads.**

John Finch reported: There are smaller areas on Johnson Road that need repair. The work has been completed on Brink Road, \$250,000, Cedarhurst Road, \$60,000, Burts Road, \$5,000, Gorman Road, \$175,000 and Grange Hall Road, \$129,275. In regard to Brink Road, 80% of the work has been completed. Griffiths Engineering is doing another design for Brink Road because there is a washout issue and that will be ready by the end of this week. ZMK and Gorick have the emergency contracts for Broome County. He will check for prices and availability for the work on Brink Road that needs to be completed before winter. He would like to get that done next on the list of priorities. He said we lost 600 tons of material between Gorman and Grange Hall that had just been put down 7 days prior. That all had to be re-done and then the roads had to be oiled and stoned. This was a priority because if we didn't do that, we spent about \$1.3 million on the roads and we don't want that money to go to waste. Now that those roads are done we can start working on smaller issues on other roads.

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John Finch provided a report on the damage to other roads including Quilty Hill (\$88,625), Foley (\$53,175), Sherwood Valley (\$31,350), Blakesley (\$132,000) and Ostrum (\$68,850). The detailed information is included in the report that is filed in the Town Clerk's Office. He said of the \$1.483 million assessment by Griffiths Engineering, if you take out what we've completed on Grange Hall, Gorman, Burts, Cedarhurst and Blakesley, it drops it down to about \$814,000 in damages. These jobs were done for significantly less than the assessment. Quilty Hill will be the next project since that road is in pretty bad shape.

Councilman Grubham verified with John that we submitted the original numbers to FEMA and most of the jobs that are done were done so for substantially less. He questioned what figure will be used for what we get from FEMA. Since they were emergency projects, John said he believes it will be for the work that was done. He added that some of the roads need additional work and that will be submitted as well. He explained that in some areas, such as Blakesley Road, they put in shot rock (240 10-wheeler loads) that was free from Broome County (delivery included), but eventually large rocks will need to be put in to slow the water down. John Mastronardi said in the past FEMA paid the invoice amount as well as the cost for administrative work, that it varies by project. John Finch added that when FEMA does come in we need to argue the fact that there's more restoration at additional cost so this doesn't happen again. This just got us out of the emergency phase.

John Finch provided prices from Broome Bituminous for paving Krager (\$3,500), Brink (\$7,400), Foley (\$2,000), and Quilty Hill (\$2,000), which are included in the costs, but these are areas that need to be done before winter so they can be plowed. He noted that Krager has already been done because of work they were already doing on Hiner Road. Resolution per Mr. Blaise. Discussion between John and Councilman Diffendorf as to what material will be used to pave. Councilman Diffendorf said he wants to review this more before next week.

## **Valley Park.**

John Finch reported: The fence for the ball field was torn down during the flood. He submitted a proposal of \$5,910 from Budget Fence to replace it. He is not sure if this will be covered by FEMA or not and they are also looking into insurance coverage. Councilman Grubham said the work won't need to be done until early spring. John added there is electrical damage as well and to repair and replace all the electric in the park the estimate is \$70,000. The lamp posts were supposed to be replaced after the 2011 flood because there is no conduit, it's just raw wire running up them, and the condition is beyond repair. Just for the lights alone the estimate is \$18,000. This information is being provided by John so the Board will have an idea of all the issues that will eventually need to be addressed. John said they are still waiting on FEMA reimbursement from the last flood. Councilman Grubham suggested this all be replaced with something that doesn't have to be torn up every time it floods. John said he is sure that's the case but he will check into that further.

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Councilwoman Yonchuk questioned if we get insurance coverage for some of these things and they only pay a portion if the balance can be submitted to FEMA. Mr. Smith said his feeling is that we can, that they would just want to be sure it wasn't covered by insurance.

**Highway Garage.**

John Finch reported that the highway garage was flooded with about 2 inches of water last Friday night. He said he will be keeping his office up in the Code Building until the saturation level in the ground of 90 to 95% goes down.

10. **Resolution appointing Peter M. Maciak as Ad Hoc Member to the Planning Board pursuant to Local Law No. 1-2004; effective September 26, 2018, to be compensated at \$30.00 per meeting attended, upon submission of a voucher to the Town Clerk.**

Resolution.

11. **Resolution reappointing Jason Griffin as Member, Board of Assessment Review for a term to expire September 30, 2023.**

Resolution.

12. **Audit of Claims.**

Councilman Diffendorf questioned a number of claims with the following responses: John Finch said the voucher for repairs to Truck 37 was due to damage caused during the flood and Truck 35 is the new truck and the voucher is for a new box for that truck. In regard to the payment to MDR, during the flood all the cold mix washed out onto Nancy Rychlewski's yard and across Route 11 and the train tracks and John said the Town cleaned up all we could but we did not have the time to do it all. Since NYS also couldn't do it, Mike Rychlewski did the job.

In response to a question about a payment to Coughlin & Gerhart for legal services regarding an assessment issue for Inland Paperboard, Mr. Blaise said that is property on Route 11 and concerns a case that had been dormant for years and the court wanted it taken care of. The case has been settled. Councilman Diffendorf's concern was that the property was actually in Conklin.