

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

August 4, 2020

A regular meeting of the Kirkwood Town Board was held on August 4, 2020 at 6:45 PM at the Joseph A. Griffin Town Hall with Supervisor Gordon Kniffen presiding.

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

Also Present: Robert McKertich, Attorney
Kelley Diffendorf, Town Clerk
John A. Finch Jr., Commissioner of Public Works
Marchie Diffendorf, Planning Board Chairman
Duane Travis, ZBA Chairman (via Zoom)

PLEDGE OF ALLEGIANCE: Done prior to Public Hearing

APPROVAL OF MINUTES: June 30, 2020 Town Board Meeting Minutes

PUBLIC PARTICIPATION: None

COMMUNICATIONS: 30 Day Advance Notice Regarding the Liquor License for Moonwalker Amusements, Inc. at Sunset Lanes

COMMITTEE REPORTS:

Dog Control

Councilwoman Legg reported the Dog Control report numbers for July. Five dogs were picked up; two to the shelter, three to homes, one Humane Society referral, one dog bite that was an owner bite. As far as complaints, there were three anonymous complaints and 54 violations/follow ups, and 11 tickets issued.

Drainage Committee

Councilwoman Legg said at the last meeting we formed a committee to discuss the possibilities of a permit for drainage and digging. The committee met twice; Councilman Weingartner, Chad Moran, Dave Zeitz, and myself. We did some research, found out some things, and unanimously decided at our meeting yesterday that a local law would work better than creating a new permit. The local law would be for digging, in general, not just drainage. It would offer guidance in regard to digging in our Town and there would be a clause in the law that states, if a land owner is digging and is to tie into a Town right of way, that is when a permit is needed, and it would be more specific in the law. We would like to know the Board's thoughts on going with a local law versus a permit, and if you think that is a good idea we will work on creating that. The purpose of this was to protect the Town, protect the residents and deter people from just going out and digging. We had situations we discussed at our meeting that just recently happened; the one from the meeting last time, Chad had mentioned another one, and yesterday at Fairview Drive there's another situation with digging. It's a neighbor problem with existing pipes.

Councilman Diffendorf said in my personal opinion I think we're getting into civil matters between property owners, these digging and drainage problems. We cannot get into and be the referee on these. It's very complicated, it's not a simple thing, there's all kinds of things that come up. You can't run water on people, but it's a civil matter and always has been and I think we need to leave it. Supervisor Kniffen said he agrees, but if we have an opportunity to eliminate civil cases if we adopt a resolution, and there's no guarantee people are going to follow the law, at least if some people follow it we are going to eliminate that problem. Councilman Diffendorf asked what the resolution is proposing exactly. Councilwoman Legg said it was suggested we talk to the Board before we try to write up something because it's more a law to raise awareness of what you can and can't do, offer guidance. It's not just for drainage, it's digging in general, and it will also talk about if they are tying into a Town right of way. Councilman Diffendorf asked if someone has a septic problem, is the Town somehow going to be part of this process. That gets sticky. Councilman Weingartner said the committee never brought up septic issues.

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Councilwoman Legg said Chad Moran had mentioned a generalized thing about digging instead of just drainage. Councilman Weingartner said if someone does any digging similar to 811, somehow tie that in, if you're going to dig you have to get in touch with the Town or at least we can give you the guidance that you can't throw water on someone's property. Some people might not know that, I spoke to a couple of reputable contractors and a lot of their work is fixing work other people have done and shouldn't have done. Or the landowner wants digging down here so the water will go elsewhere, the contractor tells them you can't, you can't have the water coming off your roof and coming down your gutters and sending it off to someone else's property. Luckily a reputable contractor knows these things. If say, Joe Smith wants to do his own digging and put in his own gutters and what is coming off his footer drains, he might not know that you can't do that. Councilwoman Legg said I'm not saying that we need to get in the middle of certain things because it would be civil. But having a law for the Town with guidelines for digging and what you should follow, would only help that land owner who has to go do a civil case by saying the Town has this law and you did not abide by it. Councilwoman Legg said Chad had looked at the Town of Union which has permits but we didn't want to go that route.

Mr. McKertich said usually these kinds of laws are focused on removal of large volumes of materials from a property and that will require a permit and certain regulations but not for the digging of a trench on someone's residential property for drainage purposes. That's typically not what these laws are focused on and I think it's exactly the reason that Councilman Diffendorf was saying, which is, you are already not allowed to under civil law, direct water from one property to another, so the Town doesn't necessarily need to have a law regulating that because it's a neighbor dispute that can be resolved in the civil court system. Councilman Grubham said we kind of have that already, there is a residential code that you are not allowed to direct water to adjacent properties. Supervisor Kniffen asked if we could expand on that if it's in there already. Councilwoman Legg said that Chad Moran felt that if someone was digging for drainage and it was going into a Town right of way that they should be getting a permit, and we don't have that. Mr. McKertich asked if the issue was digging or storm water management. Councilman Weingartner said it's a combination of both. My father had a huge problem with water in a certain part of his lawn. He had truckloads of dirt brought in and built it up, now the water doesn't run in that spot, it runs over to a creek. There was a creek already there so it worked out but if someone doesn't have a creek it's going to go on someone else's property. Mr. McKertich said I think with these kind of things it's helpful to define exactly what the problem is, and I think what I'm hearing is that we have a problem in the Town of property owners redirecting storm water onto other property owner's land. Councilwoman Legg and Councilman Weingartner both agreed that was how to define the problem. Mr. McKertich said if we think of it like that than we can think of a law that can address that issue. But I'll be honest with you, I don't think we are going to be able to prevent that, it's an issue everywhere, water is a problem everywhere. Councilwoman Legg said we felt that way too, we just felt that having a law would help guide people and it would show our residents that we are thinking about these things and we do have guidelines for it, to protect them and to protect the Town, especially if they are tying into a Town easement and it's going to block up drainage. Mr. McKertich said maybe we should start with making sure we know what's on the books and whether we already have a law or a rule that addresses some of this stuff. Councilman Grubham said I know it's in there because I looked it up and read it at the last meeting. The problem with some of this is that in the one case on South Sunset someone was digging and directing water onto someone else's property, which we do have something that addresses that and says no you cannot do that. Also, which would probably be a civil matter not a Town matter is whoever is doing the digging can't go on to someone else's property without permission. Councilwoman Legg said we don't want to make it a Town matter, just more for the guidance. Councilman Grubham said that would be a nightmare but I understand what you are trying to do.

Supervisor Kniffen asked Mr. McKertich to take what is already existing in the law and work around that and see what you come up with. Mr. McKertich agreed to look at the law. Supervisor Kniffen asked Dave Zeitz if he had anything else to add since he was on the committee too. Dave Zeitz said no, I think it all got covered pretty well. Supervisor Kniffen thanked Dave Zeitz.

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Discussion – Access to Highway Upper Lot

John Finch said in regard to the land that connects the upper and lower lot behind the highway garage, we have a very nice road built up there now. It came out really well. We have already been using it because you can see our parking lot is now gone on the other side, we can't park our vehicles or any of our trucks in the garage, and all of the blacktop is ripped up. We've been using the upper lot to get in and out if we need to. It couldn't have come at a better time. John Finch responded to Supervisor Kniffen that Joe Barton did do that road. He built that road in three days from scratch. Supervisor Kniffen said he did a good job, and asked what it would have cost if we had to outsource that job. John Finch said I can't imagine what it would have cost for a contractor to build that road. We used creek gravel that we had in the upper lot from the 2006 flood. The base of it had quite a swale, so it took over 4 feet of creek gravel to fill that in, then we put 8 to 10 inches of binder over the top of that and rolled it in. It would have cost a lot of money for a contractor to do that.

SEFCU Letter – 20 Mary Street

Supervisor Kniffen said we got a letter from SEFCU, who we got the property from, and I'd like to read it to you. It's addressed to me. Supervisor Kniffen read the letter explaining SEFCU is donating the amount the Town paid for 20 Mary Street of \$2,540.79 to the Community Hunger Outreach Warehouse (CHOW) program in Broome County. See attached letter. Supervisor Kniffen said that is something and I'll write a letter back to them.

Discussion - Buckingham

Supervisor Kniffen said when Buckingham came to Kirkwood we did a PILOT (Payment in Lieu of Taxes) with them, and the PILOT said in 3 years they would create 30 jobs. Well the 3 years are up and we notified them today and they haven't gotten back to us, so I'll let you know about that. Supervisor Kniffen said a correction on that Buckingham information, it was 2 years.

Marchie Diffendorf said I don't know how many jobs Buckingham has created, but I've noticed they are always trying to hire people. Supervisor Kniffen said they have a nice building up there, they really fixed that up good. We're glad to have them. Supervisor Kniffen thanked Marchie Diffendorf.

Discussion - Stairs at Pump Station

Councilman Grubham said the stairs at our pump station are done. There are a couple things that we've got to finish up to make everything operable. It had some problems but it turned out pretty good. We're all set down there.

Discussion - Road Study

Councilman Grubham asked John Finch about a road study he was going to complete from discussion at a meeting a while back. John Finch said I have the list started on my desk but haven't started the study yet.

Discussion - Risk Assessment of Water System

Councilman Grubham said I read about this someplace, sometime next year we're supposed to have a risk assessment of our water system done. Councilman Grubham responded to John Finch and said it was a vulnerability assessment. John Finch said I did one of those probably 8 or 9 years ago, along with an emergency preparedness plan. I'll check with Al Glover to see if he has gotten anything, it would come through the Health Department. If they haven't notified him yet I'm sure they'll be in contact with him. Councilman Grubham said when I read the information it had to be done for our size system by next year. So, if it's something we have to do we should be thinking about getting it started. John Finch said he would check with Al Glover.

Discussion - Guardrails at Park

Councilman Diffendorf said Supervisor Kniffen and I attended the meeting at the DOT about a request I had brought forward about guardrails at Valley Park where the walking trail is. Unfortunately, that is not going to happen because they determined they couldn't find any cases of cars going over there. Sandy Wasson from the public said we almost got

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hit over there, the car hit the tree and the woman ended up in the hospital. Councilman Diffendorf said apparently there is no record of it. They said the guardrails for the State are very permanent, and they're dangerous, and they don't like to put them up unless there is really a need for them. They said there was a big enough run off area, so we are not going to get them. We tried but unfortunately that is not going to happen and hopefully we won't have a problem. Sandy Wasson said it's odd because we did talk to people at the DOT about it and they said it was a potential danger for people to launch off that and go airborne. Councilman Diffendorf said that's why they don't want the guardrails there, they don't want a structure like that in that area.

Discussion – Drain Brain

Councilman Diffendorf asked John Finch, where we used the Drain Brain. John Finch said over on Industrial Park by Southern Tier Plastics. They had a buildup in the pipe over there right before the lift station and called Drain Brain to blow that line out. We thought it was mostly a plug and come to find out, there's a belly in the line over there. There's standing water in there all the time and they did get some debris out of it, but we just have to keep our eye on it. I had it pumped out years ago too. It's almost in front of the entrance to Southern Tier Plastics. Councilman Diffendorf said I remember we did something there years ago. It has nothing to do with Southern Tier Plastics, it's nothing they are putting in there? John Finch said no it's our main sewer line, it is right by that swamp area so I'm guess it has something to do with that. Councilman Diffendorf said it may have settled or something.

OLD BUSINESS:

95:20
Adopt LL –
Amend Water
Meter Fees

Councilwoman Legg moved to adopt resolution, after a Public Hearing, adopting Local Law No. 3-2020 entitled “A Local Law Amending the Fee for Water Meters”, in accordance with the attached resolution. Councilman Diffendorf seconded.

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

MOTION CARRIED.

96:20
Appoint
M. Latini
Recreation
Supervisor

Councilman Diffendorf moved to adopt resolution appointing Marc Latini as Recreation Supervisor-OC effective August 5, 2020, with probationary status ending August 4, 2021. Councilman Grubham seconded.

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

MOTION CARRIED.

97:20
Agrmnt with
Municipal
Solutions

Councilman Grubham moved to adopt resolution ratifying a resolution authorizing the Supervisor to sign a contract with Municipal Solutions, Inc., to provide assistance with continuing Disclosure Filings and Regulations pursuant to the Securities and Exchange Commission (SEC) Rule 15c2-12, in accordance with the attached contract. Councilman Weingartner seconded.

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

MOTION CARRIED.

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Councilman Weingartner moved to adopt resolution hiring Jean Smith as Bookkeeper-PT, temporarily, effective August 5, 2020, at a rate of pay of \$21.50 per hour, to continue training the new Bookkeeper. Councilwoman Legg seconded. 98:20
Hire J. Smith
PT
Bookkeeper

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

MOTION CARRIED.

Councilwoman Legg moved to adopt resolution authorizing Chad Moran to attend STBOA Training on August 19, 2020 at the American Legion, Horseheads, NY, at a cost of \$35.00. Councilman Diffendorf seconded. 99:20
Training
C. Moran
STBOA

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

MOTION CARRIED.

Councilman Diffendorf moved to adopt resolution authorizing the Transfer of Funds, in accordance with the attached Budget Adjustment Sheet. Councilman Grubham seconded. 100:20
Transfer
Funds

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

MOTION CARRIED.

Councilman Grubham moved to adopt resolution to approve the attached quote from W2O (W2 Operator Training Group, LLC.) in the amount of \$5300 to replace a pressure reducing valve at the Stratmill Road booster station. Councilman Weingartner seconded. 101:20
Approve Replace
Pressure Valve
Stratmill Rd
Booster Station

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

MOTION CARRIED.

Councilman Weingartner moved to adopt resolution to approve the attached quote from R&G Sheet Metal, Inc. in the amount of \$4,125 for the intake generator at the Water Treatment Plant. Councilman Grubham seconded. 102:20
Approve New
Intake Generator
Water Treatment
Plant

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

MOTION CARRIED.

Councilwoman Legg moved to adopt resolution to purchase a 2020 Hyundai Loader from Tracey Road Equipment, Inc. in the amount of \$131,173.02 less \$90,000 for a trade-in on the Town's surplus loader for a total of \$41,173.02. Councilman Weingartner seconded. 103:20
Approve
Purchase 2020
Hyundai Loader

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

MOTION CARRIED.

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AUDIT AND PAYMENT OF CLAIMS:

Councilman Grubham 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 # 20-00812 through # 20-00970 in the total amount of \$ 747,795.44, which includes prepaid claims as authorized by resolution adopted January 7, 2020. Councilman Weingartner seconded.

104:20
Audit/Pay

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

MOTION CARRIED.

ADJOURNMENT:

Councilman Weingartner moved to adopt resolution to adjourn the meeting. Councilman Diffendorf seconded. All voted in favor.

MOTION CARRIED.

Meeting adjourned at 7:12 PM

Respectfully submitted,

Kelley M. Diffendorf
Town Clerk