

TOWN OF KIRKWOOD TOWN BOARD MEETING

December 1, 2015

A regular meeting of the Kirkwood Town Board was held on December 1, 2015 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: Oliver Blaise III, Deputy Town Attorney
Gayle Diffendorf, Town Clerk
John Finch Jr., Chief Water Treatment Plant Operator
Marchie Diffendorf, Planning Board Chairman
Duane Travis, ZBA Chairman

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

November 2, 2015 Town Board Meeting
(2) November 24, 2015 Public Hearings

PUBLIC PARTICIPATION:

Road Sand:

Marchie Diffendorf of 483 Gorman Road questioned if it has been decided what kind of sand will be used on the roads this year. John Finch said they will be using Boland's sand which they used a couple of years ago. He did note that there is still some of Gorick's sand left from last year and when that is used up they will switch to the new sand.

Code Agreement:

Roy Tondeur of Kirkwood Avenue, addressed the Board about the reimbursement agreement with Scott Russell, stating that he is surprised at the excuse that was given for not enforcing this agreement. Everyone that read the agreement, including himself, is under the impression that Scott owes the taxpayers for his education. There are no words in the agreement covering the fact that if he goes elsewhere as a code enforcement officer he then owes the taxpayers for his education.

Supervisor Kniffen stated the purpose of the agreement, in his opinion, is the Town wouldn't pay to train someone for the responsibilities required by the Town for their position and they would use that experience and training to find a better job someplace else within 5 years. Scott was hired as an assessor so Supervisor Kniffen said he didn't see any tie-in to that policy since Kirkwood did not train him to be an assessor. He didn't get that job because of his training in Kirkwood as an assessor. He may do a little bit of code but his main responsibilities will be as an assessor. He will have to get training as an assessor for which Chenango will have to spend money to train him.

Mr. Tondeur said if Supervisor Kniffen admits that, then it should be in the agreement. If any judge in Broome County agrees with Supervisor Kniffen's assessment of this agreement then he's found an idiot...because a judge would assess an agreement by what is written in it. Supervisor Kniffen asked Mr. Tondeur why he thinks the Board adopted that policy. Mr. Tondeur responded so they wouldn't educate a code enforcement officer for all the local communities. Supervisor Kniffen said that is the key, code. That is what they did, they educated and trained him for code. The Town wouldn't train someone for a specific position with the result of that making them more valuable for a better job someplace else. They are trained specifically for that position.

Mr. Tondeur said what Scott is doing now is irrelevant to his point but he will deal with it for the sake of this discussion. He said that if Scott went off and flipped hamburgers it still

TOWN OF KIRKWOOD TOWN BOARD MEETING

December 1, 2015

cost the taxpayers for his education as Code Enforcement Officer. The Town of Chenango has given him the title of assessor but what is to stop them using him as a code enforcement officer.

Mr. Blaise said that Scott is in a civil service position and under the civil service law he can pinch hit doing code once in a while but if he starts doing code enforcement duties more than on an as needed basis, there would be civil service problems. Mr. Tondeur questioned who would check up on this.

Mr. Tondeur stated that on October 2, 2012 Councilwoman Yonchuk proposed a resolution authorizing Scott Russell to attend his first classes out of town, with a second from Councilman Diffendorf. Discussion followed. At that time Mr. Kline explained that before Scott attends the training he is required to sign a consent that he agrees to reimburse the Town for training expenses if he does not stay on the job the required amount of time, which in the agreement says 5 years. Mr. Tondeur said Mr. Kline did not say unless Supervisor Kniffen and I change our minds.

Councilman Weingartner said at the time that legislation was being drafted, he specifically brought up a situation he was aware of during the course of his employment in the public schools. Specific issues regarding bus driver employment at his school were referred to during this discussion. Drivers would be hired and trained at one school district, and after a short period of employment, would leave and go to another school because they got paid more in their new district. So, his intent was that he did not want the Town to train someone in code and have that person go to a different town where he would get paid more or have his building code education be beneficial for him in getting a new code enforcement job elsewhere.

Mr. Tondeur stated that is informative but Councilman Weingartner is discussing this after the agreement has been written. He is convinced that as the agreement was written Scott Russell owes the taxpayers money. Everybody he has discussed it with agrees.

Mr. Blaise said his opinion is that every agreement has flexibility in it. He thinks Mr. Tondeur is correct in that this could be worded better to cover more directly the situation Mr. Tondeur is addressing. Legally when a judge and/or attorney is looking at this one of the things they look at is legislative history, they look at the intent of the agreement. It is surprising what someone can read specifically one way and someone else can read differently.

Supervisor Kniffen said when this happened his thought was that they might want to address this to make it clearer about the policy. With Mr. Tondeur coming before the Board they most definitely will take another look at it.

Mr. Tondeur presented a second concern. He said if the Town is paying \$60,000+ a year for legal advice and this is the best agreement they can get, he noted a big concern. Supervisor Kniffen said Mr. Tondeur has taken one issue when there are so many legal things that have happened throughout the years. Mr. Kline has been here over 50 years and Kirkwood is a safer town because of his presence. He feels what Mr. Tondeur said is a serious inflection on Mr. Kline and he is sorry Mr. Tondeur felt he had to go that far.

Mr. Tondeur presented some figures which indicate how much Scott Russell has cost the taxpayers. Since October 2, 2012 when he went on his first junket he has gone out of town 21 nights for a total of in excess of \$1,200 for motel expenses. He had travel expenses as well, which the taxpayers paid for, including food expenses. Work time that he wasn't in Kirkwood was also paid for by taxpayers and as well as the cost for classes. Mr. Tondeur said Scott's education has cost the taxpayers thousands.

Mr. Tondeur said in addition to this at the last work session it was noted that without authorization, Scott gave a contractor permission to do \$4,000 worth of work. This is an additional expense because of Scott's inefficiency. Supervisor Kniffen said there were 5

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

December 1, 2015

properties involved. That \$4,000 will be added to the 2016 tax bills of the property owners involved and will be reimbursed to the Town. Councilman Diffendorf said although it could be reimbursed, there is no guarantee that it will be.

Mr. Tondeur said he thinks it is appalling, noting that there is nothing ambiguous about this agreement. Someone with only the basic knowledge of English would understand it. This is a terrible agreement and in attorney talk sets a precedent. He noted a concern if the Town asks anyone else to sign this agreement. Mr. Blaise will look at the agreement in regard to making it clearer.

Boy Scout – Christian Urso:

Christian Urso, a 1st Class Boy Scout from Troop #83 in Conklin, addressed the Board. He said he is currently working on his Citizenship in Community. He asked if he could build a park bench for his eagle project, for whichever park the Board would like it in. He has been in scouting a total of 5 years. It is a Community Merit Badge requirement that he attend a community government meeting. Supervisor Kniffen said he could most definitely build a bench for the park. It was suggested that he contact Ray Coolbaugh in regard to this project and to put a plate on the bench with his name inscribed on it. Since Christian had been a player on Supervisor Kniffen’s little league team in the past, Supervisor Kniffen shared some comical little league memories.

COMMUNICATIONS: None.

COMMITTEE REPORTS:

Councilman Diffendorf reported he spoke with Scott Prindle from DEC in regard to the boat launch. Although Councilman Diffendorf had been told there is money available, Mr. Prindle told him there is no money and the process could be slow, possibly next year but no guarantee. Supervisor Kniffen added that there are people lined up ahead of Kirkwood but he feels they are committed to the project and hope it can be done next year.

Supervisor Kniffen reported the first Kirkwood Hometown Christmas will be held Saturday, December 5th. This will resurrect the Christmas tree lighting ceremony which was held in the past with many added events. Festivities start in the morning with a pancake breakfast and races, with events and contests going on all day long. Santa will be here, there will be a live nativity scene at Valley Park, chili and cookie baking contests will be held and festivities will conclude in the evening with a parade starting at Haskins Road to Valley Park, a tree lighting ceremony, caroling and presentation of awards. The hope is that this will become an annual event and get even bigger as the years go on.

OLD BUSINESS:

Councilwoman Yonchuk moved to adopt resolution, after a Public Hearing, adopting Assessment Rolls for 2016 for Water and Sewer District, in accordance with the attached resolution. Councilman Diffendorf seconded.

133-15
Adopt 2016
W&S Rolls

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, after a Public Hearing, Authorizing Supervisor to execute Fire Protection Contracts for 2016, in accordance with the attached resolution. Councilman Grubham seconded.

134-15
2016 Fire
Protection
Contracts

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

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

December 1, 2015

MOTION CARRIED.

135-15
Collective
Bargaining
Agreement

Councilman Grubham moved to adopt resolution authorizing Supervisor to enter into a collective Bargaining Agreement with Teamsters Local 693 of the International Brotherhood of Teamsters, in accordance with the attached agreement. Councilman Weingartner seconded.

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

MOTION CARRIED.

136-15
Dep. Atty
Commence
Legal
Proceedings

Councilman Weingartner moved to adopt resolution authorizing the commencement of legal proceedings and the appointment of the Deputy Town Attorney to handle said proceedings as outside the scope of work contemplated by the retainer agreement with the Town, in accordance with the attached agreement. Councilwoman Yonchuk seconded.

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

MOTION CARRIED.

137-15
Sched
Spec. TB
Mtg
12/29/15

Councilwoman Yonchuk moved to adopt resolution scheduling a Special Town Board Meeting on Tuesday, December 29, 2015, 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.

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

MOTION CARRIED.

Discussion – Building Permit Fees – Continued from last week.

Councilman Grubham noted that the revised Building Code Fee Schedule should include 1.a (3) D. Roof Replacement: \$200. Although there were questions about alterations, he feels that is all set. He added that the Code Department information has been removed from the website. The information will be updated by the new Code Officer.

138-15
Amend
Bldg Code
Fee Sched

Councilman Diffendorf moved to amend Building Code Fee Schedule as Established by Resolution June 5, 2007 in accordance with the attached copy of the Building Code Fee Schedule as amended. Councilwoman Yonchuk seconded.

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

MOTION CARRIED.

Discussion – Crown International Bond – Continued from last week.

Town Clerk Gayle Diffendorf reported that after the last meeting she and her husband Marchie went up to the Fuller Road site, took pictures and got the site number and 2 telephone numbers for Crown Castle which she provided to Mr. Kline. It appears with all the equipment on the tower that it is very active. She said according to Mr. Kline he was able to contact someone at Crown Castle who is looking into the matter and will provide him with information by the end of this week. He is hoping for a positive resolution to bond issue.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

December 1, 2015

Discussion – Water Department Mileage – Continued from last week.

John Finch provided log sheets from the gas pumps at the highway garage. He also included a log sheet from May so the Board can see what they do. He noted that on the fuel sheets, on May 29th he took the mileage of 61,385 and subtracted it from the May 1st fill-up which was 60,543 and that gave him a total of 842 miles traveled within that month. He counted on his calendar the actual days he worked, including weekends when he checked stations, to get an exact number of days he travelled during that time. He used the truck 27 days and averaged 31.2 miles a day. He said Al filled up on May 28th. His first fill-up was on May 4th. His mileage was 1,328 miles over a 20-day work period. His average was 66.4 miles a day. This amounts to between 100 and 110 miles a day for both of them. Councilman Grubham questioned if all of the gas transferred from the highway department to the water department is used for trucks. John said no, some is used for gas cans for the tractor. John said during the summer months Al travels more with his vehicle due to the fact that he mows all the water tanks plus all the vacant buy-out properties. He said in October when there was 70.4 miles logged, Al went to Sydney for a class which escalated his mileage and it was still nice enough that he was still mowing the tanks. They use Al's truck in the mornings to check the sewer stations. Going from the treatment plant and checking those stations and coming back is 28 ½ miles. That accounts for half of Al's mileage. Councilman Grubham said he still thinks they should be keeping logs. Supervisor Kniffen added that will not only show mileage but where they have been as well. Councilman Grubham said those kinds of things are good so the Board members as well as the taxpayers know what they are doing. Also if something were to happen during the day it would be written down what they were doing.

NEW BUSINESS:

Councilman Diffendorf moved to adopt resolution Assessing Property Maintenance Fees for Certain Properties to the 2016 Tax Roll, in accordance with the attached resolution.

139-15
Assess
Property
Maint. Fees
2016 Tax
Rolls

Councilman Grubham seconded.

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

MOTION CARRIED.

Discussion: Councilman Diffendorf said there have been issues with the Repp property on Susquehanna Lane in Riverside and he is questioning why Scott didn't handle that property the same as he did the other 5. Mr. Blaise said the 5 properties were abandoned properties and no one was taking care of them at all so since there was no one to cite, Scott had them mowed, boarded up and made them minimally code compliant. There were structural issues with Mr. Repp's property and there is someone there to hold responsible and fine. He said he doesn't think Mr. Repp's violations are the same types of violations that are involved with the other properties. Mr. Repp had structural issues, with a porch in particular, and he was cited and then started doing the work without getting a building permit. There were not mowing issues involved with this property.

Councilman Grubham moved to adopt resolution appointing Chad Moran for the purpose of Civil Service as Provisional Building and Code Inspector and for the purpose of enforcement of New York State Fire Prevention & Building Code and as Code Enforcement Officer regarding Local Law and Ordinances, effective December 7, 2015, working 30 hours per week at a rate of pay of \$17.10 per hour. Councilman Weingartner seconded.

140-15
Appoint
C. Moran
Code
Inspector

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

MOTION CARRIED.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

December 1, 2015

AUDIT AND PAYMENT OF CLAIMS:

141-15
Audit/Pay

Councilman Weingartner moved to adopt resolution authorizing the audit and payment of the following claims: General and Highway Funds, Special Districts (Fire, Light, Water and Sewer Districts), Professional Services, Capital Projects and Reserve Funds claims, and ratifying the payment of the prepaid claims as authorized by resolution adopted January 6, 2015, all in accordance with the abstract of claims on file in the Town Clerk's Office. Councilwoman Yonchuk seconded.

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

MOTION CARRIED.

OTHER:

Supervisor Kniffen thanked Councilman Grubham for his work on the Building Code Fees. He also thanked the committee of Councilmen Grubham and Weingartner and Councilwoman Yonchuk for getting the job done so quickly to see that a new Code Enforcement Officer was hired.

141-15
Exec. Sess.

Councilman Grubham moved to go into Executive Session to discuss a matter pursuant to the attorney client privilege. Councilman Weingartner seconded.

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

MOTION CARRIED.

ADJOURNMENT:

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

Meeting adjourned at 7:30 P.M.

Respectfully Submitted,

Gayle M. Diffendorf
Town Clerk