

TOWN OF KIRKWOOD
WORK SESSION

February 24, 2015

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

Absent: Councilwoman Yonchuk

Also Present: Herbert Kline, Town Attorney
Gayle Diffendorf, Town Clerk
John Finch Jr., Chief Water Treatment Plant Operator
Marchie Diffendorf, Planning Bd. Chairman
Duane Travis, ZBA Chairman

Supervisor Kniffen announced that representatives from Broome County will attend the Town Board Meeting next week to introduce themselves and discuss updating the Comprehensive Plan.

1. Discussion – Wells 1, 2, and 3. (J. Finch)

John Finch reported the Well 3 pump cannot be fixed or replaced. There are holes in the internal parts. The pump for Well 1 cannot be fixed as well. The metal had softened so much since 1977 there is no chance it can be rebuilt. His recommendation is that spare pumps are not needed since they can get pumps from the manufacturer within 10 days. Both wells are back up and running. Flow tests were done on Well 2 and iron and manganese samples were taken and compared with Wells 1 and 3. Well 2's iron level is 50 times greater compared to Well 1. Manganese is 15 times greater. It hasn't changed in 40 years. A sample was taken at the start of the flow and again after it ran 18 hours at 400 gallons a minute and it only dropped a tenth of a percent. It is highly unlikely it could ever be used for drinking water but it could possibly for other things. It produces enough water so they could easily pump 600 to 700 gallons a minute.

2. Resolution authorizing Supervisor to enter into an agreement with Coughlin & Gerhart, L.L.P. regarding legal counsel and assistance to the Planning Board and Zoning Board of Appeals, in accordance with the attached agreement. (HAK)

Resolution.

3. Resolution authorizing Supervisor to enter into an agreement with Coughlin & Gerhart, L.L.P. regarding paralegal of the attorneys, in accordance with the attached agreement. (HAK)

Resolution.

4. Discussion – Revising the trailer park licensing local law to mandate that payment of delinquent fees is a condition for renewal of a park's license. (HAK)

Mr. Kline explained that trailer park owners can apply for the following year's trailer park license without having obtained a license for the prior year. He noted that Scott Russell feels they should have to pay the fee for the prior year before applying for the second year. Mr. Kline is questioning why it goes on a whole year and then they are making a second application. Councilman Grubham said that it was discussed at the last

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meeting that these parks are now involved in litigation because of violations. He said Scott may have to become more aggressive with them if they are not following the rules. Supervisor Kniffen said it is a tough situation because the Town can't shut them down since there are people living there. Councilman Grubham said they can be taken to court and fined for the violations and it should be made as severe as possible. There was also a concern noted from Scott about holding onto their checks until they comply and a license can be issued. Many times by the time they comply their checks are too old and cannot be cashed. Mr. Kline and Mr. Blaise will look into a procedure to handle checks.

5. Discussion – Aquifer Protection District. (HAK)

Supervisor Kniffen explained that recently Councilman Grubham questioned whether the Town should pay the fee for the engineering study for renewal of an Aquifer Permit or if it should be charged back to the business. This also led to review of the Aquifer Permit section of the Zoning Local Law and there is nothing in there that states the permit has to be renewed. Supervisor Kniffen said it is his opinion that this does not apply under the Professional Consultation Fees Local Law because under that law if the application is approved the applicant gets their deposit back. In referring to Section 503 – Special Permits - of the Zoning Local Law, Mr. Kline said whenever there is something under zoning the Town Board delegates to the Zoning Board of Appeals the review of whatever is before the Board. However, at some time the Town Board delegated this to the Public Works Commissioner. Mr. Kline supplied a copy of a model letter from the DPW Commissioner to any Aquifer Permit holder stating that Section 8 of their permit states that it needs to be renewed. An insurance certificate must be supplied and the Town Board will have their engineer review it and recommend a 2-year renewal. The application for renewal provided by the Town to a business holding an Aquifer Permit was reviewed, which includes instructions to the business. After receipt of the application to renew, the DPW Commissioner would publish a legal notice in that regard, after which a 2-year renewal permit is issued. Under the Aquifer Protection District section of the Zoning Local Law, Section 802 AA. Special Permit, it states: The temporary, final and new operation permits issued by the Town Board or its officers or duly appointed representatives pursuant to the compliance with this Article. Mr. Kline said this means the Town Board could delegate this to the DPW Commissioner, if they want to. He also supplied a list of all the Aquifer Permits listed up to 2003, noting that since that time 2-year renewals have only been issued to Willow Run Foods, Tarco Steel (Bushwick) and Frito Lay. He said the Town Board needs to decide if they want to handle this themselves, or if they want to continue to let the DPW Commissioner handle it and if they want the applicant to pay for the cost of the engineering study.

Supervisor Kniffen said his concern is that he couldn't find anything in any of the Town's laws that a business has to renew an Aquifer Permit, although it is indicated on the actual permit itself. Mr. Kline said that he would prefer that there be something in the law that says a renewal is required every 2 years and it would be cleaner to amend the Aquifer Protection section to state that.

Councilman Weingartner questioned if it takes two years to build something in the aquifer district if a permit would be required after that. Supervisor Kniffen said it depends on the type of business such as one that might be subject to spills, etc. where a continuing permit would be a requirement. Mr. Kline added that there are some things that can't be done at all in the aquifer district. He feels every 2 years is the appropriate period to make sure the business is doing what was promised and if so who should pay for it. According to information received from John Mastronardi, it was determined that in most cases normal renewal review by the engineer takes less than an hour, so if that is the case the Board will not expect the business to pay. Language in the local law will be amended to add that every 2 years they will be inspected at no cost to the company. A business will only be responsible for paying the cost of an engineering study for an initial application for an aquifer permit.

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John Finch Jr. will provide an update at the next meeting of all the businesses in the aquifer district that currently require an aquifer permit.

6. Discussion – Broome County Firefighters’ Association, Inc. – Fire Safety Trailer.
(GEK)

Supervisor Kniffen explained that the Broome County Firefighters’ Association has a mobile trailer that they take to schools and fairs which needs to be replaced. According to the Five Mile Point Fire Company, Kirkwood donated \$1,000 to the cost of the existing trailer and they are now asking for a donation towards the new safety trailer. They need to raise \$25,000. The Board agreed to donate \$1,000. Councilman Diffendorf added later in the meeting that the Constitution Pipeline donated \$20,000 for this trailer. Resolution.

7. Discussion – Resolution Authorizing Settlement of Pending Assessment Review Proceeding Commenced by Southern Tier Communities, LLC, in accordance with the attached agreement. (HAK)

Mr. Kline explained that Dan Giblin negotiated a slightly lower assessment for one year. This will be looked at again next year. Resolution. It was determined that this is a trailer park that litigation is involved with for non-compliance so this resolution will be held.

8. Discussion – BluTower Water Meters Agreement. (HAK)

Mr. Kline explained that BluTower uses Network Oriented Solutions as a vendor, which sells to the Town. He prepared an agreement with Network in which he put that they had to guarantee equipment, provide insurance and indemnify the Town, treating them as the only company involved since he did not know they were just buying it from BluTower. The attorney for BluTower said that Network would not do these things but BluTower would. A new 3-party agreement was drawn with BluTower, Network and Kirkwood with the changes included. He explained that he put in the agreement that they would warrant property damage or any personal damage, which is in most agreements that are drawn. BluTower’s lawyer said they could not agree to the property damage since this is just a meter and there would be no damage, but that could be gotten from Network. As far as liability is concerned for property damage there is a limitation that BluTower will not be liable in excess of the purchase price of the product or for incident damages or any defect in the product. Their lawyer said the Town would not get that from anyone because the chances of property damage from a meter are minimal or none. Mr. Kline said he is good with this. Resolution.

9. Audit of Claims.

Resolution.

Other.

Councilman Diffendorf questioned if there was a break in the water line in Riverside. John Finch said a service is leaking. He said when the line was run services were put in even where there were empty parcels. The leaking service is not hooked up. John said there are about 55 services there and they do about 5 every year with about 15 having been done so far. These are the ones on the opposite side of the road, not the main side. After discussion it was determined that the leaking one would only be done if it is an easy project.