

# TOWN OF KIRKWOOD WORK SESSION

September 4, 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  
Chad Moran, Building & Code Inspector

## **Flood Update from Supervisor Kniffen.**

Supervisor Kniffen and John Finch attended a meeting today at the City of Binghamton Mayor's office with the residents of Hiner Road. Prior to that a meeting was held at the Kirkwood Town Hall with all the residents at which time there was not a good answer but we acknowledged the problem and came up with a way for them to get to and from their homes through a driveway on a resident's property on Windy Hill Road. This is an imperfect condition since it is only one way and will not work out during the winter, there is no passing lane and there is a concern with regard to emergency vehicles. Although it would serve the purpose it would never be close to a situation that they would want to live with. At that time options were discussed such as building a road from Hiner Road to Krager Road, buyouts, etc. Since then and after all the media attention, Albany got involved with instructions to DOT to do something about Hiner Road. Today they actually started construction of a temporary fix with Suit-Kote doing the work. They will blacktop it and Kirkwood will plow it this winter to help the residents out. It will be up to FEMA in regard to a permanent fix. With all of the Town's infrastructure damage, we've had Homeland Security and our Town Engineer going around town to assess what the actual dollar figure of the damage is. Then FEMA will do their study and check our numbers. It looks like everything is a go, but we have to sit down and talk about the roads as well as the garage that has been flooded again. The last time the Board talked about replacing the highway garage the cost was about \$3 to \$3 ½ million and there was no funding so it was set aside. Now with the catastrophe of the flash flood and the fact that it will happen again the Board needs to talk about it again later in the meeting. The parks have been pretty much cleaned up. John Finch added that we are still waiting on the insurance for the covered bridge and there are issues with the wiring and electrical at Valley Park so hopefully we will get some help through FEMA or someone to fix that.

## **1. Resolution scheduling a Grievance Day Hearing for 2019 Unit Assessments on September 25, 2018 at 6:00 PM. (ONB)**

Mr. Blaise reported that he and Jim Smith have completed their review and notices have been sent to the few property owners that are receiving an increase. Resolution.

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**2. Discussion – SEQRA/SHPO resolution regarding the Highland Heights Water Tank Project. (ONB)**

Supervisor Kniffen explained that this is one of the grants we have applied for. We had to change from one grant to another, with the other one being the EFC, Environmental Facilities Corporation, a New York State agency. They asked two questions, if this would change water quality (it is not going to), and also about financing. That grant is dead and we will have to wait for another grant for this \$400,000 project which will be set aside for now. Mr. Blaise noted SHPO stands for the State Historic Preservation Office and explained when you're doing anything that might disturb a significant amount of ground, SHPO is the office that you check with to ensure you're not disturbing a natural archeological or historically significant site. John Finch checked with SHPO for confirmation that there is no problem with this site. Resolution.

**3. Discussion – SEQRA/SHPO resolution regarding the City Line Booster Station Project. (ONB)**

Supervisor Kniffen explained that this is a grant project as well. Resolution.

**4. Discussion – Structure Observation at 1080/1090 NYS Route 11 – Green House. (ONB)**

Mr. Blaise explained that one of the things in discussions with the Land Bank to clear the property is that the white house was condemned and is set to be demolished and the Land Bank questioned if the other structure that is in similar bad condition should be condemned and if so that might support the Town's application to clear the site. Mr. Blaise said Chad had gone through the building about 1 ½ years ago and said it was in rough shape. John Mastronardi did a structural inspection last month and submitted a report and confirmed that it should be condemned. A resolution will be needed to adopt the Engineering Report declaring it an unsafe building. Resolution.

**5. Discussion – Status of 1080/1090 Route 11. (ONB/GEK)**

Supervisor Kniffen reported that the property is now owned by the Town of Kirkwood. Supervisor Kniffen attended and spoke on behalf of the Town at a meeting of the Land Bank held last week and they approved the Town's application. He explained this is a 2-step process and after the Land Bank approves it there is a person or group called the grantor who has the money and they asked some additional questions. We told them once the two buildings and trailers have been removed we would have a small park there. There were questions about timing and finance and Supervisor Kniffen noted we have park reserve funds that are more than enough for the size park we are talking about. He said that he is still waiting for their final approval but anticipates we will get it.

Councilman Diffendorf questioned if we are really going to submit something that says we're going to put a park there, across from a railroad crossing with no gate and very little land

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except for the island out in the river. Supervisor Kniffen said there are two levels there. Councilman Diffendorf said we can't take care of the three parks we have right now so how can we take care of a park there and who do we expect to use the park. Mr. Blaise said he thinks the term park can be loosely construed, that where Mr. Kasmarcik's building came down on Upper Court is a park. Councilman Diffendorf said he wouldn't spend a dime over there to make it a park because it would be a waste of money, only if someone had an idea of something usable, then maybe. He added that first of all we don't want people crossing the railroad tracks. Supervisor Kniffen said the first thing we want is to get rid of that house, that it's been there for years and years and we talked about it for years and years, Councilman Diffendorf included, and to do that we had to have something to put on the site. Councilman Diffendorf said he never voted to spend a dollar to buy the property and he doesn't support putting money into a park that is not really usable and present it as if it's going to be a park. He said he thinks it's wrong.

Councilwoman Yonchuk said when we dealt with the first two floods and we had FEMA buyouts there was a lot of discussion about green space because with FEMA you can't have a buyout and develop the property, so she questioned if this could be called green space. Supervisor Kniffen said that is the way he would like it, but they won't accept it as green space only.

In parallel to this, Councilman Weingartner referenced an area in Conklin called Sullivan Park. It was property that was flooded out, the house was removed and the property was cleared and is now mowed with a couple of picnic tables and access to the river. It's a nice general area.

## **6. Discussion – Support for Proposed 72 Grossett Drive PILOT. (GEK)**

Supervisor Kniffen explained that Buckingham Manufacturing, that is currently located on Bevier Street in Binghamton, wants to relocate to Kirkwood because they are running out of space. He said if you go up Grossett the bookstore was on the left and this is the last lot on the right. They are buying the building and then will double the size and are asking for a PILOT. Buckingham presented what they thought would be a fair PILOT and after the Board discussed it we gave them our option and they accepted it. He said once that happens Buckingham will turn over their title to the Agency (formerly IDA) and then the Agency advertises the PILOT and that's where the school and county come into play. Supervisor Kniffen said he can't say what the additional revenue will be to the Town until the property is assessed by our assessor. Councilman Diffendorf said he thinks Supervisor Kniffen did a good job negotiating this and getting the 2 years and 30 new employees is a big deal. Councilwoman Yonchuk verified that as they add to the property and meet the 30 jobs, the percentage listed is for the levy of that current year.

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7. **Resolution amending resolution # 121-18, dated June 26, 2018 to read “Resolution amending the Town of Kirkwood Benefit Plan regarding health insurance into retirement for current part time employees, requiring them to pay a percentage of the monthly premium, and full time employees, except Teamster Union members, hired after July 1, 2018 will be required to pay a percentage of their health insurance into retirement, in accordance with the attached plan.” (GEK)**

Supervisor Kniffen explained we’ve been looking at the future and how health insurance costs are going up in our Benefits Plan and always want to do well by our employees who work hard and deserve it and look at the cost and quality of benefits. What we’re doing does not affect any of our current employees, it’s effective as of a certain date moving forward. He explained that while active employees they get health insurance and contribute to the premium. In the past when they retire if they are eligible for health insurance there is no contribution but after discussion it was decided they should contribute too. So this resolution says that for anyone hired after a certain date they will have to contribute to their health insurance. He said the only ones this does not cover is Union employees because the Union so far has not accepted this.

8. **Discussion – Code Department:**

Retirement of Jim Kavalesky, Fire Inspector.

Increase Chad Moran’s hours from 30 per week to 40 per week and \$1.00 hour increase from \$18.42 to \$19.42 per hour. (GEK)

Supervisor Kniffen reported that Jim Kavalesky, the Town’s Fire Inspector, has retired due to a health situation. He said Jim has done an excellent job for quite a while and had a lot of experience coming into the job. Chad Moran is the Town’s Code Officer and currently works 30 hours a week and the Fire Inspector was working 19 ½ hours a week. Chad said he could do both jobs in 40 hours a week. He said Chad can do this in less hours because he has in depth knowledge of the responsibilities and has also come up with a different way of doing inspections that will allow him to do so in a lesser amount of time. Chad’s salary will increase \$1.00 per hour from \$18.42 to \$19.42 per hour. Councilman Diffendorf said he thought this should have been done a long time ago. Resolution.

9. **Discussion – Disputed Water Bills – Boyd and Pflanz. (GEK)**

Supervisor Kniffen explained that the Pflanz’s came before the Board a short time ago because they had gotten an excessive water bill due to the fact there was a leak while they were in the south. He said at that time the Board was not aware that there is an ordinance dealing with this so although we weren’t able to do anything with the bill they were allowed to make payments. Since that time it was brought to the Supervisor’s attention that there is an ordinance in this regard so to be fair to the Pflanz’s and to Trux Outfitter, who also had an issue, he said we should revisit that. Councilman Weingartner said if there is already a provision in the law we will stick with it. He said how it works is you subtract their average bill from the excessive bill

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and take up to 50 percent of that to get the amended bill. In the case of Trux Outfitter, their excessive bill was \$391.53. John Finch added that an excessive charge of a larger amount was received by Trux Outfitter but that included a sewer charge which we can't do anything about. Mrs. Pflanz added that their bill was \$1,448. The amounts were be verified and a resolution will be added for reimbursement.

**10. Transfer of Funds.**

No discussion. Resolution.

**11. Audit of Claims.**

No discussion. Resolution.

**OTHER.**

**Court Security.**

Supervisor Kniffen explained that as a result of a Court Administration audit it was determined that the Town's court needed more security, such as a metal detector and the presence of a law officer as security while they are holding court. He said the Sheriff's Dept. does not have the resources to do it but the County does. It went through the Legislature, a resolution was passed and there will be an Inter-municipal Agreement between the County and Town with all the legal stipulations involved. We are now at the point where Jim Dadamio, who is head of security for the County, wants to meet with Supervisor Kniffen and the two judges. After the meeting this will come to the Board for a vote. Councilman Grubham noted the cost for security will be about \$14,000 a year based on the average number of cases they hear a year. Supervisor Kniffen said we pay the County at a rate of \$38.17 per hour for the time they are actually here, there will be no travel time. Mr. Blaise said they are just waiting for the revised agreement from the County Attorney's Office. He said by paying the County there will be no question that they are still County employees, that the County is paying their salary and they are covered by the County's insurance. He added that it's very similar to our agreement with the City for Scott as Assessor.

**Highway Garage.**

Supervisor Kniffen said we bought land for the garage but to get directly to it 10 and 12 Mary Street are in the way and we couldn't locate the Kamp family that owns them. He said he just found out there is a bank foreclosure on 10 Mary Street but the bank was not aware of 20 Mary Street and will look into it. Supervisor Kniffen will follow up on that.

Supervisor Kniffen said John Finch looked at a new \$3 to \$3 ½ million highway garage in Lafayette at 22,000 square feet. John said we currently have about 13,000 square feet – 10,000 sq. ft. in the actual garage and 3,000 sq. ft. from the use of the space under the post office building for parking.

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Supervisor Kniffen said Councilman Grubham is looking at the square footage, different materials, etc. and although he is not ready to talk about this we should seriously consider moving. He said the insurance company and FEMA are probably questioning why we are still there. Councilman Diffendorf said the sad part is the big creek didn't flood us, we got flooded because of something in between Route 81 and the water still lays there. Supervisor Kniffen said John Finch also said we got some backwash from the creek. Councilman Grubham said during this last flood he drove up there and there was 6 inches of water running right down the road and into the garage. At least the last 3 times that's where the majority, if not all, the water came from, is up there. Supervisor Kniffen said it would be major construction to try to get DOT to do something there. Councilman Grubham said there is not a large enough pipe to run to the catch basin and that's why it runs over the top and comes down here. He said the State was there when he was there and Supervisor Kniffen said they haven't said anything about it in regard to remediation. Councilman Grubham said even if we move it doesn't solve that problem and all the other properties down through there still will get flooded. Supervisor Kniffen said we'll look into that.

Jim Bukowski said after it's flooded for the third time he is pro building a new garage, that it should have been done a long time ago, but he does understand the economic constraints. He said there is a lot of talent in this town and we should be able to put a plan together that is doable and get the task done. He said that structure is 50 or more years old and now we're talking about possible remediation. He added our guys shouldn't have to worry about getting their equipment out of a flooded building when they are involved with public safety. He said it seems that somehow we are failing in that direction in his opinion. He said Kirkwood had a tradition of being very pro-active and sometimes because of economics we shy away from that and it's not a good thing for our infrastructure, it doesn't get any cheaper. He said it's time to make a decision and get the job done. He said he is also familiar with the creek and it will cost a lot of money to fix the situation.

Supervisor Kniffen explained that we hired Strategic, which is a grant writing firm, and they are looking at it and that certainly would be a big help. He said we will talk to anyone who has ideas and questioned if Jim would like to be on a committee if one is put together. Jim said he was hoping there was a committee already. He said it's time to get motivated and get it done.

Supervisor Kniffen said he likes to think of the Board as pro-active in a lot of ways and it still comes down to the taxpayers' dollars. He said we have a lot of seniors on fixed incomes and that's all part of the thought process. Jim said he believes that most tax payers would understand if they think they're getting a straight shot.

## **Tax Assessment Challenge.**

Mr. Blaise said he received a letter from Supreme Court indicating an assessment challenge had been filed by Steven Ritter after which it was received at the Town Clerk's Office, on Friday. He said Mr. Ritter is trying to get the assessment lowered for 61 Main Street and in order to

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respond to it a resolution is required appointing him to do it along with others that come in. He said he does not think this will be a particularly active case. It was noted that this is a residential property. Councilman Diffendorf questioned if the Town's Assessor, Scott Snyder, couldn't handle this. Mr. Blaise responded that Scott can't appear in court. Councilman Diffendorf said we just gave this family \$25,000 and he would think that Mr. Ritter could come in and talk to our Assessor and get it settled so it doesn't cost us more money. He noted that Mr. Ritter just bought the property this summer and questioned why he is not going through the proper channels. Mr. Blaise said that Scott can talk with him on the grievance process and can even negotiate a reduction but once it gets to this point... Councilman Diffendorf said he would have Scott talk to him and see if he couldn't get it out of court so we don't have to pay legal fees. Councilman Diffendorf referred to a fund transfer for assessment litigation of \$6,058 in making the point that these issues cost the Town money every time. He added that since Mr. Ritter just bought the house he should have gone to the Assessor to see about getting the assessment lowered but instead he expects us to pay money for legal fees to solve this. Mr. Blaise explained the process that now has to be followed since this has been filed with the court. Councilman Diffendorf said he wants to find out what Scott says before Mr. Blaise proceeds with this. Mr. Blaise said we could do that but in the meantime if anything else comes into the court we won't be aware of it, that Scott can't respond to or address those things. Councilman Grubham suggested that we have Scott look at it and give us an idea what his feelings are about it and if he thinks they are way off then maybe we proceed. He added that these people can do this themselves without hiring an attorney but it will always cost the Town money. Mr. Blaise said he was surprised to get this because it's unusual to get them for residential property. He said Mr. Ritter believes the assessment on the property should be a total full value of \$22,000 and currently the assessment is set at \$50,000. Councilman Grubham said he feels this is a business matter and we should find out what Scott thinks the assessment should be and we then find out what we would lose in tax money by going with their assessment versus Scott's assessment and decide if we think it's worth spending legal fees for the difference. Mr. Blaise said at this point the legal fees will be fairly minimal because he just needs to put in the initial appearance papers and then it's on Mr. Ritter to push the case forward. Councilwoman Yonchuk questioned if it would be likely after all the processes are done and it actually went into court, would there not be a point at which the court or someone along the line would be asking Mr. Ritter if he made the attempt to get the assessment lowered. Mr. Blaise responded that when it got to court where the judge could decide that wouldn't make a difference but along the way a judge would be asking those questions as to whether he tried to resolve this with the Town. Mr. Blaise said again, that the burden is on Mr. Ritter, that there is a legal presumption that the assessment is valid. He said the thing that is surprising is that there is an assessment of \$50,000 right now and to go out and get an appraisal to warrant going down to \$22,000, the appraisal would cost more than you would save in taxes to prove his case. He added that if other things get filed and show up in court, if he doesn't put in a notice of appearance and appear in the case to formally represent the Town, we're just not going to know anything that's going on. Councilman Grubham questioned if someone does not follow the grievance procedure if they still can go ahead with this. Mr. Blaise said the

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grievance procedure is set up to avoid these things from happening. Councilman Weingartner said in the meantime there are things that have to be done on our end that the lawyer has to do. Mr. Blaise said there is nothing critical that is going to happen this week, but if Mr. Ritter was to file something in a month or two, or if he requests information from the Town, the Town doesn't have the capability without an attorney to appear or do anything with the case. Councilman Grubham said he doesn't think it's so pressing we can't wait and talk to Scott.