

**TOWN OF KIRKWOOD  
TOWN BOARD MEETING**

**March 3, 2020**

A regular meeting of the Kirkwood Town Board was held on March 3, 2020 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  
Councilwoman Katie Legg  
Councilman William Diffendorf, Jr.

Also Present: Robert McKertich, Attorney  
Gayle Diffendorf, Town Clerk  
John A. Finch Jr., Commissioner of Public Works  
Marchie Diffendorf, Planning Bd. Chairman  
Duane Travis, ZBA Chairman

**PLEDGE OF ALLEGIANCE:**

**APPROVAL OF MINUTES:**

February 4, 2020 Town Board Meeting  
February 25, 2020 Public Hearing

**PUBLIC PARTICIPATION:**

Pat Griffin of Johnson Road, Chair of the Beautification Committee, said I want to thank Gordi and the rest of the Town Board for persevering for a solution in finally getting the old Super 8 Motel demolished. It seems so nice to finally drive by and not see that eyesore, it looks great. Supervisor Kniffen said that's just the beginning, they're going to develop something there and make that site environmentally positive, although that will take some time.

**COMMUNICATIONS:** Letter from Adams Cable Service

**COMMITTEE REPORTS:**

Councilwoman Legg read the Dog Control Officer's report for February, which is on file in the Town Clerk's Office.

**Discussion:** Supervisor Kniffen explained that Councilwoman Legg is new on the Town Board and one of her committee assignments is dog control and she is recommending changes so we've asked Cyndi French, the Dog Control Officer, to attend this meeting to discuss it.

Councilwoman Legg said after reviewing previous monthly reports we thought we needed more information on what was being reported so we came up with a new monthly form and it gives us a better understanding of what the phone calls are for, how many there are coming in, when on-site and in person actions were happening, what they were for, how many dogs to the shelter, who was taking the dogs, ticketing, when there are court dates, if there are investigations what they are for and the outcome and dates, as well as when an animal bites someone in our town what happened with that, if emergency services were called, and other animal issues as well. We would like to implement this new form. It looks like some of this was used in the February report.

Cyndi French said some of it is somewhat redundant. There aren't any dog rescues. If I'm capturing a dog it has to go to the shelter. Even if a dog is hurt, involved in a car accident, it goes to the shelter for a vet or to a vet and then the shelter. That's how we have it coded with them. In regard to lost dogs, if you want a list of all of them that are lost from the phone calls, but a found dog goes right to the shelter. The dog bites go through the Broome County Health Department. I always encourage everyone that gets bit to go to there, although there are people that choose not to go and that it up to them. I handle the dog bites individually, because it could be simple issue in a family home, but a vicious dog is a different situation. I can let you know about investigations, if it's ongoing that's not an issue. Most of my mailings are for licensing or dogs running at large or barking, unless I have an issue with a dangerous dog. I think some of this just needs to be tweaked a little.

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Councilwoman Legg said on previous reports you did different things each month so we want a set form that's consistent each month and if you don't have anything you would just leave it blank.

Councilman Weingartner suggested Councilwoman Legg and Cyndi French meet to work out the details for future reports and then Councilwoman Legg will present a revised report to the Board.

**Street Lighting.**

Councilman Diffendorf reported the Town owns a light pole that was broken on the ramp from Route 11 to Cedarhurst Road this past weekend. The police report was very vague and does not show who caused the damage. After that happened, a tractor trailer got tied up into the wire that was hanging down, so NYSEG tied the wire back up into the tree. In regard to insurance coverage, Mr. Finch said our deductible would be more than the cost to repair the pole. Mr. Finch said an electrician that does our well work, Joe Rosati, can repair everything for between \$300 and \$400.

**OTHER:**

**County Executive's 2020 State of the County.**

Michael Ponticiello, Broome County Director of Emergencies, presented a brief summary of the 2020 State of the County Address which was delivered by Broome County Executive Jason Garner on February 11<sup>th</sup> at the new Broome County Workforce Development Center in Johnson City. Mr. Ponticiello said the theme of the address was "Broome Works", and said that Executive Garner stated: The creation of the State of New York Workforce Development Center is a prime example of how things work in Broome County. The County has made so much progress over the last few years and none of that could have been possible without a team approach. Our local economy is improving and our County finances are stronger. We have developed responsible budgets, working to grow our fund balance and fighting to fill open jobs in our community that kept people here in Broome County. Mr. Ponticiello said some of the highlights of the Address were obviously workforce development and moving the office of employment and training to the Oakdale Mall. The new OET Director, Bob Murphy, is working to fill over 5,000 open jobs in the County which is one of the County Executive's top priorities. In regard to fixing Broome County's finances, since taking office they've had two straight property tax cuts, and an increase in County reserves from \$250,000 to \$6.5 million. Regarding public safety, we're working on a new communications network, additional deputies for the Broome County Sheriff's Office, we've renovated the 911 dispatch center and a new emergency services training facility. The County Executive also spent time highlighting almost 100 new or different initiatives that he wants since taking office in 2017. The County Executive talked about the continued strong working relationships with local governments and municipalities and the Small Communities Grant Fund that they distributed and said that program will continue, and the demolition of blighted properties across the County.

Supervisor Kniffen said I was there but I don't recall anything about the airport. Mr. Ponticiello said I don't recall anything being said about the airport but I can get an update for you. Delta is still providing their flights and it's typical for the flights to be cut in half this time of year.

Councilman Diffendorf expressed a concern about the condition of Trim Street, he said that last time the County was here I told them it needed to be paved and it still needs to be paved. They have paved some streets in the Town of Binghamton to Quaker Lake in Pennsylvania, and although Trim Street doesn't go to Quaker Lake it still needs to be paved. There is a vibration when you drive on Trim Street because they used a grader with a heavy tread to put the patch blacktop in. Also, the snow plowing by the County has not been good at all. The village of Kirkwood never gets plowed until late in a storm, and all the roads that go between Kirkwood and Conklin are not very well plowed. The County really need to look at either hiring more people, hiring the Town or something because the problem is getting worse every year and it's something all the residents are complaining about. Mr. Finch said we've had some contact with the County and suggested taking

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Main Street back but they weren't interested. Mr. Ponticiello said I will take that back to the County.

Marchie Diffendorf of Gorman Road asked where the increased revenue came from, sales tax? Mr. Ponticiello said I think it's more about making more realistic budgeting, where they didn't account for revenues in the past that were there and also when they banked on revenues, in particular like the gambling taxes that never materialized. The sales tax has certainly helped along with a strong economy.

**Broome County Emergency Services.**

Chuck Rogers said Broome County is updating the public service radio system for fire police, emergency medical services, and we're also going to be including town highway departments and school districts. We're bringing everyone on to one system. The current radio system, actually 17 different systems, dates back to the 1970s and we can't find equipment for it anymore. We are actually going on eBay for parts. Our coverage is awful. For fire chiefs, there are places in the county where you can't talk to dispatch and they certainly can't talk to each other and one of our goals is to fix that. In order to accomplish that we have to build 16 towers across the county. The goal is to give us 95 percent coverage for a firefighter or a police officer on the street, and that's the national standard. We would like to build a tower on Kutalek Road in the Town of Kirkwood to meet that 95 percent goal. The Kutalek Road tower would give us coverage over part of this whole valley, Conklin and Kirkwood, even eastern and western Town of Binghamton and western Town of Windsor. I've included the plans. We're looking to lease property from the Kutalek's on their farm at the top of the hill. We're very close to signing a lease with them. The County would like permission from the Town of Kirkwood to handle all the code enforcement to build that tower. We've done that with several other towns and it has worked well and I've included some resolutions from other towns.

Councilman Grubham asked would you come to the Town for anything after the resolution is adopted? Mr. Rogers said we absolutely would if you want us to, but we wouldn't need to.

Mr. McKertich said Mr. Rogers and I have corresponded by email recently with regard to the Town of Maine. There is a 9-part test determining whether or not the County is immune from our zoning regulations and Mr. Rogers sent me a detailed email demonstrating why he felt they met the 9-part test. I think we'd like to see something similar for Kirkwood and assuming everything checks out I can prepare a resolution for this Board to adopt at the next meeting.

In response to Councilman Diffendorf, Mr. Rogers said it will be a 195 foot tower and a 199 foot lightning rod and there will be a fall down area equal to the requirement in our town code. The closest one to this tower is located on Old State Road in Kirkwood and was built in 2016. The next nearest is in the Town of Binghamton on Ingraham Hill Road. This tower can be used as a cell tower as well. One of the things that the County would like to happen is for a cellular company to co-locate on that tower and that would be a revenue generator. Mr. McKertich said we would take the position that to the extent that it's being built for county purposes, it satisfies the 9-part test, but if it's being used for commercial purposes at that point in time that particular co-location would be subject to the Town's cell tower law. Mr. Rogers said that is exactly how Windsor felt about it and they wrote that in their resolution. At this time we don't have any plans of co-location but it is a possibility.

Mr. McKertich requested that Mr. Rogers email him the information on the 9-part test. We will review it with the code department and I can prepare a resolution for the Board's consideration. Mr. Rogers added that construction is scheduled for this summer. In response to Councilman Grubham, Mr. Rogers said if a cellular company did co-locate on the tower there would be revenue to the County and it could be written that the Town would share in that. Although we haven't signed a lease yet with the Kutaleks, we have negotiated that we will share some of that with them as well, if a cell company comes along.

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**OLD BUSINESS:**

42-20  
Adopt EAF  
LL #1  
Rezoning  
Siedel Property

Councilwoman Legg moved to adopt resolution, after a Public Hearing, adopting the Short Environmental Assessment Form regarding Local Law No. 1-2020 entitled "A Local Law Rezoning Tax Map Numbers 162.15-2-4 and 162.15-2-3 from the Planned Unit Development District to the Business One District, in accordance with the attached Short EAF. Councilman Diffendorf seconded.

**Discussion:** Mr. McKertich explained that this is just the rezoning of the property to the extent that there's going to be site plan development. There will be a separate environmental review done by the Planning Board at that time. This relates only to the question of whether the property should be rezoned. Mr. McKertich reviewed with the Board Parts 2 and 3 of the Environmental Assessment Form. All responses were no.

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

MOTION CARRIED.

43-20  
Adopt  
LL #1  
Rezoning  
Siedel Property

Councilman Diffendorf moved to adopt resolution, after a Public Hearing adopting Local Law No. 1-2020 entitled "A Local Law Rezoning Tax Map Numbers 162.15-2-4 and 162.15-2-3 from the Planned Unit Development District to the Business One District, in accordance with the attached resolution. Councilman Grubham seconded.

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

MOTION CARRIED.

44-20  
Purchase  
Agreement  
Water Meters

Councilman Grubham moved to adopt resolution authorizing John A. Finch, Jr. to sign the Purchase Agreement with TI-Sales, Inc., regarding the purchase of Neptune Water Meters, in accordance with the attached agreement. Councilman Weingartner seconded.

Roll Call Vote:      Councilman Weingartner      - yes  
                                 Councilman Grubham              - yes  
                                 Councilwoman Legg                - yes  
                                 Councilman Diffendorf            - no  
                                 Supervisor Kniffen                - yes

MOTION CARRIED.

45-20  
Purchase  
325 Water  
Meters

Councilman Weingartner moved to adopt resolution authorizing the purchase of 325 Neptune Water Meters with software and system in the year 2020 at a cost of \$79,226.04, in accordance with the attached quote. Councilwoman Legg seconded.

Roll Call Vote:      Councilman Weingartner      - yes  
                                 Councilman Grubham              - yes  
                                 Councilwoman Legg                - yes  
                                 Councilman Diffendorf            - no  
                                 Supervisor Kniffen                - yes

MOTION CARRIED.

46-20  
Repair Sewer  
Station Pump

Councilwoman Legg moved to adopt resolution authorizing the repair of a pump for the sewer station by Pump Service and Supply of Troy, Inc., at a cost not to exceed \$3,138.00, in accordance with the attached proposal. Councilman Diffendorf 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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**Discussion – Mini Excavator.**

Mr. Finch said we currently have a 2018 Case mini-excavator purchased in September 2018 and it has about 900 hours on it. I'm looking to purchase a new excavator. We received quotes from Monroe Tractor, Five Star, Milton Cat and Admar Supply. After reviewing all the bids there were two that are comparable to the one we have; a Kubota KX057 mini-excavator and a Kubota KX057Z that Monroe Tractor sells. The NYS contract price through Admar Supply, with all the added attachments and a 2-year or 2,000 hour warranty, is \$70,221.58, and the Monroe Tractor price is \$75,204.00. Admar Supply is offering us \$45,000 on the trade-in. We believe that our mini-excavator is worth more than \$45,000 so I put it on Auctions International. I'm fairly confident that we will get at least \$50,000, but if we don't we'll keep the one we have because I know there's a big markup on these, since the NYS price is a \$20,000 discount. Plus Admar Supply deals in rental equipment so they are planning on making money from renting it. The excavator for \$70,221 also has a different style bucket that tilts to clean our ditches, and has more flexibility than the one we have now. We could order that bucket for our current excavator for \$6,200 but our warranty on that runs out at the end of the year. If we get \$50,000 from AI we would be paying \$20,221 for a new excavator and if you break that down over the course of the year and a half that we've had the current excavator with 900 hours on it, it averages out to about \$17.00 an hour to operate that machine. There is nothing wrong with the current excavator and it has a warranty to the end of this year, which is an added plus. If this works out I plan on doing this every two years, and do it in the spring each time, since now is the time to be selling them. With the Board's approval I would like authorization to sell the current excavator, if it sells for \$50,000 or more. The auction ends March 16<sup>th</sup> so I would need authorization at this meeting. In response to Supervisor Kniffen, Mr. Finch said in addition to getting the bucket with the tilting head, now is the time to sell and it's a good deal, especially since it's still under warranty. In response to Councilman Weingartner, Mr. Finch said the money would come from the highway equipment line and equipment reserves for water and sewer, since it will be used by both departments. Additional discussion clarifying numerous details in regard to this purchase resulted in the Board proceeding with a resolution to sell the old excavator and purchase a new one.

Councilman Weingartner moved to adopt resolution to declare the Case CX57C mini-excavator surplus property and authorize the sale on Auctions International for no less than \$50,000 and authorize the purchase of the Kubota KX057-4R3A for \$70,221.58.

Councilman Grubham seconded.

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

48-20  
Sell Case Mini-  
Excavator/  
Purchase  
Kubota

MOTION CARRIED.

**Discussion – Treatment Plant – New Computer.**

Mr. Finch explained that the computer at the water treatment plant is still operating on Windows 7 which is no longer supported, and our SCADA rep is recommending that we go with Windows Server 2019, which is a business class operating system. It's pricier than a normal computer but his research showed this is what we need. This includes him installing it and getting it up and running properly. The cost is \$2,382.75. This would come out of either equipment reserve or tools and repairs.

Councilman Grubham moved to adopt resolution to purchase the PowerEdge T440 Tower Server and Win Server 2019 for \$2,382.75. Councilman Weingartner seconded.

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

49-20  
Purchase  
Computer for  
Water Plant

MOTION CARRIED.

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**Discussion – Stairs at the Main Sewer Station.**

Mr. Finch said that no bids were received for this project. Councilman Grubham said there may be another way of doing it. Our design was for steel stairs, stainless or something less. There is a possibility that we could do it with fiberglass which would be cheaper and we might be able to do it ourselves. Since we are not getting bids we now can proceed with our own people if necessary, or hire someone on our own to have it done. I will investigate this and report back to the Board.

**Discussion – Sluice Pipe Policy.**

Supervisor Kniffen said we've talked about what the policy has been, when someone needs a new driveway sluice they pay for the piping and the Town installs it. There now would be an application and a limit of 20 sluice pipes installed each year. Mr. Finch said that would be the case unless there was an emergency, like if a driveway collapses. Last year we did almost 40 of them and 35 the year before, so since a lot of them have been replaced hopefully it won't be an issue eventually. I wanted to put a cap on it so people understand why and we'll let them know we'll get to it the next year if it's not an issue. Mr. Finch said I would like number 3 in the draft policy reworded since it seems a little confusing because we're not charging them an application fee, just charging them for the sluice pipe. The Board will review the proposed policy for discussion at the next work session.

**NEW BUSINESS:**

Councilman Diffendorf moved to adopt resolution adopting the Short Environmental Assessment Form regarding the purchase of 20 Mary Street from SEFCU in the amount of \$2500.00, in accordance with the attached Short EAF. Councilman Grubham seconded.

**Discussion:** Supervisor Kniffen explained that years ago the Town bought property in case we ever had to move the Town garage that has been flooded so often. We can get to that property now but it's a roundabout way and we would like a more direct way. So we've been looking at 20 Mary Street since it takes us directly from the garage up to the property. Also with our salt barn that we just got a grant for, we'd like to put that there as well. We got an appraisal of \$5,900 and SEFCU said we'll sell it to you for \$2,500.

In regard to the SEQR review, Mr. McKertich said a couple of things did pop up on Part 1. For #15, it turns out there is a brooks floater located at or near this property. That's a fresh water mussel. There's a State system that automatically fills in this information when these properties are plugged in. There is also a hazardous waste site within 2,000 feet of this property, the TNT Redstar Express site, which is a State superfund site and this has been in remediation, with Councilman Diffendorf adding that it has been completed. Mr. McKertich reviewed with the Board Parts 2 and 3 of the Environmental Assessment Form. All responses were no.

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

**MOTION CARRIED.**

**Discussion:** Mr. Finch said I know a survey is not required but I'd like to know where the boundaries are for the property before I put the road in and the people that purchase the property will want to know where their property line is. Mr. McKertich said it would be at our option. Councilman Weingartner suggested that we look at the deed to see if it indicates where pins are located. Mr. Finch will also get a price for a possible survey.

Councilman Grubham moved to adopt resolution approving the purchase of real property located at 20 Mary Street, in accordance with the attached resolution. Councilman Weingartner seconded.

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

**MOTION CARRIED.**

48-20  
Adopt EAF  
Purchase of  
20 Mary St

49-20  
Purchase  
20 Mary St

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Councilman Weingartner moved to adopt resolution authorizing the Supervisor to sign the Engagement Letter with Johnson, Lauder & Savidge, LLP, dated January 2, 2020, in accordance with the attached letter. Councilwoman Legg seconded.

50-20  
Engagement  
Letter  
Accounting

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 the Supervisor to sign the Engagement Letter with Johnson, Lauder & Savidge, LLP, dated January 2, 2020, regarding the 2018 Flood Remediation, in accordance with the attached letter.

51-20  
Engagement  
Letter  
Accounting  
Flood  
Remediation

Councilman Diffendorf seconded.

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

MOTION CARRIED.

**AUDIT AND PAYMENT OF CLAIMS:**

Councilman Diffendorf 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 # 20-00186 through # 20-00358 in the total amount of \$ 766,094.69, which includes prepaid claims as authorized by resolution adopted January 7, 2020. Councilman Grubham seconded.

52-20  
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 Grubham seconded. All voted in favor.

MOTION CARRIED.

Meeting adjourned at 7:07 P.M.

Respectfully submitted,

Gayle M. Diffendorf  
Town Clerk