

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

September 1, 2020

A regular meeting of the Kirkwood Town Board was held on September 1, 2020 at 6:29 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)
Gayle Diffendorf, Deputy Town Clerk

PLEDGE OF ALLEGIANCE: Done prior to Work Session

APPROVAL OF MINUTES: August 4, 2020 Town Board Meeting and August 4, 2020 Public Hearing

PUBLIC PARTICIPATION:

Supervisor Kniffen asked Mr. Baldwin from the public if he would like to address the Board. Mr. Baldwin said I live on Nina Drive, it's a cul-de-sac and it's also a residential zoned area. My neighbor who lives at 20 Nina Drive has seemed fit to start up a business of car detailing in his driveway. This goes against the zoning of a residential area. Because of his business there is added traffic on the street, and that could result in the safety of the adults and children that live in the neighborhood. There is constant noise from the equipment he uses to perform his job. We have the right to live in an area that is quiet and enjoy it, not listening to machinery running all the time seeing that it is residential. Plus he is running water from washing cars and its unknown what kind of chemicals he is using. I have personally seen him spray out the inside of an engine compartment, this is only going to be adding contaminates to the soil and water in the area. As I've said before, it's zoned residential and I'd like to see this operation stopped immediately. Supervisor Kniffen asked if he had talked to the Code Department. Mr. Baldwin said I have talked to the Code Department and I believe another person has as well. Councilman Grubham said I have talked to Chad Moran, Code Enforcement Officer, about this also. He is going to get this stopped. There are actually 2 people up there, not just that guy, there's a lady on Route 11 near that area that is doing the same thing. She has a garage out back so it's kind of hidden, but still it's a residential area. Chad Moran was supposed to get it stopped and I hope he did. Another person from the public said he talked to Chad Moran today and he didn't realize they were doing cars at the time, so he was going to come and check it out. Councilman Grubham said Chad Moran is pretty good at that stuff so I'm sure he did and I'll check with him. I went up there and I saw what they are talking about. The guy had a lot of cars there that he was working on. Mr. Baldwin said as stated earlier the one on Route 11 has a detached garage, and the one on Nina Drive is a connected garage. It does have floor drains in but the drains come out a pipe that is facing right towards my house. They do not go into the septic system or anyplace else. Supervisor Kniffen said we have your phone number, so we will talk to Chad Moran and get back to you. The second person from the public said my concern was the parking on the road and the safety hazard on the road. We've had a problem on Nina Drive for 30-40 years and I don't think we need the same situations that have evolved from this if it goes commercial. Mr. Baldwin said if it goes commercial everyone on the street will have a problem, they didn't live 30 years to build up a home to have some kid come in and decide to put up a business. The second person from the public said he has it advertised on the internet. Supervisor Kniffen said things like that happen in this town once and a while unfortunately. We will get back to you and thanks for coming. Mr. Baldwin did provide Supervisor Kniffen with a letter regarding the situation and it is filed with the Town Clerk.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

September 1, 2020

COMMUNICATIONS: Resignation letter from Brian Kinney. Letter from Mr. Gabriel.

Discussion – Letter from Mr. Gabriel

Supervisor Kniffen said let me just say a couple of things and we'll open it up for discussion. The Town does have a policy that we adopted some time ago about if an employee is being hired and is going to work directly for their manager or supervisor that is a family member it's against the policy. We do follow that. This was an unusual situation. As far as the current deputy, that is just a temporary situation to help the new Town Clerk fit into the job. We've always done that in past, when someone comes in the previous Town Clerk stays and helps out. As far as posting, we don't post elected jobs, we try to let people know that jobs are available. However, this was, in my opinion a different situation. They are mother and daughter, there's no doubt about it and we have public minutes that we've discussed this as a Board. We have acknowledged that this was in difference to our policy and why we did it. It was public and we weren't trying to hide behind anything. What happened was the lady that is now the clerk in the Code Department was Gayle Diffendorf's Deputy and when she had to leave, Gayle Diffendorf needed a Deputy. Gayle Diffendorf knew she was going to retire sometime and her daughter would be interested. It seemed like a great fit for the Town and also to prepare people to be ready and do this job. I can see maybe where they thought there was hanky panky, or whatever you want to call it, but there certainly wasn't. We have minutes here that we can read out too. But, I'll open it up to the rest of the Board if they'd like to comment.

Councilman Weingartner said just to piggyback on what you said, when we held the interviews for the Code Department, Kelley Diffendorf was interviewed and so was Jessica Kinney, to me they were both equal. We decided to go with Jessica Kinney because she had been up in the Code Department. If it had been turned the other way where we knew Gayle Diffendorf was leaving and Jessica Kinney didn't go up to Code and Kelley Diffendorf went up there, then obviously we would have appointed Jessica Kinney if she wanted the position. So to me they both do a great, fantastic job. It is in the minutes and I wanted to reiterate that, it wasn't like she didn't have an interview, we did our due diligence. Supervisor Kniffen thanked Councilman Weingartner.

COMMITTEE REPORTS:

Court Clerk Salary Review

Councilman Weingartner said Supervisor Kniffen asked me to look into the salaries of our court clerks. We did visit this in 2017 and 2018, but the court clerks have been talking to Supervisor Kniffen. I did some investigating on different court clerks in our general area. The court clerks of Vestal, Union, and Dickinson, Endicott have an average salary of \$39,474, that's not including a couple very low, low part-timers or the queen bee they call her at Chenango, Janet Smith. She has been there for quite some time and her salary is \$46,000 so I didn't put that in the averages. Looking at their averages and what our court clerks are making Paula Hashem is making \$33,000, Erin Tuttle \$31,000, and Kathy Martone \$17,800. To me, they should be making average of what our current area court clerks are making. You have to look at some historical elements of this when you are looking at the court clerks for the Town of Kirkwood. Town of Kirkwood court clerks 25 to 35 years ago and beyond that were hired as the wives of the Justices and it was looked on as an additional income to the home, not as a professional job. The reason they weren't paid that high was because they were the wives of the Justices, and salaries back then weren't that high. The Town Justices in our area didn't have such a complicated or complex system as it today. Also, when you look at the court clerks, I know a little bit about this because my mother was a court clerk for probably 30 years, our Town did the salary and benefit package as high, medium, and low. If they met the high they weren't getting a raise and that happened a few times with my mother. The way we had the structure set up, when I first came on the Board in 2004-2005, the salaries were lower than within our area so the court clerks didn't get a raise. So when someone new came in they were hired at a lower position, lower cash, so therefore that period of time really screwed up what was happening in relation to other court clerks in the area.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

September 1, 2020

I had talked with Jim Smith and done a few things to try to get their raises up. Paula Hashem wants to make \$40,000 a year, \$22.00/hour, she makes \$18.00 now. I think it would be better for us if we could break things down into a 3 year raise, we did that for Sue Glovich over in the Highway Department. If we went to a system where they got \$2,000 for the next 3 years plus their normal raise on top of that, that would put them up to the average salary of the clerks in our area. Another thing is where can we get this money? There's a couple different ways, once again I did more research, and I found that our Justices are overpaid. When you look at the same courts, the Justices in Vestal are at \$35,000, Conklin which is much smaller and wasn't in the list of court clerk salaries is at \$20,000. Union courts with Justice Gorman, she is a newer Justice there and she is at \$26,300. Justice Thomas, he is a retired Johnson City cop, I wasn't able to find his information because he wasn't in the retirement system but I know that he makes more because when Gorman came in she was a starting Justice, Thomas had already been there. Endicott's two Justices make \$27,000 and Dickinson's both make \$20,000. So they are pretty low, I was thinking of ways to make some money, let's take some money from the Justices. Well, we can't do that. It's against the law, Mr. McKertich let me know about that. The only way you could possibly get money by using the Justices would be to freeze their salaries, because right now they are making \$42,500, which is considerably more than the Justices I talked about earlier

So what I'm asking, since we are going through our budget negotiations and talking about things, this is something I'd like to see. I know we could sit down and negotiate less or negotiate more, who knows.

Supervisor Kniffen asked, as far as the clerks you are saying \$2,000 a year spread over 3 years, which would be a total of \$6,000? Councilman Weingartner said correct. Supervisor Kniffen said and we would not give the Judges an increase for 2021? Councilman Weingartner said for this first coming year and then we could reevaluate it for the following year after that. Supervisor Kniffen said of course we all know the problem right now is that we are on an austerity budget because of the virus and it's also affecting our budget for next year. We don't know what our sales tax is going to be, we lost \$100,000 on the second quarter, and we did ask the County Executive to give an estimate for this time and they said they would get back to us. I don't have that number yet. I agree that this has been a long time coming and you have numbers that we are lagging behind and we certainly should treat them fairly. We are one of the busiest courts in all of New York State. Councilman Weingartner said not any more, we're an average court. Chenango is much higher because of what we talked about earlier. I didn't even look at that. Councilman Grubham said I did. We're around 130th now. I looked at this last time when we were talking about it a couple of years ago. One of the things I noticed was that all the other courts have 2 clerks and in most cases they have 1½ clerks, we have 3 clerks. I was wondering why we couldn't eliminate at least a part-time position, which would help solve where some of the money could come from. That was back then and most courts had 1½ clerks not 3. We are nowhere near the top anymore, which plays into it, we should be talking about that too. We pay Kathy Martone \$17,800 and there's the money right there, if we feel the other 2 clerks are entitled to more money. Councilman Grubham said Councilman Weingartner is exactly right about the Town Justices, I noticed that 2 years ago that our Justices are way higher than anyone else. Councilman Weingartner said, one more thing, the Justices that we currently have are getting paid like they are a 37 or 38 year veteran. When Ward Coe came on he was making a starting Justice salary, he wanted to get paid what Justice Weingartner was getting and the Board at that time agreed to it. A judge with no experience is now getting paid what a judge with 20-25 years' experience. Ward Coe has been a judge now for probably 15 years. Councilman Grubham said and we are paying him the same. Councilman Weingartner said when Jeff Hawkes came on with no experience he got paid what Ward Coe got paid. That's a little different because he has more experience than any other Town Justice in the area. I don't have a problem with that. That is another reason why the Justices salaries are so high.

Councilman Diffendorf responded to Supervisor Kniffen asking if he had anything to add, he said I'm not going to make a decision on this tonight. I need to think about this. The one thing I know since I've been here is when you raise someone's salary you have about 10 other employees, everyone is looking at it, and you have to look at everyone's salary. It's

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

September 1, 2020

not something you can just do, if you raise someone's salary, you have someone in the next office saying, what about me. It all has to be addressed and looked at. You just can't take one department, you can take the department and see what it should be, but does that mean the whole Town needs to be addressed, maybe. Maybe we can't afford to do it. Councilman Grubham agreed with Councilman Diffendorf. Councilwoman Legg said the way we were doing things with the increases for the Justices is something we've been doing for years. It made me think about everyone else that is in clerical or administrative, is the way they are getting increases ancient too. Is everyone where they should be? The question was raised to me by someone when I first joined and I looked into it and realized yes they were a little bit lower. So I wonder if you will have to look at it across the board.

Supervisor Kniffen said it sounds like the first thing we do is go back with Councilman Grubham's suggestion. Councilman Weingartner said I think we need to discuss it, I don't want to fire someone. Supervisor Kniffen said, no I'm not saying that, but we just don't drop it. Councilman Weingartner said, absolutely, we have discussions over it. Supervisor Kniffen questioned when you say have discussions, in what manner, the next Board meeting. Councilman Weingartner said, the next Board meeting, or with Councilman Diffendorf, he can call me if he wants to discuss it. Like we normally do our budgets, we'll sit down with Jim Smith and find out where we stand if we do give them a \$2,000 raise this year. It's \$2,000, \$2,000, \$1,000, its \$5,000 a year complete with all 3 clerks. That's \$15,000 over the next 3 years; \$5,000, \$5,000, \$5,000. The way of discussing it is have Jim Smith have a couple different things in his budget. He told me he could do that. This is what the budget will be if we don't do it, this is what the budget will be if we do do it. And see if there's any impact on the bottom line. Councilman Grubham said we are going to need to be particularly careful this coming year. Obviously we've got problems this year with sales tax, it will probably be better next year, but I still think it's going to be a problem for a while yet, beyond this year. Handing out money without for sure knowing what our income is going to be might be difficult. Supervisor Kniffen said I still think the big thing is what Councilman Grubham mentioned, and we need to talk to the Judges to see if this is a possibility, and if so, why can't we or why should we. I can't just sit back here and think, that is the biggest thing we should do, but I can't go any further unless I know if it's possible. Sounds like what was said tonight that it is possible, but we need to get to them soon and see what they say. Councilman Weingartner said to me it's the numbers cruncher, what it is going to look like when Jim Smith crunches the numbers. Supervisor Kniffen said I'm talking about Councilman Grubham saying we could eliminate a position. We go to them and say we are going to do this, and they say we can't because...shouldn't we ask that right away. Councilman Weingartner agreed. Councilman Diffendorf said if Councilman Grubham is right and these other courts are running on 1½ to 2 court clerks, then we should be too, if we're not having any more cases than them.

Councilwoman Legg asked if they want such an increase does their performance warrant that, are we just giving increases to give them because you have been here this long, I found that no one seems to get any appraisals of their performance. Supervisor Kniffen said we are like one big union, we don't do appraisals. We keep a record if a person is having trouble performing their position and keep a record of that as managers. If we get to a point where we have to eliminate them then we have the record. But everyone gets the same. The only way to change it is having appraisals. Councilman Legg said if no one keeps records of people's things then you really don't have the ground to stand on when it comes time and you're not happy. I have found that as the case already.

Water Risk Assessment

Councilman Grubham asked John Finch about the Water Risk Assessment that the EPA is asking for next year. John Finch said I will check with Pete Haff. Al Glover had not gotten back to me so I'm not sure if Pete had gotten back to him or not. Councilman Grubham said it's not required until next year but we don't know what is involved, it could be pretty detailed so we better begin the process. John Finch said I know Al Glover had contacted him and was looking into it.

Road Inventory

Councilman Grubham said to John Finch you were going to give us the road inventory and assessment. John Finch said I'm still working on it.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

September 1, 2020

Water Pump Station

Councilman Grubham said to John Finch where do we stand with the Water Pump Station. John Finch said we have one leak we have to fix down there on the outside of the building. Councilman Grubham said that leak has been there for 100 years, but can we actually use the station. John Finch said we can use it but Binghamton never responded to any of our requests. They were trying to figure out how they were going to bill us. They were supposed to open up the valve and test that valve, they haven't done anything yet. Councilman Grubham said shouldn't we be looking into this, even if it requires a phone call from Supervisor Kniffen. We have spent all that money and tomorrow if we needed that station, we don't have it. John Finch said our side is all done and ready to go. Supervisor Kniffen said you are right Councilman Grubham we have made I don't know how many contacts and the Mayor won't respond back us. We may have to go down and knock on his door. Councilman Grubham said I think it's important because if an emergency happens we'd be in trouble here. Supervisor Kniffen said it is important, we spent the money and that was the decision.

Drainage Committee

Councilwoman Legg said we are still working on this and will have more at the next meeting.

Fire Hydrant Moved

John Finch said we moved the fire hydrant over at the Post Office today. It's now on the other side of the walkway. It will prevent people from backing up and ripping their bumpers off. It should help with a lot of accidents that happen over there. Since they did renew their lease I figured we might better move that. We weren't able to save the concrete so we are going to have to pave that section. It will all be done tomorrow. The hydrant is operational. John Finch responded no to Councilman Grubham asking if we were paying insurance claims on those issues.

Councilman Grubham said as a side note, I was there while they were doing this and there's another layer of pavement down there. Brian Kinney said it was about 3½ feet down. Councilman Grubham said there was a road there and I was wondering if anyone knew what that was from. Councilman Diffendorf said that was before me.

OLD BUSINESS:

Councilwoman Legg moved to adopt resolution ratifying a resolution renewing the Intermunicipal Agreement with Broome County for Court Security, in accordance with the attached agreement. Councilman Diffendorf seconded.

105:20
Broome
County Court
Security
Agreement

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 scheduling a Grievance Day Hearing on the 2021 Unit Assessments for September 29, 2020 at 6:00 PM. Councilman Grubham seconded.

106:20
Grievance
Day
2021 Unit
Assessments

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

MOTION CARRIED.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

September 1, 2020

107:20
Sched PH
Renewal
Gorick Mining
Permit

Councilman Grubham moved to adopt resolution scheduling a Public Hearing for the renewal of the mining permit granted to Gorick Construction Co., Inc., under Article X, Section 1001(J) of the Zoning Code to be held on September 29, 2020 at 6:05 PM.

Councilman Weingartner seconded.

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

MOTION CARRIED.

108:20
Internet Service
Agreement
with Spectrum
for Water
Treatment Plant

Councilman Weingartner moved to adopt resolution authorizing the Supervisor to sign the Commercial Account Right of Entry Agreement with Charter Communications Operating, LLC (Spectrum), regarding internet services at the Water Treatment Plant, in accordance with the attached agreement. Councilwoman Legg seconded.

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

MOTION CARRIED.

109:20
Purchase Soft
Starter for Main
Sewer Station

Councilman Diffendorf moved to adopt resolution to approve an emergency purchase of a soft starter for the Main Sewer Station, including related installation costs, from Joe Rosati at a cost not to exceed \$8,000. Councilman Grubham seconded.

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

MOTION CARRIED.

Discussion

John Finch said do we need a resolution for the solar lights because it's not coming out of our budget per say. Councilwoman Legg said you mentioned you wanted approval to buy as soon as you got the check. John Finch asked, do I need their approval. Mr. McKertich said yes even if it's not an expenditure. You are getting grant funds for this. John Finch said no, it's FEMA reimbursement for damages. Mr. McKertich said you still ought to have a resolution for it. John Finch said I don't have the exact numbers. Mr. McKertich said maybe we should wait until you have the exact numbers. John Finch said I guess we can do that, if we get the check beforehand and get them ordered we could just do it at the next Board meeting. We can go ahead and order everything. Councilman Weingartner said you aren't ordering them until you get the cash in hand. You are replacing something that is broken. John Finch said exactly. Councilman Grubham said you know what the concrete will cost. John Finch said \$125 each. Councilman Grubham said you know that for sure. John Finch said we will order 15 of those, we don't need them for the lights near the bridge or Town Hall. Councilman Grubham said why don't we ok ordering the bases because they are going to take the longest time to get and you have to put them in first anyway. If you know that's what they are why don't we approve that and we'll wait on the lights. John Finch asked, do we need approval on that, it will be \$1,875 and under the \$2,000 threshold. Mr. McKertich said you could do that through voucher process. You can order them as long as you submit the voucher to the Board. That would be the effective approval. John Finch said then at the next meeting I can say I'll have an update on the lighting and hopefully by then we'll have the check. Councilman Grubham said you couldn't put the lights in anyway until you have the bases, so you still have time. John Finch said it takes 7-10 days for the lights to come in so it's not like they are a month out. We'll just go through voucher.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

September 1, 2020

AUDIT AND PAYMENT OF CLAIMS:

Councilwoman Legg 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 # 20-00973 through # 20-01105 in the total amount of \$ 476,104.15, which includes prepaid claims as authorized by resolution adopted January 7, 2020. Councilman Diffendorf seconded.

110:20
Audit/Pay

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

MOTION CARRIED.

Discussion

Marchie Diffendorf said, in regards to the public meetings, like tonight, or the Planning Board, and ZBA we still have to social distance, we can't have too many people in here, is that correct? The way it read in the Country Courier was a little misleading, it said the public can attend, it made it sound like it is open and you can just show up. So, we still have to do the Zoom, is that correct? Nothing has really changed, the way it was worded in the Courier made it sound like it was more public. Mr. McKertich said nothing has changed. If anyone comes here we need to do the social distancing and because of the concerns about how many people we could fit in the room you can use Zoom as a supplement to that. Supervisor Kniffen asked Babs Putzel to state the information in her article.

ADJOURNMENT:

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

MOTION CARRIED.

Meeting adjourned at 7:11 PM

Respectfully submitted,

Kelley M. Diffendorf
Town Clerk