

TOWN OF KIRKWOOD WORK SESSION

April 24, 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

Natural Gas Company

Supervisor Kniffen explained that over the past year a natural gas company was trying to locate in the Town of Fenton but there were all kinds of legal problems, the school system was involved, and eventually it was turned down. He said during that time that same company approached Kirkwood, stating that they would like to open another one in Kirkwood in conjunction with Fenton, whether that went ahead in Fenton or not. He noted they asked us to keep that private because they weren't sure what they were going to do. Since there are most likely rumors out there about this in the Riverside area, which is where it would be located, Supervisor Kniffen said he thinks it's time to go public with it because he is fearful if the company ever came and we knew about it the residents might say why didn't you tell us. He said he called the company and they said they have been through the environmental process but called him back and said they are not coming to Kirkwood. Supervisor Kniffen said there might have been some problems having it in Kirkwood because those trucks would be going every 15 minutes 24 hours a day, both ways, and the people in Riverside would be the ones that would have suffered. He thinks it's good news that this has been put to bed. Councilman Diffendorf added that this could end up in Pennsylvania and there still could be truck traffic on Route 11 through Riverside since the trucks will be travelling to the north.

1. Open Sealed Bids:

Purchase and Installation of Stair/Ladder Work

J & K Plumbing & Heating \$52,000

John Finch noted that he had received a quote of \$28,000 for this project.

Air Handler at Main Sewer Station

Evans Mechanical \$23,000

J & K Plumbing & Heating \$65,000

Purchase of a 2018 550 Series Super Duty DRW LX Truck

Chenango Sales, Inc. \$47,665

Resolutions.

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2. Discussion – **Kirkwood Town Court security assessment.** (GEK)

Supervisor Kniffen explained that recently a department of the NYS Unified Court System did an audit of our court and made several recommendations, both externally and internally. One of the recommendations was to add a walk-through Magnetometer and they also suggested that whenever court is in session that we have a law enforcement officer in place. He said after he received a letter from both Kirkwood justices outlining what the audit was about with a list of recommendations, he requested additional information as to hours, cost, etc. Per information from the courts, they meet every Tuesday and Thursday, with morning and late afternoon sessions and trials are held two days per month. Supervisor Kniffen checked with the Town of Dickinson and they do have an enforcement officer during court sessions, they hire them through the Port Dickinson Police Department and pay them \$30 an hour. They do not have additional officers for Kirkwood because they are too busy. He contacted the Sheriff and gave him our information and he will get back to Supervisor Kniffen. He said we've determined the cost for the walk through and wands would be \$4,147. The estimate from the judges for a law enforcement officer would add \$16,800 to the court budget. Supervisor Kniffen said the one thing the courts would like the Board to do is hire an officer right away and he opened it up for discussion. He said he believes the courts are the most susceptible to something happening because of the nature of what they do, although others in the building could be in danger at times as well. He said he thinks we should at least do the officer. He also noted his surprise that the cost of the walk through was that reasonable.

Councilman Weingartner said he thinks it's something that inevitably has to be done, just for the fact of the way our society is moving right now and noted that a smaller town like Dickinson is doing it. He said he is not saying we should do it because someone else is, he thinks we should be proactive, with the type of individuals that come in for arraignments. He said in looking at it, he also thought that with the new arraignment deal, that possibly we might save something in the future with that, because of what's going on with that. He said he's not sure if they would be treated as independent contractors, or how we would hire them.

Councilman Weingartner referenced security for the Fair, basketball games, football games, etc., that the Sheriff goes to these events as independent contractors. Mr. Blaise said it would depend on how the Board sets it up, that there are two different situations to look at. In regard to Dickinson, they have an Inter-Municipal Agreement with the Town contracting with the Village, and it's no different than highway departments helping each other out. If it's done that way, there is no prevailing wage requirement or independent contractor, it's just a straight Inter-Municipal Agreement. If we went that route they would just charge us a certain amount and that would cover everything and they would be responsible for the workers comp, health insurance, etc. He said the other scenario would be officers coming in off-duty as an independent contractor and we would pay them directly. He said that gets a little more complicated. He said it can be done either way but it's cleaner if we have an agreement directly with the Sheriff's Office, or whoever.

Since there are no officers available from Port Dickinson, Mr. Blaise said other options would be the Sheriff's Office, Broome Security, the City of Binghamton, Vestal, Johnson City,

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Endicott, noting there are a number of options. Mr. Blaise said he likes the atmosphere in the court room when there's an enforcement officer there, like in the Town of Dickinson, that it's a much safer feeling.

Councilman Grubham said although this is basically the crux of the matter there are a lot of other things in the report that they want us to do, like a dedicated room to house prisoners, and he doesn't know if we are just going to ignore that or not. He noted it could get very expensive.

Councilman Diffendorf said as far as he is concerned we need to close the courts because we can't afford them. He said this will be \$40,000 that will come from the Kirkwood taxpayers to keep the courts going. He said we should get after the State and the County to have a centrally located court to handle everything, that we can't handle it all. Councilman Diffendorf said we can put security in but people can walk through the front door and then through the meeting room door to the court. He said he doesn't think we can afford this and stressed that we should go after centralized courts.

Supervisor Kniffen said in New York State a town is required to have a court. However, that doesn't mean we can't go to the Legislature but it would take a long time and we have to make a decision on this now. Councilman Diffendorf said the Governor thumbs his nose at the federal government continuously and we should take a stand that we can't afford to do this stuff. He added that once we put security there, as far as he is concerned, the rest of the Town Hall needs to be secured as well.

Councilman Grubham noted that one of the suggestions in the report was that all doors would have to be locked, that everyone would have to be buzzed in, and the electrical room and computer rooms (on the other side of this building) would have to be locked at all times, so anyone that would need to access those rooms would have to find a key to get in. He added that this building was never set up to handle those kinds of situations, because these concerns were never anticipated. Supervisor Kniffen stated that at one time he suggested moving the courts up to the Code Building, because it would be better if they were in a separate building, but there is no parking there. Councilman Grubham said he realizes this was never anticipated and he also disputes the \$40,000 figure, that he thinks it will be more like \$70,000. He added that we've already made some accommodations to make the court over, by even moving an office and there are still things that are not secure that they're going to get to eventually, and it will be even more money. Although he doesn't disagree with Councilman Diffendorf, Councilman Grubham said he agrees with Supervisor Kniffen that we aren't going to be able to do anything right now about centrally locating courts, but he does feel there should be a centrally located court, or maybe two or three. Mr. Blaise said that's the District Court plan that gets circulated roughly every five years, with a few courts spread around the county, but issues arise and it never goes anywhere. Supervisor Kniffen has requested that consolidation of courts be on the agenda for the next quarterly meeting of mayors and supervisors and he plans to speak about it. In referring to Councilman Grubham's concern that there are a number of

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other things in the report, he said the most pressing concern for the judges is having an officer there. He said we should address that tonight and the rest of it will require a lot of discussion at a later time. He added that certainly if there were a cash flow to do those things we would do them, and do more things to protect the Town Hall, but at some point we have to assess the risk and right now we all would agree the courts are the most susceptible and that's why he would like to see us at least hire an officer.

Councilwoman Yonchuk questioned the amount of time listed that we would have to hire an officer for. She said we have endorsed the plan for County arraignments at the Sheriff's Office, where our judges would participate, and asked if that would alleviate any of this. Supervisor Kniffen said those are more for night arraignments, when the judges used to get called out.

Councilman Diffendorf said he doesn't think we can get a Sheriff for \$30 an hour because this is different than hiring them as security for the Fair. In that case they get a voucher and make some money that goes in their pocket. He said in this case they would make money that would involve paying taxes. Supervisor Kniffen said he took that number from the Town of Dickinson, which is what they are paying. Councilman Diffendorf said he would think a lower cost option would be Broome Security. Supervisor Kniffen will check into that. Once again Councilman Diffendorf said we should just close the court down right now and let the State decide what to do, get some attention to the problem.

Supervisor Kniffen said he thinks we should hire someone now and address the rest of the report at a later date. Councilmen Weingartner and Grubham and Councilwoman Yonchuk agreed, with Councilman Grubham stating that he does not want them to be unsafe in the courts and if something should happen we would be responsible, but that we also have to bring this to a head and try to figure it out, that the cost of it gets worse every year and our taxpayers are paying for it.

Supervisor Kniffen reported another thing we have been fighting and going through Assemblyman Crouch and Senator Akshar with, is that, unfortunately, we are in the network of highways, Routes 17/86 and 81, which are state and federal highways, so for all the fines, which are the majority, we don't get any of that, 100 percent goes to the state. For the other fines we get 25 percent and other towns get 50 percent. Assemblyman Crouch is working with Senator Akshar on this. Supervisor Kniffen said if anything ever does happen it will probably be awhile. He will get more information regarding costs for the Board.

In regard to the metal detector, Councilman Grubham questioned who would take care of it, if it would be the officer or someone else. Supervisor Kniffen said he would have to find that out. He added that we got that information from the Town of Horseheads who just replaced theirs. Councilman Diffendorf questioned if we couldn't just get the wand instead of getting the Magnetometer. Supervisor Kniffen said we will look at those questions at a later date, but for now we'll just work on getting an officer in here.

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3. Discussion – Update on grant requests. (GEK)

Supervisor Kniffen explained that he, Councilman Grubham and John Finch have been working with Strategic who are our grant writers and the first capital project we gave them was the Highland Heights water tank. He said we don't want to replace it, but add to it plus add a smaller one. They're getting ready to write the grant but we have to do a number of things. We need a resolution to schedule a public hearing to do it and go through the whole process before they can go forward. He said we are working on some figures with regard to units and how many units we are talking about. In regard to scheduling a public hearing, Mr. Blaise said it's up to the Board when they want to do that, that they could schedule a special meeting to do it. Supervisor Kniffen said he's anxious to see this actually work, that it's the first time we're going for a grant and hopefully it goes well. He said this is close to a \$400,000 project and he's thinking we could get 25 percent or about \$50,000 and since we're paying this firm \$33,000 a year we would already pay for that plus. For clarification, Councilwoman Yonchuk questioned that we can't submit a grant until we have a resolution to go ahead and do the project, and then the grant writers do the grant writing, so if we get a grant are we obligated to do the project. Councilman Grubham said we would not be obligated. Since we need to get on this, Supervisor Kniffen suggested we have a special meeting tonight to schedule the public hearing. Mr. Blaise said that would work if there is enough time to get the legal ad in the Press.

See minutes of Special Meeting called by Supervisor Kniffen at 6:42 PM.

4. Discussion – Broome County Mutual Aid Plan. (GEK)

Supervisor Kniffen explained he received a form regarding the Broome County Mutual Aid Plan from the Kirkwood Fire Company located in the village, which involves the fire company going out of state to Pennsylvania and vice versa. He said Mr. Blaise said it is definitely appropriate and he also verified with our insurance representative that there is no problem regarding insurance coverage. Mr. Blaise said this is the standard form that goes out to all the fire and EMS services. Councilwoman Yonchuk noted we have two fire companies and questioned if they would be obligated if we adopt this. Mr. Blaise said they would not be obligated and explained the process if mutual aid is needed. He said it's basically a plan for the County's central dispatch at Emergency Services to call in other places. We are not contractually obligated to participate. Resolution.

5. Discussion – Certificate of Incorporation of Kirkwood Town Fair, Inc. (JAF)

Held.

6. Discussion – Standard Work Day and Reporting Resolution for Elected and Appointed Officials for John A. Finch, Jr.

Resolution of approval.

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7. Discussion – Resolution authorizing the **appointment of Coughlin & Gerhart, LLP as Attorneys** for the Town of Kirkwood, to represent the Town in **Tax Certiorari Proceedings**, including petitions, motions, and appeals therefrom, filed by **HoltonB, LLC**, against the Town as work outside the scope of work contemplated by the Legal Services Retainer Agreement at an hourly rate of \$200.00, with payment requests to be submitted by voucher. (ONB)

Mr. Blaise explained this is an old assessment case that is on for a hearing in Supreme Court. A resolution is needed to appoint him to appear on the Town's behalf in the action, because as a tax assessment litigation, it is outside the retainer. He noted that previously Mr. Kline was appointed to do it so this would basically be substituting him in place of Mr. Kline to continue representing the Town's interests in this pending tax assessment case. He said his hope is that the case can be dismissed or done away with quickly, that it's an older case. Supervisor Kniffen said the owners of the property are Mike Maciak and Fred Russell who purchased it from Alan Pope. Since Mr. Pope didn't bring this back up, Councilman Diffendorf questioned why the judge doesn't just file this away, and why we have to be involved in doing this. Mr. Blaise said it's an open case on the court's calendar and a hearing has been scheduled to determine the status and it either has to be pushed forward or dismissed. He said he will meet with the judge and Alan Pope in early May. He said the Assessor can't appear in Supreme Court, that the Town has to be represented by an Attorney. Resolution.

8. Discussion – **Ritter Unsafe Building proceeding.** (ONB)

Mr. Blaise explained that if all goes well, today and tomorrow the process server will be out trying to service the notices for the unsafe building declaration that was passed at the April meeting. He said assuming that we can get Mr. Ritter, his wife and son, whose names are on the deed served, next week, if he so chooses, Mr. Ritter will have the chance to make a presentation or speak to the Board and try to change your minds, if he disagrees with the assessment that the white building needs to be razed. Mr. Blaise has asked John Mastronardi to come in and do a brief presentation of the situation there as to why the Board passed the resolution. If Mr. Ritter is unsuccessful in that endeavor there will be a resolution for the Board to issue the Order for the demolition and set the timeline for him to do it. He said the clock starts ticking on the day he is served. So assuming he is served tomorrow, he'll have 30 days to commence the demolition and 60 days after that to finish it. If he doesn't finish it after the 90 day period then the Town can take action by our Local Law and if the estimated cost is over \$5,000, competitively bid. The resolution next week would be to authorize Chad, with the assistance of Mr. Blaise's office, to go out and solicit bids for the demolition, and that way if the period for remediation expires we would have bids lined up and as soon as that period expires the bid could be awarded. Mr. Blaise added that for any money the Town spends on this process the Town can sue the property owner to try to collect the money or it can just be rolled onto the taxes. He said his recommendation would be to roll it onto the taxes. Mr. Blaise explained that in 2013 Mr. Ritter and his wife deeded the property to their son, reserving

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life uses for themselves, so they all have to be served and according to the law they all have to be served in a minimum of five days before we schedule the hearing and if we can't get all of them it would have to be held until the work session. Since Councilman Diffendorf noted a concern that one of the parties may be hard to serve, Mr. Blaise explained the options for serving them either in person or by what is called nail and mail. In regard nail and mail, it is taped to the door and a copy is mailed as well. This is considered good service. He added that the process server has to fill out an Affidavit of Service that he not only taped it to the door but also mailed it. There is a legal presumption that it was delivered and received if you put something in the post office and complete an Affidavit of Service.

Councilwoman Yonchuk questioned what is considered commencing demolition. Mr. Blaise said it would be up to the Code Enforcement Officer and Engineer to determine that.

Supervisor Kniffen explained that we are also working on getting rid of the trailers on that property as well as the fact that code violation notices have been served on the green house. He noted that everything is all on one tax map number, including the island in the river.

9. Audit of Claims.

Resolution.

Newsletter.

Supervisor Kniffen reported that the newsletter is in the mail. He noted that we haven't had one in a year or two.