

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

November 6, 2023

A regular meeting of the Kirkwood Town Board was held on November 6, 2023 at 6 PM at the Joseph A. Griffin Town Hall with Supervisor Lewis Grubham presiding.

Present: Supervisor Lewis Grubham
Councilmember William Diffendorf, Jr.
Councilmember Katie Legg
Councilmember Sandy Wasson
Councilmember Robert Weingartner

Also Present: Mark Spinner, Attorney
Kelley Diffendorf, Town Clerk
John A. Finch Jr., Commissioner of Public Works
Karen Ferguson, Town Historian

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES: October 3, 2023 Town Board Meeting and October 31, 2023 Public Hearing.

SPECIAL SPEAKER:

ACHIEVE's Vice President of Development and Donor Relations, Preston Evans spoke about the children's summer program that runs for six weeks and has a unique way of getting the children to learn through fun. The Town of Kirkwood donates \$1,375 each year to help fund staffing or children attending the program. One student from the Town of Kirkwood attended the program this past summer.

PUBLIC PARTICIPATION:

Lisa Batzel of William Street expressed her frustration to the Board regarding a plan from Adam Meinstein to possibly put in 540 apartment units at the race track site if the warehouses do not get approved. She feels as though Mr. Meinstein is blackmailing the Town, either he gets what he wants with the warehouses or he is going to ruin the neighborhood with 540 apartments. Lisa Batzel believes the neighborhood was once a quiet place but now it's busy with tractor trailers constantly up and down the roads, which she claims are cracked and falling apart. She is hopeful the Board really thinks about their decision to rezone, otherwise she will find opponents to run against the Board members come election time.

Supervisor Grubham explained that nothing has been presented yet, one sheet showing the layout just showed up at the Code office, nothing has gone to the Planning Board regarding the apartment units.

Angela Tokos of Haskins Road inquired if a formal site plan application had been submitted by Mr. Meinstein regarding the 540 apartment units. No application has been submitted to the Town. Angela Tokos explained just having a copy of this plan out there is very confusing and concerning for the people of this community. She is not opposed to industrial or residential development with stipulations, but she wants to be able to ask questions on what is being proposed. She also noted that the size of the complex is massive and not sustainable, keeping the sewer system and school population in mind as well.

Supervisor Grubham again reiterated the apartment complex is not part of the discussion when decisions are being made on the rezoning of the race track site. All these questions would be legitimate if an application was sent to the Planning Board.

Angela Tokos moved on to the ask a question regarding the rezoning of the race track site, questioning if the Town Board or Planning Board set any stipulations for Mr. Meinstein to not use Francis Street in the event the warehouses are approved.

Mark Spinner explained the Planning Board would put that in their recommendation and the Town Board would consider it and either accept or reject it.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

November 6, 2023

Angela Tokos continued by questioning the need for an alternate truck route with the possibility of such a massive development and wanted to know at what stage this will be discussed. As well as if there would be any stipulations to keep the warehouse project as light industrial and how the Town Board would ensure that is part of the recommendation. She feels as if all of her questions are very essential to whether the property is rezoned.

Supervisor Grubham noted at this point the only thing the Planning Board is discussing is whether rezoning should occur. Mark Spinner explained the traffic portion of a project is part of the SEQRA environmental review process and the site plan review process. Specifically, the DOT will review the traffic implications of a particular project. As part of this entire process the Town Board will consider the public's response and will take everything into consideration before approving the project. Mark Spinner also explained the rezoning review is looking at the intensity of use, which are many of the concerns brought up by Angela Tokos, and those will be under consideration when it is decided to rezone a particular parcel.

Councilmember Legg questioned if there will be public participation allowed at the next Planning Board meeting. At the last meeting Councilmember Legg attended it was not allowed. Mark Spinner's understanding is since it is a public meeting the public should be allowed to speak. Although, he is filling in tonight for the regular attorney he is unsure of the practices and procedures of the specific Planning Board meeting in question. He suggested the Board could convey to the Planning Board that there are citizens that would like to speak at those meetings.

Bob Gaube of Robert Street wanted clarification on if Mr. Meinstein could change his map of the warehouse plan if the rezone was approved. If he changes the map he will have to resubmit the application. Bob Gaube also suggested the traffic numbers for the warehouse project are "fluffed up" depending on the numbers given and what hourly increment they are using, and wanted the Board to be aware of that. Mark Spinner noted that was another example of intensity of use and the Boards will look at all of those numbers.

Tom French of Foley Road came to discuss an ongoing zoning issue he has with the Town Code Officer, Chad Moran and the Town Court. He claims Chad Moran gave the Judge the wrong information regarding the zoning on his property. Which cost him a lot of money in lawyer fees for something that he claims was a town employee's fault. Councilmember Diffendorf believes these mistakes can happen from his own experience at a recent Planning Board meeting where the property was said to be zoned agricultural but was actually zoned commercial. Councilmember Diffendorf expressed that this was a Town mistake and Tom French should not have been put through these hoops when his property is zoned properly for the trailers, he should not have to pay to get this straightened out.

Marchie Diffendorf of Gorman Road, and former Planning Board Chairman, explained there is not a public hearing at the Planning Board meetings when there is a recommendation for a change in zoning. If the Planning Board sends it back to the Town Board with a recommendation to have it rezoned the Town Board then has the public hearing because they are possibly changing the law. The Planning Board is not changing the law. The only time the Planning Board has a public hearing is on a site plan review.

After much discussion there was still considerable concern from the residents on how their questions will get to the Planning Board before they send their recommendation to the Town Board if there is no public comment session. Councilmember Legg recommended writing a letter to the Planning Board before their rezoning recommendation. Supervisor Grubham noted the minutes from this meeting will also be available for the Planning Board to review.

The residents also wanted to know if their questions will ever be answered throughout the process. Hoping some of them would put the community at ease if they were addressed. Mark Spinner explained the Board's responsibility is to take the residents comments into consideration and go to the project applicant with those concerns and make sure they are addressed.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

November 6, 2023

Bill Teegarden of Don Street asked about the parcel on the other side of Route 81. Supervisor Grubham explained it was not sold as part of the potential warehouse property site. He also questioned if any elevation numbers were submitted, since considerable land work would be needed. Supervisor Grubham suggested that information would come if the rezoning happened and then go before the Planning Board for site plan review. Mark Spinner also added that a stormwater protection plan would be submitted under the environmental review (SEQRA).

COMMUNICATIONS: None.

COMMITTEE REPORTS:

Youth Committee.

Things are going well and there has been a good amount of basketball sign ups. Spring sports will begin sign ups in January.

Veterans Day.

Councilmember Legg invited everyone to come out Saturday, November 11, 2023 at 2 PM to the Veterans Day ceremony at Veterans River Park.

OLD BUSINESS:

Councilmember Diffendorf moved to adopt resolution, after a Public Hearing, Adopting Annual Budget for 2024, in accordance with the attached resolution. Councilmember Wasson seconded.

137:23
Adopt
Budget

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

Councilmember Wasson moved to adopt resolution scheduling a Public Hearing for November 28, 2023 at 6 PM on the Year 2024 Water & Sewer Budget. Councilmember Legg seconded.

138:23
Schedule PH
2024 Water &
Sewer Budget

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

Councilmember Legg moved to adopt resolution scheduling a Public Hearing for November 28, 2023 at 6:05 PM on the Year 2024 Fire Contracts. Councilmember Weingartner seconded.

139:23
Schedule PH
2024 Fire
Contracts

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

Councilmember Weingartner moved to adopt resolution regarding the Audit of Elections, in accordance with the attached resolution. Councilmember Diffendorf seconded.

140:23
Audit of
Elections

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

November 6, 2023

141:23
Refer
Application to
Pl Bd to Rezone
141/145/149
Colesville Road

Councilmember Diffendorf moved to adopt resolution, pursuant to Zoning Code Section 1411.B, to entertain the petition for a zoning change by CRH Properties, LLC to rezone Tax Map #146.03-3-42, Tax Map #146.03-3-41, and Tax Map #146.03-3-40 from B1 District to Industrial Development District, and to refer said application to the Planning Board and the County under GML 239-m for a report and recommendation.

Councilmember Wasson seconded.

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

142:23
Hire C.Ritt
MEO Heavy
DPW

Councilmember Wasson moved to adopt resolution hiring Charles Ritt as MEO Heavy to work in the Highway Department, effective October 30, 2023, at a rate of pay of \$20.50 per hour. Councilmember Legg seconded.

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

143:23
Purchase
2023 CAT
Loader
DPW

Councilmember Legg moved to adopt resolution authorizing the purchase of a 2023 CAT Loader from Milton CAT, at a cost of \$196,485 minus a trade in of \$116,000 for a total cost of \$80,485, in accordance with the attached quote. Councilmember Weingartner seconded.

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

144:23
Purchase
2008 John Deere
Tractor
DPW

Councilmember Weingartner moved to adopt resolution authorizing the purchase of a 2008 John Deere 6330 tractor with Bengal Brute Mower from the Town of Conklin at a cost not to exceed \$32,000. Councilmember Diffendorf seconded.

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

NEW BUSINESS:

145:23
Approve
Fireworks for
Hometown
Christmas

Councilmember Diffendorf moved to adopt resolution approving a fireworks display at the Town of Kirkwood Hometown Christmas to be held on December 2, 2023, upon the issuance of a fireworks permit issued by the Town Clerk to the Kirkwood Town Fair, Inc., and subject to the compliance with all required New York State statutes, regulations and codes. Councilmember Wasson seconded.

Discussion. These fireworks are from the Kirkwood Fair, they were unable to use them because of the weather this year. This is a one-time thing for Hometown Christmas.

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

**TOWN OF KIRKWOOD
TOWN BOARD MEETING**

November 6, 2023

AUDIT AND PAYMENT OF CLAIMS:

Councilmember 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 #23001274 through #23001459 in the total amount of \$1,038,888.14, which includes prepaid claims as authorized by resolution adopted January 3, 2023. Councilmember Weingartner seconded.

146:23
Audit/Pay

Roll Call Vote: Councilmember Diffendorf - yes
 Councilmember Wasson - yes
 Councilmember Legg - yes
 Councilmember Weingartner - yes
 Supervisor Grubham - yes

MOTION CARRIED.

Town Historian.

Karen Ferguson announced she is now the Regional Coordinator for Region 10 for New York State which encompasses six counties.

ADJOURNMENT:

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

MOTION CARRIED.

Meeting adjourned at 7:07 PM

Respectfully submitted,

Kelley M. Diffendorf
Town Clerk