

**TOWN OF KIRKWOOD  
TOWN BOARD MEETING**

**May 2, 2023**

A regular meeting of the Kirkwood Town Board was held on May 2, 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: Robert McKertich, Attorney  
Kelley Diffendorf, Town Clerk  
John A. Finch Jr., Commissioner of Public Works  
Marchie Diffendorf, Planning Board Chairman

**PLEDGE OF ALLEGIANCE:**

**APPROVAL OF MINUTES:** April 4, 2023 Town Board Meeting, April 25, 2023 Public Hearing, April 27, 2023 Town Board Meeting.

**PUBLIC PARTICIPATION:**

Lisa Batzel of William Street spoke about her frustration of not being able to ask questions at the public hearing held on April 25, 2023, when she was told she would be able to do so. She also mentioned her concern about the possible storage of biohazardous batteries at Triumph Business Center. Another issue was the problems and illegal dangers that could come from tractor trailers parking on Francis Street for extended amounts of time if warehouses are built in the neighborhood. Lisa Batzel also noted she heard Willow Run is for sale and suggested that Mr. Meinstein (Five Mile Point Warehouse Investors) use that space for his project.

Supervisor Grubham explained that the “Racetrack Project” is currently on hold and unsure of the next step. The developer’s lawyer is on vacation for two weeks so everything is at a standstill until the attorneys can discuss the matter.

Mr. McKertich explained the Town can allow the developer a little bit of room to figure out the direction he wants to go, but it can’t be an indefinite amount of time. After a couple of weeks Mr. McKertich will reach out to the developer’s attorney and report to the Board at the next work session, a plan can then be formulated as to how the Town will react to that. The process to move forward will depend on what the developer’s plan is, if he wants to end it, the application is withdrawn and the Board can vote to end it. If the developer wants to move forward with the project, all aspects still need to be complete (engineering review, SEQ, public hearing) to make a final determination.

Larry Holt questioned what would happen with the application if the developer changes the warehouse entry point to Grosset Drive. Mr. McKertich believes the developer would need to start from square one, as it is a whole new project.

Tom French suggested the Town should consider upgrading Francis Street with a crosswalk, making it safer for the kids now. Supervisor Grubham mentioned that could be looked into once the matter with the racetrack project has been decided. Tom French then inquired about how all zoning changes work in the Town and questioned how his property of 374 Foley Road had been changed without his knowledge. The Board was unaware of any changes made to the property noted. Supervisor Grubham will look into this matter and get back to Tom French.

Robert Gaube of Roberts Street addressed his concerns about a comment at the rezoning public hearing of land potentially being taken (possibly for walkways or turnarounds). Supervisor Grubham explained that it could possibly be at the intersection for a turning lane, but without the engineering report he is unsure at this time.

Lisa Batzel asked why the racetrack project was being considered since Broome County did not recommend it and New York State would not entertain it with Mr. Meinstein.

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Supervisor Grubham explained the developer, like anyone else has the right to ask and apply for rezoning of a property. Mr. McKertich continued explaining that zoning is a local act completed by the five board members to make a decision. Broome County doesn't have the authority to determine whether or not to rezone a property. A negative 239 Review by Broome County triggers a super majority vote here at the Town Board level, so instead of requiring 3 out of 5 votes to approve a project, it requires 4 out of 5 votes to approve a project.

Kathleen Richmond asked if the racetrack property can be subdivided or has to be sold as one parcel. It can be subdivided and has several different zoning classifications.

Cheryl Coolbaugh of Blakesley Road asked if something could be done about the rain water that runs down the road and continues to wash out her driveway, flood her yard, and break the edge of the road. Supervisor Grubham and John Finch will assess the situation this week and get back to Cheryl Coolbaugh.

**COMMUNICATIONS:** Joe Barton Resignation Letter.

**COMMITTEE REPORTS:**

**Injury Report.**

Councilmember Diffendorf reported on an injury in the Highway Department.

**One Day Yard Sale.**

Councilmember Wasson was approached about a one-day yard sale being held at Valley Park. There are questions about the legality of it and if insurance is needed.

Councilmember Legg also noted that whomever is in charge needs to approach the Board for approval and be sure everything is picked up at the end of the day.

**Dog Control Report/Dog Bite Letter.**

Councilmember Legg reported numbers from the April 2023 Dog Control Report. A copy is filed in the Town Clerk's office. Also attached is a letter from the mother of the little girl that was bitten by a dog on Main Street on April 13, 2023. She is requesting something be done about this matter and the leash law be enforced. Councilmember Legg is following up with Cyndi French, Dog Control Officer.

**Senior Citizens.**

Councilmember Legg is meeting with the senior's group at noon on May 9, 2023 at the Town Hall to discuss the needs and concerns of the community

**Flushing Hydrants.**

The Water Department will begin flushing hydrants in the Five Mile Point area starting on Monday, May 8, 2023 and continue throughout the Town over the following two weeks. It is recommended to refrain from doing laundry during your scheduled flushing time. If you have discolored water afterwards, run the cold water and it will clear up.

**Iron/Manganese in Water.**

Lisa Batzel brought it to the Board's attention that she continues to have black stuff build up in her water filtration system. It appears to help when the hydrants are flushed. John Finch explained it is sediment (iron and manganese) from the water tanks and hopefully the water tank rehab project that is about to happen will help alleviate some of these issues. Supervisor Grubham also recommended the Water Department flush the system more often.

**All-Inclusive Playground.**

Supervisor Grubham staked out the layout of the new playground at Veterans River Park and the sidewalk area is ready to be paved. The equipment is expected to arrive in July.

**Pavilion Grant.**

Pavilion #2 at Veterans River Park will be replaced this fall. The Town was awarded a \$25,000 grant from Broome County that will cover about two thirds of the pavilion cost.

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**OLD BUSINESS:**

Councilmember Diffendorf moved to adopt resolution awarding the Sealed Bid for the Stratmill Road Water Tank Rehabilitation Project to R. DeVincentis Construction, Inc., being the lowest responsible bidder at \$220,000, broken down as follows:

58:23  
Award Bid for  
Stratmill Road  
Water Tank  
Project

Item A: \$12,000 – Concrete Dome Repair, Item B: \$120,000 – Cleaning Exterior Tank & Repainting, Item C: \$48,000 – Cleaning Interior Tank, Item E: \$12,000 – Cleaning Interior Piping, and Item F: \$30,000 - Access Dome Hatch. Councilmember Wasson seconded.

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 approving the paving of Krager Road at a cost of \$90,000 and a portion of Johnson Road at a cost of \$140,000. Councilmember Legg seconded. **WITHDRAWN**

59:23  
WITHDRAWN

**Discussion.** After a long discussion it was determined it was cheaper to pave all of Johnson Road now at one time, and hold off on paving Krager Road for the time being. With that being said, one-third of Johnson Road was already approved to be paved, the following resolution will cover the remaining two-thirds of Johnson Road. The funds for Johnson Road will come from the following: \$191,000 from CHIPS money (funds from last year and this year), \$230,000 from Reserve Fund Balance, and \$13,000 from Permanent Improvement Funds.

Councilmember Diffendorf moved to adopt resolution approving the paving of a portion of Johnson Road at a cost of \$243,000. Councilmember Wasson seconded.

60:23  
Approve  
Paving a  
portion of  
Johnson Rd.

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 combining the June 27, 2023 Work Session and the July 3, 2023 Town Board Meeting into one night to be held Monday, June 26, 2023. Councilmember Weingartner seconded.

61:23  
Combine  
WS/TB Mtg

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 combining the July 25, 2023 Work Session and the August 1, 2023 Town Board Meeting into one night to be held August 1, 2023. Councilmember Diffendorf seconded.

62:23  
Combine  
WS/TB Mtg

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

**MOTION CARRIED.**

Councilmember Diffendorf moved to adopt resolution combining the August 29, 2023 Work Session and the September 5, 2023 Town Board Meeting into one night to be held September 5, 2023. Councilmember Wasson seconded.

63:23  
Combine  
WS/TB Mtg

Roll Call Vote:        Councilmember Diffendorf   - yes  
                             Councilmember Wasson       - yes  
                             Councilmember Legg           - yes

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Councilmember Weingartner - yes  
Supervisor Grubham - yes

MOTION CARRIED.

64:23  
Schedule  
Special Town  
Board Meeting  
Dec. 26, 2023

Councilmember Wasson moved to adopt resolution scheduling a Special Town Board Meeting for December 26, 2023, after the Work Session, for the purpose of auditing year end bills and any other business that may come before the Board. Councilmember Legg seconded.

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

MOTION CARRIED.

65:23  
Issue Permit to  
Kirkwood Town  
Fair Inc for  
Parks Use

Councilmember Legg moved to adopt resolution pursuant to section 3A(e) of Local Law No. 2-1979 entitled "A Local Law Regulating the Use of Parks of the Town of Kirkwood", authorizing the Town Clerk to issue a permit to the Kirkwood Town Fair, Inc., for the use of the entire Kirkwood Veterans River Park on August 10, 11, and 12, 2023 without any permit fee to guarantee proper clean up after each use. Councilmember Weingartner seconded.

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

MOTION CARRIED.

66:23  
Approve  
Membership  
Roster Five Mile  
Point Fire Co.

Councilmember Weingartner moved to adopt resolution pursuant to Not-For-Profit Corporation Law Section 1402(c)(3) approving the Membership Roster for Five Mile Point Fire Company, with the understanding that the members so approved will be assigned for which they have been qualified, in accordance with the attached roster. Councilmember Diffendorf seconded.

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

MOTION CARRIED.

67:23  
Agreement  
with NYSEG  
for LED  
Street Light  
Conversion on  
Barlow Road

Councilmember Diffendorf moved to adopt resolution ratifying a resolution authorizing the Supervisor to sign the Light Emitting Diode Street Light Conversion Letter Agreement with NYSEG, regarding a light on Barlow Road, in accordance with the attached agreement. Councilmember Wasson seconded.

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

MOTION CARRIED.

68:23  
Approve  
Retirement  
Reporting  
M.Mucci  
M.Diffendorf

Councilmember Wasson moved to adopt resolution approving the Standard Work Day and Reporting Resolution for Elected and Appointed Officials for Michael Mucci as Justice of the Peace and Marchie Diffendorf as Planning Board Chair, in accordance with the attached resolution. Councilmember Legg seconded.

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

MOTION CARRIED.

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Councilmember Legg moved to adopt resolution authorizing Marchuska Glass, LLC to remove existing metal door and frame from the lower level of the Code Enforcement Building and replace with new door and frame at a cost not to exceed \$5,972.00, in accordance with the attached quote. Councilmember Weingartner seconded.

69:23  
Replacement of  
Lower Level  
Code Door

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

MOTION CARRIED.

Councilmember Weingartner moved to adopt resolution authorizing the Humane Society to use Veterans River Park on September 30, 2023 for their Cruising for Paws Fundraiser. Councilmember Diffendorf seconded.

70:23  
Parks Use  
Humane Society  
Fundraiser

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

MOTION CARRIED.

Councilmember Diffendorf moved to adopt resolution ratifying a resolution authorizing John Finch to attend W2O U-Dig Certified Excavation Training & Renewal on April 14, 2023 and W2O Winter Workshop on April 28, 2023, at a cost not to exceed \$105. Councilmember Wasson seconded.

71:23  
Educations  
J.Finch  
W&S  
DPW

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 authorizing the paving of the roads to Well 1 and Well 3 at a cost not to exceed \$14,500. Councilmember Legg seconded.

72:23  
Pave Roads to  
Well 1 & 3  
W&S/DPW

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

MOTION CARRIED.

**NEW BUSINESS:**

Councilmember Legg moved to adopt resolution authorizing Chad Moran to attend the Southern Tier Home Builders & Remodelers Association training, June 7-9, 2023 at Tioga Downs Conference Center, at a cost of \$175, with all reasonable expenses paid.

73:23  
Education  
C.Moran  
Code

Councilmember Weingartner seconded.

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

MOTION CARRIED.

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74:23  
Audit/Pay

**AUDIT AND PAYMENT OF CLAIMS:**

Councilmember Weingartner 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 #23000429 through #23000550 in the total amount of \$883,326.12, which includes prepaid claims as authorized by resolution adopted January 3, 2023. Councilmember Diffendorf seconded.

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

**MOTION CARRIED.**

**ADJOURNMENT:**

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

**MOTION CARRIED.**

Meeting adjourned at 6:59 PM

Respectfully submitted,

Kelley M. Diffendorf  
Town Clerk